



Millennium Challenge Corporation

Reducing Poverty Through Growth

John J. Danilovich
Chief Executive Officer

May 15, 2006

His Excellency Robert Kocharian
President of the Republic of Armenia
Yerevan

Dear Mr. President:

It was a pleasure to meet with you last month in Armenia. The trip was a productive one, and my meetings with members of your government and representatives of civil society were both rewarding and important to the development of MCC's work in Armenia. As we discussed, however, a continued negative trend in Armenia's policy performance would endanger the continuation of the recently signed Compact, a result we sincerely hope Armenia will avoid.

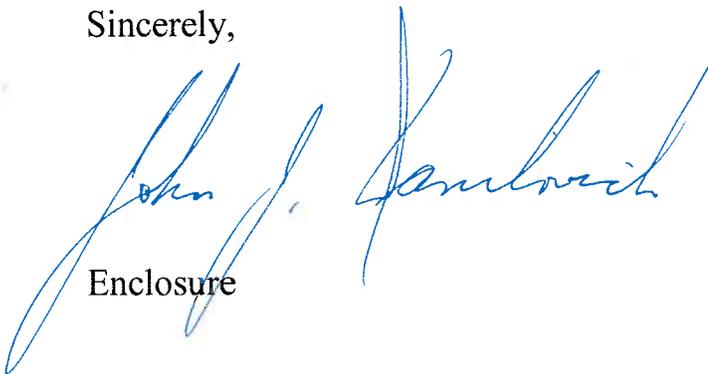
This letter, therefore, is in response to your request for clarification of the criteria by which Armenia's policy performance is measured. As you know, MCC uses sixteen indicators to evaluate a country's performance in the broad categories of ruling justly, investing in people, and encouraging economic freedom. These indicators are drawn directly from the work of independent international organizations; MCC neither influences nor modifies them. The attached materials underscore four "ruling justly" indicators on which Armenia's performance is declining and highlight the types of actions that we believe would signal Armenia's commitment to reform. It is not a comprehensive list of specific legal or technical reforms but, rather, a sample of suggested actions, with an emphasis on the need for consistent application and enforcement of democratic laws and the protection of civic rights over time. MCC's original concerns were not motivated by a single incident and the resolution of our concerns will, similarly, be based on consistent policy performance over time.

We cannot guarantee how the independent organizations that compile these indicators will react to such steps, but we anticipate that Armenia's performance on the indicators will improve as such steps are implemented. For further clarification, we would encourage a direct exchange of views between the

Government of Armenia and the organizations that compile the indicators in question: Freedom House and the World Bank Institute. To this end, we have made an effort to facilitate meetings with Freedom House here in Washington and during Freedom House's recent visit to Yerevan. The government may also want to consider establishing a high-level inter-Ministerial working group to discuss elections-related issues and to serve as an interlocutor with Freedom House, the World Bank Institute, foreign government representatives and other interested parties.

My staff, in conjunction with the U.S. Embassy in Yerevan, will continue to monitor events and I will be updating the MCC Board as the opportunities for Armenia to demonstrate its commitment are either seized or passed over. I look forward to seeing the tangible impact of Armenia's commitment to ruling justly, investing in people, and securing economic and political freedoms.

Sincerely,

A handwritten signature in blue ink, appearing to read "John J. Danilovich". The signature is written in a cursive style with a large, sweeping initial "J".

Enclosure

Armenia's Policy Performance and Potential Reforms

Ruling Justly

Political Rights (compiled by Freedom House): The decline in Armenia's 2005 Political Rights score was, according to Freedom House, primarily attributable to "the government's violent response to peaceful civic protests in April [2004], a broader pattern of political repression, and the authorities' increasingly unresponsive and undemocratic governance." Armenia's 2006 Political Rights score will also be negatively impacted by the conduct of the 2005 November constitutional referendum, after which election observers expressed concern regarding fraud, electoral mismanagement, and the mistreatment of opposition party actors. Despite government assurances that the alleged electoral misconduct would be investigated, parliamentary efforts to initiate an investigation were blocked as recently as March 2006.

Civil Liberties (compiled by Freedom House): Armenia has consistently received a 4 (where 7 is worst, and 1 is best) on the Civil Liberties indicator. However, the latest data from Freedom House indicate that Armenia's performance in the area of civil liberties has begun to deteriorate and could decline from 4 to a 5 in MCC's Fiscal Year 2008 selection process. At present, many of the reported concerns relate to violations of existing Armenian law. Therefore, improvement of this indicator will require more equitable application of existing laws, and the investigation or prosecution of reported violations including police brutality, arbitrary or false arrests, restrictions on press freedoms, freedom of assembly, and judicial independence.

Voice and Accountability (compiled by the World Bank Institute): In 2006, Armenia's Voice & Accountability score declined from .27 to 0 (the 65th percentile to the 50th percentile), causing Armenia to fail the indicator. This score is based on a number of sources which cite reports of government actions to strip independent media broadcast rights, hostility and violence against journalists, police brutality during public demonstrations, the dominance of the executive branch and limits on freedom of assembly and expression. As many media broadcast rights have yet to be restored, and efforts to strengthen judicial independence are still nascent, Armenia's score on this indicator is likely to remain below the median unless additional steps are taken.

Broad Objectives: Political Rights/ Civil Liberties/Voice	Reforms to Improve Policy Performance
Strengthen Freedom of the Press	<ul style="list-style-type: none"> • Fully investigate and take appropriate judicial action regarding alleged incidents of media harassment, detention, intimidation, threats, or attacks. • Ensure that media licensing processes do not create bureaucratic obstacles to the activity of the independent media. • Remove extreme press penalties from the criminal code and decriminalize libel. • Take special precautions to ensure that the independence of radio, television and print media is improved and respected throughout the coming periods of heightened political activity.
Foster Freedom of Assembly	<ul style="list-style-type: none"> • Adhere to the amendments in the 2004 law on meetings and allow lawful civic and/or political party gatherings. • Investigate reported incidents of police intimidation to prevent or disperse lawful public gatherings. Prosecute when appropriate. • Investigate the role of police or other state forces in reported incidents of excessive use of force at public gatherings. Prosecute when appropriate.
Implement a democratic electoral framework culminating in a free and fair elections environment in 2007 and 2008.	<ul style="list-style-type: none"> • Take public steps to investigate and/or prosecute allegations of previous electoral misconduct. Ensure that any investigation is conducted by an appropriately non-partisan or multi-party actor. • Pursue the creation of multi-party, balanced electoral commissions and establish a clear complaints mechanism. • Address problems in the voters' list, the elections code, electoral procedures, exit polling and electoral administration in a timely matter and in accordance with internationally accepted standards and practices. (Vigorous cooperation at all levels with the United States Government's ongoing program of electoral assistance should be helpful in this regard). • Allow freedom of movement, speech, and assembly for opposition parties. Do not limit access to the media or public venues. • Refrain from interactions with the media that may be construed as coercive or suggestive of self-censorship. • Ensure that polling station officials respect the integrity of the ballot box and publicly commit to impartial investigations and prosecutions of those who do not. • Provide credentials to international or domestic election monitors who apply to monitor elections and/or the pre-election environment.

Rule of Law: (Compiled by the World Bank): Declines in Freedom House's 2005 *Judicial Framework and Independence* index and increased reports of police brutality in the 2004 and 2005 U.S. Department of State Human Rights Reports feed into this Rule of Law index. Since their publication in late 2005, additional

concerns have surfaced regarding property rights and the enforceability of contracts by opposition figures. These negative movements in the score can be ameliorated though the consistent implementation of reform laws in keeping with the spirit of judicial independence and the protection of citizens' rights.

Broad Objectives: Rule of Law	Reforms to Improve Policy Performance
Reaffirm respect for property rights and legal contracts	<ul style="list-style-type: none"> • Ensure government-supported construction projects adhere to legally or constitutionally mandated procedures for land acquisition. • Investigate, and prosecute when appropriate, alleged violations of homeowners' property rights. • Investigate allegations into illegal eviction or political pressure to break office leases with opposition actors.
Strengthen Judicial Independence	<ul style="list-style-type: none"> • In keeping with the constitutional amendments designed to enhance the independence of the judiciary, consider transparent mechanisms to select the candidates ultimately voted on by the Council of Justice. Take concrete steps to demonstrate that the amendments are effectively removing executive influence (including that of presidential advisors) over the judiciary.
Improve observation of human rights by police and security forces	<ul style="list-style-type: none"> • Without fail, procure appropriate legal documentation necessary in advance of arrests and detentions. • Ensure that the police permit detainees to undergo the forensic medical examination necessary to substantiate reports of mistreatment or torture. • Continue to investigate reports of police security personnel mistreating detainees or otherwise violating the Armenian criminal code.
Allow and enable the Armenian Ombudsman to execute its official responsibilities.	<ul style="list-style-type: none"> • Refrain from interrupting or precluding the investigations and reports of the ombudsman. • Protect the rights of the ombudsman to access government information when investigating complaints. • Respect the anonymity of those who lodge complaints or collaborate with ombudsman investigations.