

ශ්‍රී ලංකා ප්‍රජාතාන්ත්‍රික සමාජවාදී ජනරජයේ ගැසට් පත්‍රය
අති විශේෂ
The Gazette of the Democratic Socialist Republic of Sri Lanka
EXTRAORDINARY

අංක 2044/20 - 2017 නොවැම්බර් මස 06 වැනි සඳුදා - 2017.11.06
No. 2044/20 - MONDAY, NOVEMBER 06, 2017

(Published by Authority)

PART I : SECTION (I) — GENERAL
Government Notifications

STRATEGIC DEVELOPMENT PROJECTS ACT No. 14 OF 2008

Notification under Section 3(2)

BY Virtue of the powers vested in me in terms of Section 3(2) of the Strategic Development Projects Act No. 14 of 2008 as amended (SDP Act) , I, Malik Samarawickrama, being the Minister in charge of the subject of Development Strategies and International Trade, in consultation with the Minister in charge of Finance, do by this Notification-

- (1) Identify as a Strategic Development Project for the purposes of the aforesaid Act, the Project to restructure the Hambantota Port (Port) development and transforming (Project) it to be a commercially viable national asset. This Project will bring significant economic and social benefit to the country;
 - The Project has a national interest and significance: the present loss making operation will be transformed to a profitable business venture by infusion of equity, professional international management standard and adoption of a viable business model overcoming the burdens and negative impacts that the Project has caused on the national economy.
 - The Project is one of the largest foreign direct investments in the country with cascading inflow of foreign exchange with an additional potential investment of United States Dollars around Four Hundred to Six Hundred (US\$ 400 - 600 Mn) within the Project Implementation Period.
 - A competitive and efficiently operating commercial Port is a dire necessity and a catalyst for attracting other port related as well as export oriented investments. The restructured Port will fill the gap paving way for more foreign direct investment to flow and exports to grow.
 - The Project will benefit the Southern region by *inter alia* the development of infrastructure and bring potential employment generation and consequent income earning opportunities for the local people.
 - The Project will enhance the position of Sri Lanka as an International Maritime Center.



- (2) The Project Company is HAMBANTOTA INTERNATIONAL PORT GROUP (PRIVATE) LIMITED (“the Project Company”). The date of commencement of implementation and commercial operations of the Project shall be within Seven (07) years upon approval by resolution of Parliament in terms of Section 3(5) of the SDP Act (“Project Implementation Period”).
- (3) The Project Company is dedicated to undertake the management of all the operational assets of the Port of Hambantota and thereby further development and commercialization of the cargo handling and related operations (“Project Activity”) with an investment of United States Dollars Seven Hundred and Ninety Four Million (US\$ 794Mn).
- (4) Specify that for the purposes of the aforesaid Project, in terms of the Strategic Development Projects Act No. 14 of 2008 as amended, the exemptions set out in Schedule 1 of this Notification shall apply to the Project Company.

SCHEDULE I

(1) **The Inland Revenue Act No. 10 of 2006**

(i) *Corporate Income Tax*

The provisions of the Inland Revenue Act, No. 10 of 2006 relating to the imposition of income tax on the Project Company on the profit, gain and income generated from the activities from the said Project shall not apply for a period of twenty-five (25) years (“Tax Exemption Period”).

The said Tax Exemption Period shall commence seven (07) years from the Effective Date of the Concession Agreement dated 29th July, 2017, for the Port of Hambantota entered between the Sri Lanka Ports Authority (SLPA), Government of the Democratic Socialist Republic of Sri Lanka (GOSL), China Merchants Port Holdings Company Limited (CMPort), Hambantota International Port Services Company (Private) Limited (HIPS) and the Project Company (Concession Agreement).

Provided that after the expiry of the aforesaid Tax Exemption Period income tax in respect of the profits, gains and income of the Project Company shall be payable in terms of the provisions of the Inland Revenue Act for the time being in force.

Provided however, the equity transaction or asset transfer that takes place for the entry of the investor to Hambantota Port Development Project of the Project Company shall be exempted from the payment of Corporate Income Tax

However, Economic Service Charge (ESC) will be applicable at the rate of 0.05% of gross operation revenue of the Project during the above Tax Exemption Period.

(ii) *Tax on Dividends*

Dividends distributed to the shareholders out of the exempted profit, gain shall be exempted from the income tax during the said Tax Exemption Period of Twenty-five (25) years and one (01) year thereafter commencing from the Effective Date of the Concession Agreement

(iii) *Withholding Tax*

The Project Company shall be exempted from the payment of Withholding Tax on the following for a period of seven (7) years commencing upon approval by resolution of Parliament:

- (a) on management fees and royalty payments provided however that total of such charges does not exceed three per centum (3%) of the gross operating revenue;
- (b) on marketing fees, provided however the total of such fees does not exceed one point five per centum (1.5%) of the gross operating revenue; and
- (c) on incentive management fees, provided however the total of such fees does not exceed three per centum (3%) of the gross operating profit.

However, the Project Company shall be exempted from the payment of Withholding Tax on interest on foreign loans taken for capital expenditure and on technical fees or service fees paid to consultants for a period of twenty five (25) years commencing upon approval by resolution of Parliament.

(iv) *PAYE Tax*

The expatriate staff of the Project Company shall be exempted from Payment of Pay As You Earn (PAYE) applicable for a period of seven (7) years, commencing upon approval by resolution of Parliament and subject to the maximum number of Twenty Seven (27) employees at any given time.

(2) Value Added Tax (VAT) Act No. 14 of 2002

All imports of Project related goods and local purchases of Project related goods or services required for the implementation of the Project as approved by the Board of Investment of Sri Lanka, shall be exempted from the payment of Value Added Tax (VAT), for a period of seven (7) years commencing upon approval by resolution of Parliament. The exemption in relation to local purchases and imports shall be applicable to the Project Company's contractor or sub-contractor for the purposes of the Project.

Provided however, the equity transaction or asset transfer that take place for the entry of the investor to Hambantota Port Development Project of the Project Company shall be exempted from the payment of VAT.

(3) Ports and Airports Development Levy (PAL) Act No. 18 of 2011

The Project Company shall be exempted from the payment and charge of Ports and Airports Development Levy (PAL), on the Project related goods, as approved by the Board of Investment of Sri Lanka, imported during the seven (7) years commencing upon approval by resolution of Parliament. The exemption shall be applicable on direct imports by the Project Company for the Project or on imports by a contractor or sub-contractor for the purposes of the Project, subject to the conditions referred to in item No. (07) below.

(4) Excise (Special Provision) Act No. 13 of 1989

Import of Project related items, other than vehicles used for travelling, as approved by the Board of Investment of Sri Lanka shall be exempted from the Excise Duty Payment during the seven (7) years upon approval by resolution of Parliament. The exemption shall be applicable to the Project Company's contractor or sub-contractor for the purposes of the Project.

(5) The Sri Lanka Export Development Act No. 40 of 1979

Import of Project related items as approved by the Board of Investment of Sri Lanka shall be exempted from the payment of CESS during the seven (7) years commencing upon approval by resolution of Parliament. The exemption shall be applicable to the Project Company's contractor or sub-contractor for the purposes of the Project.

(6) Nation Building Tax (NBT)

The Project Company, the contractor and the sub – contractors shall be exempted from the Nation Building Tax during the seven (7) years commencing upon approval by resolution of Parliament.

Provided however, the equity transaction or asset transfer that take place for the entry of the investor to Hambantota Port Development Project of the Project Company shall be exempted from the payment of NBT.

(7) Customs Duty on Importation of Project Related Items [Customs Ordinance – Chapter 235]

All imports of Project related items, other than vehicles used for travelling, will be exempted from the customs duty as approved by the Board of Investment of Sri Lanka, for the purpose of the Project during the seven (7) years commencing upon the approval by resolution of Parliament . The exemption from customs duty shall be applicable to all imports of Project related items required for the Project, whether directly imported by the Project Company or sourced through the contractors or sub-contractors, as approved by the Board of Investment of Sri Lanka during the seven (7) years, commencing upon approval by resolution of Parliament. The Items in the Negative List shall also be exempted from the Customs Duty, provided such items are either not wholly produced in Sri Lanka or are unavailable in sufficient quality, quantity and time lines for Project completion.

MALIK SAMARAWICKRAMA, MP
Minister of Development Strategies
and International Trade.

Colombo,
04th November, 2017.

11-977/1

STRATEGIC DEVELOPMENT PROJECTS ACT No. 14 OF 2008

Notification under Section 3(2)

BY Virtue of the powers vested in me in terms of Section 3(2) of the Strategic Development Projects Act No. 14 of 2008 as amended (SDP Act) , I, Malik Samarawickrama, being the Minister in charge of the subject of Development Strategies and International Trade, in consultation with the Minister in charge of Finance, do by this Notification-

- (1) Identify as a Strategic Development Project for the purposes of the aforesaid Act, the Project to restructure the Hambantota Port (Port) development and transforming (Project) it to be a commercially viable national asset. This Project will bring significant economic and social benefit to the country;

- The Project has a national interest and significance: the present loss making operation will be transformed to a profitable business venture by infusion of equity, professional international management standard and adoption of a viable business model overcoming the burdens and negative impacts that the Project has caused on the national economy.
- The Project is one of the largest foreign direct investments in the country with cascading inflow of foreign exchange with an additional potential investment of United States Dollars around Four Hundred to Six Hundred (US\$ 400 - 600 Mn) within the Project Implementation Period.

- A competitive and efficiently operating commercial Port is a dire necessity and a catalyst for attracting other port related as well as export oriented investments. The restructured Port will fill the gap paving way for more foreign direct investment to flow and exports to grow.
 - The Project will benefit the Southern region by *inter alia* the development of infrastructure and bring potential employment generation and consequent income earning opportunities for the local people.
 - The Project will enhance the position of Sri Lanka as an International Maritime Center.
- (2) The Project Company is HAMBANTOTA INTERNATIONAL PORT SERVICES COMPANY (PRIVATE) LIMITED ("the Project Company"). The date of commencement of implementation and commercial operations of the Project shall be within Seven (07) years upon approval by resolution of Parliament in terms of Section 3(5) of the SDP Act ("Project Implementation Period").
- (3) The Project Company, is dedicated to undertake the management of the Common User facilities and services of Port of Hambantota such as, including but not limited to, port security, navigational services, pilotage, anchorage, provision of aids to navigation, dredging, widening (capital and maintenance) emergency response and pollution control services ("Project Activity") with an investment of United States Dollars Six Hundred and Six Million (US\$ 606Mn).
- (4) Specify that for the purposes of the aforesaid Project, in terms of the Strategic Development Projects Act No. 14 of 2008 as amended, the exemptions set out in Schedule 1 of this Notification shall apply to the Project Company.

SCHEDULE I

(1) The Inland Revenue Act No. 10 of 2006

(i) Corporate Income Tax

The provisions of the Inland Revenue Act, No. 10 of 2006 relating to the imposition of income tax on the Project Company on the profit, gain and income generated from the activities from the said Project shall not apply for a period of twenty-five (25) years ("Tax Exemption Period").

The said Tax Exemption Period shall commence seven (07) years from the Effective Date of the Concession Agreement dated 29th July, 2017, for the Port of Hambantota entered between the Sri Lanka Ports Authority (SLPA), Government of the Democratic Socialist Republic of Sri Lanka (GOSL), China Merchants Port Holdings Company Limited (CMPort), Hambantota International Port Group (Private) Limited (HIPG) and the Project Company (Concession Agreement).

Provided that after the expiry of the aforesaid Tax Exemption Period income tax in respect of the profits, gains and income of the Project Company shall be payable in terms of the provisions of the Inland Revenue Act for the time being in force.

Provided however, the equity transaction or asset transfer that takes place for the entry of the investor to Hambantota Port Development Project of the Project Company shall be exempted from the payment of Corporate Income Tax

However, Economic Service Charge (ESC) will be applicable at the rate of 0.05% of gross operation revenue of the Project during the above Tax Exemption Period.

(ii) *Tax on Dividends*

Dividends distributed to the shareholders out of the exempted profit, gain shall be exempted from the income tax during the said Tax Exemption Period of Twenty-five (25) years and one (01) year thereafter commencing from the Effective Date of the Concession Agreement

(iii) *Withholding Tax*

The Project Company shall be exempted from the payment of Withholding Tax on the following for a period of seven (7) years commencing upon approval by resolution of Parliament:

- (a) on management fees and royalty payments provided however that total of such charges does not exceed three per centum (3%) of the gross operating revenue;
- (b) on marketing fees, provided however the total of such fees does not exceed one point five per centum (1.5%) of the gross operating revenue; and
- (c) on incentive management fees, provided however the total of such fees does not exceed three per centum (3%) of the gross operating profit.

However, the Project Company shall be exempted from the payment of Withholding Tax on interest on foreign loans taken for capital expenditure and on technical fees or service fees paid to consultants for a period of twenty five (25) years commencing upon approval by resolution of Parliament.

(iv) *PAYE Tax*

The expatriate staff of the Project Company shall be exempted from Payment of Pay As You Earn (PAYE) applicable for a period of seven (7) years, commencing upon approval by resolution of Parliament and subject to the maximum number of Three (3) employees at any given time.

(2) Value Added Tax (VAT) Act No. 14 of 2002

All imports of Project related goods and local purchases of Project related goods or services required for the implementation of the Project as approved by the Board of Investment of Sri Lanka, shall be exempted from the payment of Value Added Tax (VAT), for a period of seven (7) years commencing upon approval by resolution of Parliament. The exemption in relation to local purchases and imports shall be applicable to the Project Company's contractor or sub-contractor for the purposes of the Project.

Provided however, the equity transaction or asset transfer that take place for the entry of the investor to Hambantota Port Development Project of the Project Company shall be exempted from the payment of VAT.

(3) Ports and Airports Development Levy (PAL) Act No. 18 of 2011

The Project Company shall be exempted from the payment and charge of Ports and Airports Development Levy (PAL), on the Project related goods, as approved by the Board of Investment of Sri Lanka, imported during the seven (7) years commencing upon approval by resolution of Parliament. The exemption shall be applicable on direct imports by the Project Company for the Project or on imports by a contractor or sub-contractor for the purposes of the Project, s, subject to the conditions referred to in item No. (07) below.

(4) Excise (Special Provision) Act No. 13 of 1989

Import of Project related items, other than vehicles used for travelling, as approved by the Board of Investment of Sri Lanka shall be exempted from the Excise Duty Payment during the seven (7) years upon approval by resolution of Parliament. The exemption shall be applicable to the Project Company's contractor or sub-contractor for the purposes of the Project.

(5) The Sri Lanka Export Development Act No. 40 of 1979

Import of Project related items as approved by the Board of Investment of Sri Lanka shall be exempted from the payment of CESS during the seven (7) years commencing upon approval by resolution of Parliament. The exemption shall be applicable to the Project Company's contractor or sub-contractor for the purposes of the Project.

(6) Nation Building Tax (NBT)

The Project Company, the contractor and the sub – contractors shall be exempted from the Nation Building Tax during the seven (7) years commencing upon approval by resolution of Parliament.

Provided however, the equity transaction or asset transfer that take place for the entry of the investor to Hambantota Port Development Project of the Project Company shall be exempted from the payment of NBT.

(7) Customs Duty on Importation of Project Related Items [Customs Ordinance – Chapter 235]

All imports of Project related items, other than vehicles used for travelling, will be exempted from the customs duty as approved by the Board of Investment of Sri Lanka, for the purpose of the Project during the seven (7) years commencing upon the approval by resolution of Parliament . The exemption from customs duty shall be applicable to all imports of Project related items required for the Project, whether directly imported by the Project Company or sourced through the contractors or sub-contractors, as approved by the Board of Investment of Sri Lanka during the seven (7) years, commencing upon approval by resolution of Parliament . The Items in the Negative List shall also be exempted from the Customs Duty, provided such items are either not wholly produced in Sri Lanka or are unavailable in sufficient quality, quantity and time lines for Project completion.

MALIK SAMARAWICKRAMA, MP
Minister of Development Strategies
and International Trade.

Colombo,
04th November, 2017.

11-977/2