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Date:

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By Electronic Delivery Only

Recipient: chair@seychelleshumanrights.com

Hon. Mr. Justice Bernardin Renaud (Retired)

Chairperson

Seychelles Human Rights Commission

Bel Air Complex, Victoria

Mahé

Dear Mr. Justice Renaud,

Re: Constitution of the Republic of Seychelles (Tenth Amendment) Bill, 2022

On behalf of the Government, we wish to thank the Seychelles Human Rights Commission for participating in the public consultation on the Constitution of the Republic of Seychelles (Tenth Amendment) Bill, 2022 (Bill No. 6 of 2022). Further, we greatly appreciate the efforts of the Commission to execute its statutory functions under section 14(3) of the Seychelles Human Rights Commission Act, 2018, which empowers the Commission to make a report to the President where the Commission is of the opinion that a proposed legislation is contrary to Chapter III of the Constitution or international human rights law.

Over the past weeks, the Government has carefully considered the Commission's report that was sent to the President. The Commission has made 3 main findings which are set out in paragraph 6.2 of its report. More significantly, we have noted that the Commission has not found the Constitution of the Republic of Seychelles (Tenth Amendment) Bill, 2022 to be inconsistent with any specific provision of Chapter III of the Constitution or a provision of an international human rights treaty.

We wish to succinctly respond to the findings set out in paragraph 6.2 of the Commission's report:

1. We completely agree with the Commission that the “[a]rticle 163 of the Constitution currently, **prima facie**, may permit the [Defence Forces of Seychelles] to execute law enforcement powers within the maritime zones of Seychelles . . .” (Emphasis ours). As the Commission may have realized, the Constitution is not completely clear about the powers of the Defence Forces, not only in dealing with matters within the maritime zones but also issues beyond our national jurisdiction such as piracy on the high seas which is dealt with under the Penal Code;
2. Good forethought will dictate that the Constitution of the Republic of Seychelles (Tenth Amendment) Bill, 2022 goes beyond matters concerning the maritime zones, and cover other issues such as public security, environmental protection and other matters as may be specified in an Act. In fact, the Defence Forces of Seychelles play a significant role in environmental protection, and the Defence Forces are currently recognized in law as enforcement officers for

the purposes of the Trade of Wild Fauna and Flora Act, 2021, which gives effect to the Convention on International Trade in Endangered Species of Wild Fauna and Flora. As the Commission is aware, if a matter specified in a provision of an Act is inconsistent with Chapter III of the Constitution or any other provision of the Constitution, the law is void to the extent of its inconsistency with the Constitution;

3. We wish to reiterate that the Commission has not found the Constitution of the Republic of Seychelles (Tenth Amendment) Bill, 2022 to be inconsistent with any specific provision of Chapter III of the Constitution or a provision of an international human rights treaty. Respectfully, a quantum leap is being made by the Commission to arrive at the conclusion that the Constitution of the Republic of Seychelles (Tenth Amendment) Bill, 2022 may have potentially negative impacts on human rights, the rule of law and due process.

The Government wishes to further commend the Commission for its 3 recommendations set out in paragraph 6.3 of its report. Based on our responses to the 3 main findings of the Commission, the Government will therefore proceed with the Constitution of the Republic of Seychelles (Tenth Amendment) Bill, 2022. Accordingly, the first and second recommendations are not accepted. We, however, do accept the third recommendation that “[a]ll members of the [Defence Forces of Seychelles] who are engaged in permissible law enforcement under article 163 of the Constitution are adequately trained to perform law enforcement activities, in their human rights obligations and all other international standards.” We are informed that the Defence Forces of Seychelles are undertaking various trainings which will enable the Defence Forces to meet internationally accepted standards and the Commission must also appreciate that the Defence Forces have very clear rules of engagement.

We thank the Commission for its time and continued cooperation. We trust that the Commission will continue to engage us during the future public consultations on the constitutional amendments.

Thank you for your time and continued cooperation.

Yours faithfully,



Stefan R. Knights, Esq
State Counsel
For: **Attorney General**

cc: Brigadier Michael Rosette, Chief of the Seychelles Defence Forces
Mr. Mohamed Afif, Secretary of State for Cabinet Affairs, Office of the President
Mrs. Tania Isaac, Clerk to the National Assembly of Seychelles