

CONSTITUTION OF THE TRANSNATIONAL GOVERNMENT OF TAMIL EELAM (TGTE)

PREAMBLE

Consistent with the principles of rule of law, respect for human rights, democracy, equality of all persons, and the right to self-determination of Peoples,

Determined to ensure the right to life and physical security of the Tamil Eelam people,

Bearing **in mind** that, before the advent of foreign colonial powers, there existed, in Ceylon, two separate, independent kingdoms - Sinhalese and Tamil,

Being aware that the history of the relations between the Tamil Eelam People and the Sinhala People has been a process of broken promises and unilateral abrogation, by successive governments of Sri Lanka, of pacts and agreements solemnly entered into between the government of Sri Lanka (GOSL) and the representatives of the Tamil Eelam People,

Bearing in mind that, **since independence of the Island in 1948**, successive Governments of Sri Lanka have perpetrated genocide, crimes against humanity and war crimes against the Tamil People,

Noting that the Tamil people mandated their elected representatives to establish an independent, sovereign, secular State for the Tamil people in their traditional homeland, in the elections subsequent to the Vaddukkoddai Resolution of 1976,

Bearing in mind that the Tamils' nonviolent campaign to realize the mandate given by the Tamils proved to be futile due to the Sri Lankan state's aggression coupled with the lack of political space for Tamils in the island,

Bearing in mind that the Tamils' armed struggle started only as a measure of self-defence and as a means for the realization of the Tamils' right to self-determination only after more than four decades of non-violent and peaceful constitutional struggle proved to be futile and due to the absence of the means to resolve the conflict peacefully,

Bearing in mind that the Tamils' political and armed struggles and the resultant *de facto* state of Tamil Eelam created a political space to articulate the political aspirations of the Tamil people,

Bearing in mind that the Tamils' sovereignty, which had been lost under British colonial rule and then to the Sri Lankan rule, was partially regained between 1983 – 2009 and administered as a separate state,

Bearing in mind that the Sri Lankan government unilaterally abrogated the Ceasefire Understanding negotiated through Norway in 2002,

Noting that the genocide and state terrorism of the Sri Lankan state weakens the Tamils' power and destroys the political space enjoyed by them,

Noting the absence of political space inside the island to articulate the political aspirations of the Tamil people,

Realizing the historical obligation of the Tamil Diaspora to create a political space outside the island of Sri Lanka,

Noting the referendums held in Norway, Canada, Germany, Switzerland, Italy, United Kingdom, Denmark, Australia, France and Netherlands reaffirming the mandate given in the 1976 Vaddukkoddai Resolution and the sacrifice of the Tamil Eelam people in the ensuing 30 years,

Noting the emergence of the Tamil Eelam peoples' Transnationalism and Transnational political activism as articulated in the TGTE Advisory Committee's report published on March 15, 2010,

Noting the democratic elections held **in 2010** for the TGTE in Australia, New Zealand, Germany, Switzerland, France, Denmark, Norway, Sweden, United Kingdom, Canada and the United States,

Noting the formation of the Transnational Government of Tamil Eelam on May 17, 2010 at the National Constitutional Centre in Philadelphia, USA,

Whereas the TGTE has been formed with the approval of the international community to realize the Tamil Eelam peoples' right to self-determination and exercise their sovereignty,

Whereas there is a necessity to continuously safeguard the Tamil Eelam Peoples' national flag, national symbols, national colours and other national identities,

Whereas the TGTE has guided us towards a democratic system of government, in order to establish an independent state of Tamil Eelam based on the principles of peace, non-violence, tolerance, religious and cultural pluralism, rule of law, transparency and accountability,

Whereas, in particular, efforts should be made in promoting the achievement of Eelam Tamil's common goal as well as to strengthen the solidarity of Tamils, both within and outside of **Tamil** Eelam,

Whereas the Second Assembly of the Transnational Government of Tamil Eelam do hereby promulgate and legalize this Constitution as their fundamental guide,

This Constitution is adopted by the Second Assembly of the Transnational Government of Tamil Eelam held from 30 September 2010 to 1 October 2010 in New York.

CHAPTER 1

1.1 AIMS AND OBJECTIVES

The aims and objectives of the TGTE are as follows:

- 1.1.1 The TGTE, elected democratically **as the political voice of** the Tamil Diaspora, shall seek and endeavour to **re-gain** the independent, sovereign State of Tamil Eelam.
- 1.1.2 The TGTE shall always uphold individual right to human life and self-dignity, **especially the promotion and protection of women and children.**
- 1.1.3 The TGTE shall promote the Welfare of the People in the homeland, the Tamil Diaspora and the Global Tamil Community that consists of Tamils who have migrated and are now living in other parts of the world.
- 1.1.4 The TGTE shall protect and promote the distinctiveness of Eelam Tamil culture in the Diaspora countries and safeguard its links with other Tamil cultures within the Tamil Diaspora and the Global Tamil community.
- 1.1.5 The TGTE shall promote Education in the homeland. The TGTE shall also endeavour to encourage the study of the Tamil language in Tamil Diaspora countries.
- 1.1.6 The TGTE shall promote the economic welfare of the homeland through ensuring greater trade for the industrial, higher technological and related products of the homeland in the states inhabited by the Tamil Diaspora.
- 1.1.7 The TGTE shall ensure that perpetrators of genocide, racial annihilation, ethnic cleansing, crimes against humanity and war crimes committed against Tamil people are prosecuted and those responsible are brought to justice.
- 1.1.8 The TGTE shall protect and promote the fundamental human right of Equality of Women among all aspects of Tamil life and Tamils (and at large).

1.1.9 The TGTE shall protect and promote the welfare of families of Martyrs, Former Combatants, and families affected by war.

1.1.10 The TGTE shall address such issues that are fundamental to the successful functioning of Tamil Eelam

1.1.11 The TGTE shall seek and establish diplomatic relations with other countries.

1.2 OFFICIAL LANGUAGE

The Language Policy of the TGTE is described below.

1.2.1 Tamil shall be the official languages of TGTE. In addition, other languages may be used as link languages when necessary.

1.2.2 All official archives of TGTE shall be in Tamil **and where applicable in English as well.**

1.2.3 Each country can use its own language for its communication within the country.

1.3 STRUCTURE OF THE TGTE

The TGTE shall be comprised of a Parliament, a Cabinet (with Executive powers), and a Senate.

1.3.1 The Cabinet

The Cabinet is responsible for the following:

- (a) TGTE's Cabinet shall be comprised of a Prime Minister along with a Deputy Prime Minister, Ministers and Deputy Ministers appointed by the Prime Minister. Ministers and Deputy Ministers shall be appointed by the Prime Minister in numbers as decided by the Prime Minister.
- (b) The executive power of the TGTE shall vest in the Cabinet, and shall be exercised by it, either directly or through officers subordinate to it, in accordance with the

provisions of this Constitution. In particular, the Cabinet shall be empowered to execute the following executive powers:

- (1) Approve and promulgate bills and regulations prescribed by Parliament;
- (2) Promulgate acts and ordinances that have the force of law;
- (3) Confer honours and appointments;
- (4) Summon Parliament;
- (5) Send messages and addresses to the TGTE Parliament whenever necessary;
- (6) The Cabinet shall be exclusively responsible for the implementation of resolutions passed thereof in the meetings of the Parliament.
- (7) **Cabinet Confidentiality – Cabinet members to privately debate and raise concerns within Cabinet only.**
- (8) **Cabinet collective responsibility - Cabinet must publicly show a unified position, and must vote with the Cabinet even if they privately disagree with the decision that has been made.**

1.3.2 Formation of the Cabinet

- (a) The Prime Minister shall be elected from the elected members of Parliament by secret ballot **with a simple majority by those present / participating in the session.**
- (b) The Prime Minister shall appoint the Deputy Prime Minister, the Ministers and Deputy Ministers, drawing from among the Members of Parliament.
- (c) The Prime Minister shall appoint Deputy Ministers in consultation with the respective Ministers, provided however that in the absence of the Minister's input thereon within 30 days the Prime Minister shall make his own decision.
- (d) The Prime Minister shall detail the duties and responsibilities of the Deputy Prime Minister and the Ministers. Duties and responsibilities of the Deputy Ministers shall be decided by the respective Ministers. The Deputy Ministers shall not enjoy powers of the Minister nor have voting rights but they could participate at Cabinet meetings and also exercise the Minister's rights in the Minister's absence at the particular meeting. In the absence or availability of any Minister the Deputy Minister shall assume the role of the Minister if the delegated power is approved by the Prime Minister.

1.3.3 Qualifications for Ministers

The qualifications required of Ministers are as follows:

- (a) Must be a citizen of Tamil Eelam, as defined by the Advisory Committee Report published on March 15, 2010, or someone who on account of ancestry or marriage or adoption is connected to Tamil Eelam Tamils' cultural life.
- (b) Must not have been convicted by any court of law for an offence committed for profit or with profit motive under the laws including the country he is living or any other country shall qualify for appointment as a member. Must not be declared bankrupt and not have been convicted by any court of law for any criminal offence including any offence committed for profit or acted with profit motive under the laws including the country he/she is living or any other country shall qualify for appointment as a Minister
- (c) A person not notified by the Parliament as disqualified.
- (d) **A person not previously disqualified as a Cabinet Minister.**
- (e) A person who does not enjoy service, status or economic benefit from any other countries detrimental to the interest of ~~the~~ Tamil Eelam. **Final decision will be taken by the Ethics Committee.**
- (f) In the event of the death, replacement, or resignation of a Cabinet Minister, a person to replace him/her shall be appointed by the Prime Minister within three (3) months.
- (g) A Cabinet Minister so **appointed** shall hold office for the same period as that of the remaining term of the incumbent member.

1.3.4 Tenure of Prime Minister

Except in the case of a removal, in accordance with this Constitution, the Prime Minister shall serve a term of the life of the parliament. If the current post holder is unable to continue due to illness, resignation or disqualified then the new post holder shall serve the remaining period of the unspent term of the Parliament.

1.3.5 Appointment of Acting Prime Minister

- (a) If the Prime Minister is unable to function for any reason he/she shall appoint the Deputy **Prime Ministers** as acting Prime Minister.

(b) In the event the Prime Minister is unable to appoint an acting Prime Minister, and the post become vacant, then the Deputy Prime Minister shall be the Acting Prime Minister. If and when the Deputy Prime Minister is also unable to take on the role, then a new acting Prime Minister shall be elected for the remaining term of life of the Parliament. This election requires a simple majority votes by Members of Parliament present as pursuant to Cl 1.3.2 (a).

1.3.6 Tenure of Cabinet

- (a) Unless otherwise specified, such as the dissolution of the Cabinet or removal before the expiration of a term, the tenure of the Cabinet shall be five (5) years.
- (b) Except in cases of dissolution of the Cabinet as specified, the re-appointment of any Cabinet member shall not be invalid.

1.3.7 Cabinet Meetings

The Prime Minister may summon a meeting of the Cabinet whenever necessary. The Prime Minister shall preside over Cabinet meetings. In his absence Deputy Prime Minister shall preside.

1.3.8 Obligations of the Cabinet and Removal of Cabinet Ministers

- (a) The Prime Minister, the Deputy Prime Minister and the Ministers shall take the Oath of Office and Secrecy and subscribe thereto before the Speaker or the Deputy Speaker of the House
- (b) The Cabinet shall be collectively responsible for the discharge of their duties, and in general it shall be accountable and answerable to the Parliament. The Cabinet may pass resolutions with absolute majority.
- (c) The Prime Minister shall allocate portfolios to individual Ministers.
- (d) The entire Cabinet may be dissolved with the approval of more than two-thirds majority of the total members of the Parliament. The Prime Minister may remove any Minister or Ministers or Deputy Prime Minister.

- (e) If the entire Cabinet is so dissolved, a new Cabinet shall be elected in not more than 60 calendar days from the day of dissolution.
- (f) The Cabinet shall continue to hold office even after the expiration of its term until such time a new Cabinet takes office. In the case of a removal of a particular Cabinet Minister as specified in clauses (d) and (e) of this article, he or she shall cease to hold his or her office. In the case of the dissolution of the entire Cabinet, the Cabinet shall continue to hold office until such time as the newly elected Cabinet takes and subscribes the oath or affirmation of office provided that they do not make new decisions relating to policy matters.

1.4 THE PARLIAMENT

The Parliament shall consist of elected and appointed members.

1.4.1 Composition of Parliament

The Parliament shall consist of elected and appointed members, as apportioned based on the study by the Advisory Committee. However, the Election Commission will decide the basis for determining the allocated number of seats to be contested in all the countries and regions inhabited by the Tamil Diaspora. The total appointed members shall form the sitting Parliament for that term and will have voting and all other special rights.

1.4.2 Legislative Power

All legislative power and authority shall vest in the Parliament. Any legislation to become law shall require the assent of the Prime Minister. If the Prime Minister withholds assent the legislation shall be debated in parliament and passed by a two third majority of those present and voting with necessary amendments it shall become law.

1.4.3 Qualifications for Membership of Parliament

The qualifications required of a Member of Parliament shall be:

- (a) Must be a citizen of Tamil Eelam as defined by the Advisory Committee Report published March 15, 2010, or someone who on account of ancestry or marriage or adoption is connected to Tamil Eelam Tamils' cultural life.
- (b) Should have completed 17 years of age.
- (c) Must not have been convicted by any court of law for an offence committed for profit or with profit motive under the laws including the country he is living or any other country shall qualify for appointment as a member. Must not be declared bankrupt and not have been convicted by any court of law for any criminal offence including any offence committed for profit or acted with profit motive under the laws including the country he/she is living or any other country shall qualify for appointment as a Member.
- (d) Does not enjoy service, status or economic benefit from other countries detrimental to the interest of the Tamil Eelam people.
- (e) Accepts the aims of the TGTE as stated in the Constitution, **and have not been previously removed as a Member of Parliament.**

1.4.4 Duration of Parliament

The term of the Parliament shall be 5 years from its first sitting. The term of the first Parliament had been 3 years from the date of its first sitting after adoption of the Constitution.

1.4.5 Sessions of Parliament

The Parliament Speaker on his/**her** own or on the request of the majority of Parliament members shall summon the Parliament to meet at such time, place and duration.

1.4.6 Voting in Parliament

Except as provided in the Articles and other provisions of this Constitution, all other business of Parliament shall be determined by a majority vote of those present. In the case of tie votes, with regards to a contested matter, the Speaker of Parliament shall, in his or her discretion, cast the deciding vote whereupon the matter may be resolved.

1.4.7 Quorum of Parliament

If one-third of the total number of members of Parliament is present, it shall have the right to resolve any matter.

1.4.8 Rules of Procedure of Parliament

Parliament shall formulate rules of procedure and conduct of business, with the approval of more than two-thirds of **those present**, in accordance with the provisions of this Constitution, and such rules shall then come into force.

1.4.9 Promulgation of Ordinances

- (a) Any bill or proposal passed by Parliament and presented to Prime Minister shall be treated as law once he/she assents to its enactment. Prime Minister shall decide within 14 working days whether such legislation shall be approved, or she/he may return the proposal with recommendations as is deemed fit within that time. Thereafter, Parliament shall deliberate upon Prime Minister's recommendations for the proposal and then present the same to the Prime Minister for re-approval within fourteen working days.
- (b) If at any time the Parliament is not in session, and if any issue of major significance arises which renders it necessary and urgent, the Prime Minister may in concurrence with the majority of Cabinet members promulgate ordinances which have the same force of law.
- (c) Any ordinances promulgated as above should be informed to the Parliament through the Speaker within three (3) days. They may be amended, altered or annulled by Parliament through deliberation during their subsequent session

1.4.10 Special General Session

- (a) At the joint proposal by the Cabinet, Speaker and Deputy Speaker a Special General Session of Parliament may be summoned.
- (b) The composition of the representatives to such a session shall include members of Parliament. The Prime Minister shall jointly decide, in consultation with Parliament, the agenda, time, and venue of the session.

- (c) Once the agenda of the session, time and venue are decided, the Speaker of the Parliament shall issue notification within 15 days prior to the day of such a session.

1.5 MEMBERS OF PARLIAMENT

The rights of the members of parliament are as follows.

1.5.1 Rights of the Members of Parliament

- (a) Members of Parliament shall have the right to take part in sessions, participate in debate and discussion or to give any explanation and to vote therein.

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- (b) Any motion shall be notified in writing via the Speaker for circulation to all members, preferably at least six weeks before an agenda item be made in Parliament for voting.**

In the event of an emergency, the notice period may be shortened at the discretion of the Speaker.

1.5.2 Assumption and Oath of Office by Members of Parliament

- (a) Every member of Parliament shall, before taking his or her seat, take and subscribe before the Speaker or Deputy Speaker of Parliament or a person appointed on his or her behalf, an Oath of Office according to prescribed by law and set the signature. ~~When this is not possible, the date of Oath for a newly elected member will be determined by the Speaker.~~

- (b) A member may not take part in any proceedings of the House until sworn in. A member who has not taken Oath with the appropriate form and signature, supporting the Constitution and adherence to the values and principles of the TGTE, within 6 weeks of the 1st sitting of the new Parliamentary term after the election, shall be assumed that the person has vacated/ceased his/her position as an Member of Parliament in the TGTE. Under certain exceptional circumstances, the Speaker may decide on individual cases**

1.5.3 Introduction and Passing of Bills

Any member of the Parliament is entitled to introduce any bill or legislation or propose any amendment as prescribed in the rules of the Parliament.

1.5.4 Removal of Members of Parliament from Membership

- (a) **If at any time after the assumption of office his/her conduct is found to be detrimental to the standards of the Parliament, or to bring TGTE into disrepute, by written complaints received from the general public or from any members of Parliament, the matter shall be reported to the Hon Speaker.**
- (b) **The Hon Speaker will have the right to allow or disallow discussion in Parliament, may take action to stand down the individual for two parliamentary sittings, or refer the complaint to Parliament and / or to the Ethics Commission for direction / disciplinary action.**
- (c) **If the Hon Speaker refers the matter to the Ethics Commission, the Ethics Commission shall provide its ruling within 30 days from the date of referral, failing which Parliament would decide on a decision.**
- (d) **The Ethics Commission's ruling shall be put to vote after discussion in Parliament. If the motion is voted by 2/3 majority of those present, the ruling shall be carried, if not shall be treated as rejected. The Speaker shall inform the accused accordingly.**
- (e) **The Parliament or the Ethics Commission's ruling, after due process, may include but not limited to the following:**
 - Request a written apology and circulated to all members**
 - Suspend the individual for the following two sittings**
 - Remove the individual from any position as an office bearer**
 - Remove the individual as a member of TGTE.**

~~1.6 RECALL MECHANISM OF AN ELECTED MEMBER~~

REMOVED

~~Any member from Parliament can be recalled by the voters of the region for engaging by words or deeds contrary to the aims and objectives of the TGTE, or for not contributing to the aims and objectives of the TGTE or for abusing his position in the TGTE.~~

~~If any member of Parliament is to be recalled the procedure for such action shall be initiated by stating the reason for it by a Petition signed by more than 2/3 of the voters, who participated in the election, and, if he has been elected unopposed, by more than 2/3 of the voters, of the country from where the member was elected, and submitting the same to the Speaker of Parliament.~~

~~**1.6.1**— The submission of the petition for recall shall be in accordance with the following procedure:~~

~~**1.6.2**— Voters' complaint, its form and action by the Election Commissioner~~

- ~~(a) Each of the voters of the region who intend to take part in the recall mechanism shall register his/her name with the Election Commissioner and obtain a form with serial number for complaint registration.~~
- ~~(b) The voter complainant shall, in the said form, give details of himself and of the Member of Parliament of his region and the grounds for his recall and undertake to take responsibility for the same.~~
- ~~(c) The form with such undertaking shall then be sent to the Election Commissioner.~~
- ~~(d) The Election Commissioner shall verify the petition, and may, if necessary, summon the complainant for enquiry.~~
- ~~(e) The TGTE Election Commissioner shall, after checking the truth of the complaint, forward the petition to the Speaker of the Parliament with his note.~~
- ~~(f) Only one complaint form per voter shall be valid. Copied forms shall be invalid.~~

~~**1.6.3**— Speaker's action on recall~~

- ~~(a) On receiving the documents relating to recall from the Election Commissioner, the Speaker shall consult the Prime Minister for appointing a select committee for the matter.~~
- ~~(b) The Speaker shall, after consultation, appoint a committee of three, five, or seven members depending on the nature of the accusations.~~

- ~~(c) The Speaker shall appoint a chairman or secretary for the select committee. The Chairman or Secretary shall convey the details of the accusations to the member concerned, and ask him/her to explain and present his/her arguments.~~
- ~~(d) The accused Member of Parliament shall be allowed to present his arguments, engage counsel to represent him and cross examine the witnesses.~~
- ~~(e) Once all enquiries are completed in a just way, the Select Committee shall act like a group of judges and give its judgement.~~
- ~~(f) The judgement given shall be forwarded to the Speaker of Parliament. The Speaker shall forward it to the Cabinet and the Member concerned. Then the judgement shall be submitted to the Parliament.~~
- ~~(g) When this matter is discussed in the Parliament, the accused Member shall be entitled to submit his side of the case, but may not engage counsel, or examine witnesses.~~
- ~~(h) The matter shall be put to vote after discussion in Parliament. If the motion is voted by a two thirds majority the member concerned shall lose his membership. The Speaker shall announce this in Parliament.~~
- ~~(i) If the motion is not carried by a two thirds majority, the accusations shall be treated as rejected.~~

1.7 ELECTING THE SPEAKER AND THE DEPUTY SPEAKER OF PARLIAMENT

The following procedures will be followed in electing the Speaker and the Deputy Speaker of the Parliament.

- 1.7.1** At the commencement of the first session of each Parliament, the members shall elect with a simple majority, a Speaker and a Deputy Speaker from among the Parliament members present by means of a secret ballot.
- 1.7.2** After the election of the Speaker and the Deputy Speaker of the Parliament they should accept their respective offices. Thereafter, they shall each take an oath of allegiance of office, the Speaker before the member identified as the eldest or nominated in the Parliament and the Deputy Speaker before the Speaker as prescribed by law.

- 1.7.3** If either the Speaker or the Deputy Speaker so elected is removed by more than a two third majority of the total members present in Parliament, he or she shall vacate his or her office from the day of such a resolution.
- 1.7.4** When Parliament is in session deliberating on a matter concerning the removal of either the Speaker or the Deputy Speaker of the Parliament, he or she shall not preside over such a session.
- 1.7.5** In the event of the seat of the Speaker or the Deputy Speaker of Parliament falling vacant due to removal, death or otherwise. His replacement shall be effected within sixty days of such vacancy.

1.8 APPOINTMENT OF THE SENATE

The Senate shall consist of experts in various fields.

- 1.8.1** The Senate shall consist of at least 10 members or determine by Parliament at its commencement at each new parliament.
- 1.8.2** The members of the senate shall be appointed by the Prime Minister from the list recommended by the Parliament. No bill or any other legislation shall originate from the Senate.
- 1.8.3** Any legislation enacted by the Parliament or any proposal by the Prime Minister or by Parliament shall be sent to the Senate for a non-binding opinion.
- 1.8.4** The duration of the Senate shall be the same as that of the Parliament.

1.9 AMENDMENTS TO THE CONSTITUTION

Any Member of Parliament can submit to the Constitution Technical Affairs Committee any amendments to the Constitution through the Speaker. The Technical Affairs Committee shall consider the proposed amendments and forward its recommendations through the Speaker to all the Members. It shall also suggest as to how soon Parliament may deliberate on the amendments. Parliament shall be called into session as it sees fit, on the submissions for the amendments, and vote taken after debate. Amendments adopted by a two-thirds majority of the members present shall be incorporated into the Constitution. Amendment to the Constitution includes addition, deletion and modification.

1.9.1 Formation of Constitution Technical Affairs Committee

Cabinet will nominate ~~three~~ **five** current members to the Constitution Technical Affairs Committee, to review and make any changes as appropriate to the constitution as per CI 1.9.

ANY OTHER MATTERS

1.10.1 Relationship with Domestic Organizations

The Structures of the TGTE may work in partnership with domestic organizations with aims that are not contrary to the objectives of this constitution.

1.10.2 Election Commission

The Prime Minister shall appoint a three-member election commission based on the recommendation of the TGTE Assembly. The Election Commission shall be responsible for conducting future elections of the TGTE. A member of the Election Commission shall not be a member of the Assembly or the Advisory Committee or any other Committee of the TGTE.

1.10.3 Advisory Committee

In view of the unique and important role played by the Advisory Committee in the formation of the TGTE, the Advisory Committee with its present composition shall remain in force during the first term of the TGTE.

The Parliament, the Cabinet or the Prime Minister may seek advice from the Advisory Committee on any matter or measures and the Advisory Committee may advise the Parliament, the Cabinet or the Prime Minister. However such advice will not bind them.

1.10.4 Ethics Commission

The Cabinet will appoint the Ethics Commission with the consent of the TGTE Assembly. It shall consist of three (3) members.

CHAPTER 2

THE MINISTRY OF FINANCE

2.1The Treasury and Finance Ministry of the TGTE will function as one single unit, under the name of ‘Ministry of Finance’. The following are the responsibilities of the Ministry of Finance.

2.1.1 TGTE Budget

The TGTE budget is a legal document that is to be passed by the TGTE legislature, and approved by the Prime Minister. The two basic elements of the TGTE budget are the TGTE revenues and the TGTE expenses. The TGTE revenues can be derived from various sources to be determined. TGTE expenses include TGTE administration expenses, TGTE Department allocations, TGTE investment expenditures and welfare payments.

2.1.2 Financial Year

The financial year for TGTE finance matters is considered the period 1 July to 30 June the following year.

2.1.3 The Treasurer

The Treasurer is the Minister for Finance in the TGTE. He/she is responsible for government expenditure and revenue raising. He/she is the head of the Treasury, and plays a key role in shaping the economic policy of the government. The Treasurer must be a Member of Parliament of the TGTE, with a seat in the House of Representatives. Each financial year, during the last sitting of the Parliament, the Treasurer presents the budget for the following year to the Parliament.

2.1.4 Role of the Treasurer in Policy-making

The Treasurer has an overall responsibility for all policy matters falling within the Treasury portfolio. These include: Economic policy; Economic development; Economic welfare; Taxation; Borrowing money; Banking; Currency; Foreign investment in Tamil Eelam; Census and statistics; and Trade and financial relations with neighbours.

2.1.5 Annual Budget Estimates

- (a) The Treasurer must prepare a statement of information to be laid before the Legislative Assembly under Ministerial headings setting out:
- (b) a description of the amount available or to be available to each Ministry during the period to which the statement relates, whether appropriated by the Parliament for that purpose or otherwise received or to be received by the Ministry, together with comparative figures for the preceding financial year;
- (c) The estimated amount of the receipts and receivables of each Ministry during the period to which the statement relates, together with comparative figures for the preceding financial year.

2.1.6 Budget Updates

- (a) The purpose of a budget update is to provide updated information to allow the assessment of the TGTE's financial performance against the financial policy objectives and strategies set out in its current financial policy objectives and strategies statement.
- (b) Each six (6) months, the Treasurer must prepare a budget update to the parliament, detailing the financial position of the TGTE in those six months.

2.1.7 Annual financial report

- (a) The Treasurer must prepare an annual financial report for each financial year.
- (b) The annual financial report must be prepared in the manner and form determined by the Treasurer, having regard to appropriate financial reporting frameworks; present fairly:
 - (i) The financial position of the TGTE at the end of the financial year;

- (ii) The transactions on the Public Account; and
 - (ii) Other financial transactions of various Ministries of the TGTE - in respect of the financial year;
- (c) include details of money credited into TGTE accounts;
- (d) include amounts appropriated in respect of the next financial year as a result of a determination in respect of unused appropriation for the financial year;
- (e) include details of expenses and obligations met from money advanced to the Ministers during the financial year;
- (f) include a statement of the reasons for carrying forward any part of an unused advance to the next financial year;
- (g) include details of payments made during the financial year out of money advanced to the Treasurer to meet urgent claims;
- (h) include details of payments made during the financial year in fulfilment of any guarantee by the TGTE;
- (i) include details of money received or recovered by the Treasurer during the financial year in respect of any guarantee payments; and
- (j) Be audited by the Auditor-General. This audited annual financial report must be transmitted to the Parliament.

2.2 FINANCIAL MANAGEMENT

The framework of the Financial Management System is as follows.

2.2.1 Framework of the Management System

It is the intention of the Parliament that the TGTE Treasury establishes and maintains a budgeting and reporting framework that is consistent with the principles of sound financial management. This forms a basis for the provision of sustainable social and economic services fairly to all citizens of Tamil Eelam. A sound financial management of the TGTE Treasury must provide full, accurate and timely disclosure of financial information relating to the activities of the TGTE and its agencies. The following concepts form the framework of this management system.

2.2.2 Consolidated Revenue

All monies received by the TGTE, regardless of nature, reason or source.

2.2.3 The Consolidated Fund

An account, to be known as the Consolidated Fund, will be established. All money forming part of the Consolidated Revenue will be credited to this account.

2.2.4 Public Account

- (a) The Treasurer must open and maintain a Public Account with such authorized deposit taking institution or institutions under the name of TGTE.
- (b) Committees, Country Groups and individuals duly authorized to receive such monies shall, promptly and without any set-offs or deductions, deposit the monies into designated bank account within 72 hours of such receipt.

2.2.5 Liability under guarantees

If any borrowing or other contract or agreement to be guaranteed by the TGTE, any sums required by the Treasurer for fulfilling any such guarantee shall be paid out of the Consolidated Fund and any sums received or recovered by the Treasurer in respect of any sum so paid by the Treasurer shall be paid into the Consolidated Fund.

2.2.6 Loans from Consolidated Fund

If a payment is made by way of a loan from the Consolidated Fund, the Treasurer may determine from time to time the terms and conditions of the loan.

2.2.7 Public Ledger

The Treasurer must ensure that a ledger is established and maintained to record:

- (a) transactions on the Public Account;

- (b) expenses and obligations incurred that are to be met out of the Public Account; and
- (c) Other transactions and account balances, as determined by the Treasurer.

2.2.8 Accounts of TGTE Ministries

- (a) A Ministry of the TGTE may, with the written approval of the Treasurer, and in accordance with such terms and conditions as determined by the Treasurer, open and maintain an account with an authorized deposit-taking institution or institutions.
- (b) Unless the Treasurer otherwise determines in writing, an account opened under this section does not form part of the Public Account.
- (c) Money must not be withdrawn from an account opened under this section except in accordance with the regulations and directions.

2.2.9 Receipt of public money

A person who collects or receives public money on behalf of the TGTE must, in accordance with the regulations and directions, daily or at such intervals as the Treasurer determines, pay the money into the Public Account or an account opened under section 2.2.8.

2.2.10 how money is to be issued

Public money forming part of the Consolidated Fund of the TGTE may be drawn from the Public Account only in accordance with this section.

- (a) The Treasurer must, as often as required during a financial year
 - (1) Calculate the amount of public money likely to become due and payable out of the Public Account during that financial year;
 - (2) Prepare an instrument in the form in Schedule B1 below or to like effect specifying that amount; and
 - (3) Sign the instrument and give it to the Auditor-General.
- (b) The instrument, when countersigned by the Auditor-General and approved by the Prime Minister, is the warrant enabling the Treasurer to order the drawing of money from the Public Account.

- (c) Before countersigning the instrument, the Auditor-General must ascertain that the sums mentioned in it are then legally available and, after countersigning the instrument, the Auditor-General must return it to the Treasurer, who must submit it to the PM for approval and signature, and then file the instrument.

2.2.11 Investment of money in Public Account

- (a) Any money standing to the credit of the Public Account may be invested by the Treasurer by submitting a proposal to the TGTE Cabinet and approved by the TGTE Executive Committee and Auditor-General. The PM (on behalf of the Cabinet) and the Auditor-General should sign the approval document for the treasurer to act on it.
- (b) Any return received from the investment of any money made under 2.2.11(a) shall be credited to the Consolidated Fund, as stated in 2.2.4.

2.3 OFFICE OF AUDIT

The activities of The Office of Audit shall be as follows.

2.3.1 The Auditor-General

The Auditor-General of the TGTE is not a Member of Parliament and must be independent of the Executive Government. He/she provides the Parliament and public sector entities with independent, professional opinions on matters related to financial management, compliance with legislative requirements and, where appropriate, comments on the efficiency and economy with which public sector resources are utilized. The Auditor-General has full and free access to all accounts, records, documents and information required for the discharge of the audit function.

2.3.2 Appointment of Auditor-General

The Auditor-General will be appointed by the Prime Minister, on the recommendation of the Parliament.

2.3.3 Auditor-General's Responsibilities

The Auditor-General may, on such conditions as he/she sees fit, engage any person to provide services that are, in the Auditor-General's opinion, necessary or desirable to assist the Auditor-General in carrying out his/her functions.

2.3.4 Suspension of Auditor-General from Office

- (a) The Cabinet may suspend the Auditor-General from office
 - (1) For incompetence,
 - (2) For neglect of duty, or
 - (3) For dishonourable conduct.
- (b) The Cabinet must
 - (1) When suspending the Auditor-General, deliver to him or her a statement of the reasons for the suspension, and
 - (2) Within 7 days after the suspension, deliver to the Speaker of the House of Assembly a copy of the statement.
- (c) The Auditor-General may deliver to the Speaker of the House of Assembly a reply to the statement.
- (d) The Auditor-General will be restored to office or removed from office by resolution of the Houses of Parliament.

2.3.5 Vacation of office of Auditor

The office of Auditor-General becomes vacant if the Auditor-General

- (a) dies,
- (b) resigns by written notice to the Speaker of the parliament, or
- (c) Becomes a Member of Parliament of the State.

2.3.6 Examination of publicly funded bodies and projects

The Auditor-General must, if requested by the Treasurer, examine accounts relating to a public funded project and the efficiency and cost-effectiveness of the project. After making an examination, the Auditor-General must prepare a report setting out the results of the examination. The Auditor-General must deliver copies of the report to the Treasurer and to the Speaker of the House of Assembly.

2.3.7 Auditor-General's annual report

The Auditor General's report provides Audit observations and comments on aspects of the TGTE's finances. In particular, it consists of a brief analysis of the financial performance and financial position of the TGTE for the year, based on an examination of the results for the past year, and the budget and forward projections included in the budget papers.

- (a) This report states, in the Auditor-General's opinion,
 - (1) Whether the Treasurer's statements reflect the financial transactions of the Treasurer as shown in the accounts and records of the Treasurer for the preceding financial year,
 - (2) whether the financial statements of each public authority reflect the financial position of the authority at the end of the preceding financial year and the results of its operations and cash flows for that financial year, and
 - (3) whether the controls exercised by the Treasurer and public authorities in relation to the receipt, expenditure and investment of money, the acquisition and disposal of property and the incurring of liabilities, are sufficient to provide reasonable assurance that the financial transactions of the Treasurer and public authorities have been conducted properly and in accordance with law, and
 - (4) Sets out any matter that should, in the opinion of the Auditor-General, be brought to the attention of Parliament and the Government.
- (b) The Auditor-General must deliver copies of
 - (1) The report; and
 - (2) The Treasurer's statements and the financial statements of public authorities that are, in the Auditor-General's opinion, of sufficient importance to warrant publication

To the Speaker of the House of Assembly.

2.3.8 Reports and other documents to be tabled before Parliament

The Speaker of the House of Assembly must, not later than the first sitting day after receiving a report and other documents from the Auditor-General, lay them before the parliament.

FINANCIAL MANAGEMENT SCHEDULE B1

To the Auditor-General.

The amount of public moneys likely to become due and payable out of the Consolidated Fund during the period _____ is _____ Dollars. Dated this _____ day of 20 ____.

Treasurer

Date: ____/____/____

Treasurer, I certify that the abovementioned sums are now legally available. You are hereby authorised to issue out of the Consolidated Fund the above amount and this shall be your sufficient warrant.

Auditor-General

____/____/____
Date:

Prime Minister

____/____/____
Date: