

The Business Environment in Sri Lanka



The island of Sri Lankan is poised at the gateway of the vast Indian sub-content,

home to a fourth of the world’s population. This vast market displays a considerable purchasing power, as a result of steady economic growth and an expanding middle class.

Trade barriers are falling in the region. The South Asia Preferential Tariff Arrangement (SAPTA) came into force on 7th December, 1995. Already tariff concessions apply to 226 items. The seven countries which comprise the South Asia Association for Regional Cooperation (SAARC) have agreed to expand the list of items to around 2,000 shortly. SAARC member nations have further resolved that SAPTA should eventually progress towards the South Asia free Trade Arrangement (SAFTA) preferably by the year 2000, but not later than 2005.

Sri Lanka is the logical base for manufacturing and services for organisations that wish to establish an early position for themselves in this future economic power house.

Recent studies have shown that Sri Lanka offers one of the most liberal business environments in Asia. Total foreign ownership is welcome in most areas of the economy. A small restricted list where foreign investment is limited is becoming even smaller. There are no restrictions on the repatriation of earnings and capital.

A business friendly government is pursuing an active policy of economic liberalization with emphasis on private sector investment. The private sector has assumed a compelling and vital role in such traditional public sector enclaves as telecommunications, energy and transport. More than 15 enterprises are being prepared for privatisation including Sri Lanka Telecom, Air Lanka and Lanka Electricity Co. Ltd.

Over the last 12 months, there has been a considerable increase in approved investments into the infrastructure and service sectors. The most significant among these include:

1 award of 2 licences to set up basic telephone services using wireless loop technology. Each licensee is anticipated to invest over US$150 million during the next few years.

• largest ever BOT project approved for the development of Colombo Port. Anticipated investment is approximately USS 600 million.

• largest ever investment application for setting up an oil refinery. The anticipated investment is approximately US$ 1.5 billion.

• largest ever privatisation: purchase of controlling interest of Colombo Gas Company by Shell B.V of Netherlands for US$ 30 million. An additional investment of USS 50 million has also been committed for the setting up of a Gas Terminal.

• first ever Power Purchase Agreement signed for a BOO diesel power plant. Total value of project: USS 62 million.

Investment protection and Guarantees

To keep up the momentum of this success, the government of Sri Lanka now offers one of the most attractive incentive packages available to investors anywhere.

Over the years, Sri Lanka has developed an enviable record of “political credibility” in the international arena. All major political parties in this thriving democracy are committed to free enterprise and individual freedom. The country is an active member of many international forums relating to global issues. The Sri Lankan government has never defaulted, or requested rescheduling, on any of her international loan obligations. This credibility extends to the protection given to foreign investors.

Bilateral investment agreements, backed by a constitutional guarantee, provide strong protection to foreign investments in Sri Lanka. The safety of foreign investment is guaranteed by the acceptance by a two-thirds majority of Parliament of the Constitutional Guarantee of Investment Protection Agreements. Under Article 157 of the country’s constitution, an agreement so accepted enjoys the force of Law and no legislative, executive or administrative action can be taken in contravention of it.

Bilateral investment agreements are valid for ten years. They are extended automatically unless terminated by either party. If the agreements are terminated, investments already made are protected for another ten years. A clause in the Sri Lankan Constitution ensures the sanctity of the agreements.

These agreements provide for the following:

• Protection against nationalisation.

• Prompt and adequate compensation if required.

• Free remittance of earnings, capital and business fees.

• Settlement of disputes under the International Convention for the Settlement of Investment Disputes (ICSID).

Bilateral agreements exist between Sri Lanka and the following countries: Belgium, China, Denmark, Egypt, France, Germany, Italy, Japan, Korea, Luxembourg, Malaysia, The Netherlands, Norway, Romania, Singapore, Sweden, Switzerland, Thailand, the United Kingdom and the United States of America.

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Sri Lanka is also a founder member of the Multilateral Investment Guarantee Agency (MIGA). This provides further safeguards against expropriation and non-commercial risk. Investors may also refer disputes for arbitration under the Rules of the International Chamber of Commerce.

Property insurance can be obtained in foreign currency through domestic or foreign insurers.

Intellectual Property

The laws relating to copyright, industrial designs, patents, trade marks, service marks, trade names and unfair competition are embodied in the Code of Intellectual Property Act of 1979 as amended to date. Protection for trade marks in Sri Lanka is based on registration in the Registry of Trade Marks. The classification used for this purpose follows the international classification set by the Nice Agreement of the World Intellectual Property Organisation with 34 classes of goods and 8 classes of services. Registration of a mark is valid for ten years, and renewable for additional periods of ten years.

Arbitration Centre

An Arbitration Centre has been established in Colombo for the settlement of commercial disputes. A new law has already been enacted for this purpose, titled the Arbitration Act No. 11 of 1995. The Centre will be affiliated to the Arbitration

Institute of the Stock- holm Chamber of Commerce, whose standards and norms will be followed by the Sri Lankan centre. The aim of the centre will be to resolve commercial disputes expeditiously, economically and privately.

The Arbitration Act gives recognition to the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards. Therefore arbitration awards made abroad are now enforceable in Sri Lanka. Similarly awards made in Sri Lanka can be enforced abroad.

Remittance of Earnings and Capital

By mid-1994, Sri Lanka had removed all foreign exchange restrictions on current account transactions. The monetary authorities are rapidly moving towards full convertibility of the Sri Lankan rupee.

Within this liberal environment, foreign investors can freely remit dividends, capital or royalty payments through any commercial bank. Sale proceeds of shares can be remitted if the sale price is acceptable to the Central Bank.

Manpower and employment

According to data published by the World Bank, Sri Lanka’s indicators for the quality of manpower are the best among the 42 low income countries in the world. The island has the highest life expectancy, the highest literacy rate (89%) and the lowest infant and child mortality rates among the low income countries. With the lowest urbanisation rate in the group, pressures on the cities do not exist as they do in other developing countries. Sri Lanka, together with China, has the lowest rate of population growth in the developing world.

The picture that emerges is that of the best quality work-force available anywhere at this income and wage level. This happy situation is the result of extensive investment in welfare by successive post-independence governments, though arguably at some expense to economic growth in the past. Today, the investor encounters an intelligent, educated and energetic work-force, which is comfortable with modern production techniques and which has a level of trainability that is among the best in comparable investment locations.

Land

A foreign investor can either purchase or lease land for his enterprise. If a foreign

individual buys land, he will be liable to pay tax at 100% of the purchase price. However, if a foreign investor incorporates a company in Sri Lanka under the Companies Act and buys the land in the name of the company, there will be no liability for such tax even though the shareholder of the company are foreign nationals. This is because a company incorporated in Sri Lanka is deemed to be a citizen of Sri Lanka for the purpose of this tax.