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Sri Lanka Export Development

Sri Lanka Export Development

AN ACT TO PROVIDE FOR THE CONSTITUTION OF THE SRI LANKA EXPORT DEVELOPMENT COUNCIL OF MINISTERS AND THE ESTABLISHMENT OF THE SRI LANKA EXPORT DEVELOPMENT BOARD ; TO VEST THE SAID BOARD WITH POWERS NECESSARY FOR THE DEVELOPMENT OF SRI LANKA EXPORTS ; AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

BE it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows :-

Short title 1. This Act may be cited as the Sri Lanka Export and date Development Act, No. 40 of 1979, and shall come into of operation on such date as the Minister may appoint by operation. Order published in the Gazette.

PART I

CONSTITUTION OF THE EXPORT DEVELOPMENT COUNCIL OF MINISTERS

*Constitution 2.
of the Export
Development
Council of
Ministers.*

(1) There shall be an Export Development Council of Ministers consisting of

(a) the President, who shall be the Chairman of the Council; and

(b) the Ministers in charge of the subjects of Trade, Shipping, Industries, Agriculture, Plantation Industries, Textile Industries, Fisheries, Finance, Foreign Affairs, Planning and Rural Industries.

(2) The Export Development Council of Ministers shall, subject to any general or special directions given by the Cabinet of Ministers, be responsible for the formulation and implementation of national export development policies and programmes.

PART II

ESTABLISHMENT AND CONSTITUTION OF THE SRI LANKA EXPORT DEVELOPMENT BOARD

*Establishment3.
of the Sri
Lanka Export
Development
Board.*

(1) With effect from such date as may be fixed by the Minister by Notification published in the Gazette there shall be established a Board which shall be called the Sri Lanka Export Development Board, hereinafter referred to as the " Board " .

(2) The Board shall be a body corporate with perpetual succession and a common seal and may sue and be sued in its corporate name.

(3) The head office of the Board shall be in Colombo.

(4) The Board may, with the prior approval of the Minister, establish and maintain any branch office or agency within or outside Sri Lanka.

*Constitution4.
of the
Board.*

(1) The Board shall consist of-

(a) a Chairman and six other members all of whom shall be appointed by the Minister from among persons who appear to have had experience and shown capacity in industry, trade or finance, or in any other field connected with export development;

(b) the Secretary or Additional Secretary of the Ministry of the Minister in charge of the subject of Trade, nominated by that Minister ;

(c) the Secretary or Additional Secretary of the Ministry of the Minister in charge of the subject of Shipping, nominated by that Minister ;

(d) the Secretary or Additional Secretary of the Ministry of the Minister in charge of the subject of Industries, nominated by that Minister ;

(e) the Secretary or Additional Secretary of the Ministry of the Minister in charge of the subject of Agriculture, nominated by that Minister ;

(f) the Secretary or Additional Secretary of the Ministry of the Minister in charge of the subject of Plantation Industries, nominated by that Minister ;

(g) the Secretary or Additional Secretary of the Ministry of the Minister in charge of the subject of Textile Industries, nominated by that Minister ;

(h) the Secretary or Additional Secretary of the Ministry of the Minister in charge of the subject of Fisheries, nominated by that Minister ;

(i) the Secretary or Additional Secretary of the Ministry of the Minister in charge of the subject of Finance, nominated by that Minister ;

(j) the Secretary or Additional Secretary of the Ministry of the Minister in charge of the subject of Foreign Affairs, nominated by that Minister;

(k) the Secretary or Additional Secretary of the Ministry of the Minister in charge of the subject of Planning, nominated by that Minister;

(l) the Secretary or Additional Secretary of the Ministry of the Minister in charge of the subject of Rural Industries, nominated by that Minister ; and

(m) a member of the Greater Colombo Economic Commission, appointed by the Minister with the concurrence of the President.

(2) Where two or more of the subjects specified in paragraphs (b) to (l) of subsection (1) are assigned to, or remain in the charge of, one Minister, then there shall be only one member nominated by that Minister in respect of such subjects.

(3) A person shall be disqualified for appointment, or for continuing, as a member of the Board under paragraph (a) or (m) of subsection (1)-

(a) if he is, or becomes, a Member of Parliament; or

(b) if he is not, or ceases to be, a citizen of Sri Lanka.

(4) The Chairman and the members appointed by the Minister under paragraphs (a) and (m) of subsection (1) shall, subject to the provisions of subsections (5) and (8), hold office for a term of three years but shall be eligible for reappointment.

(5) The Minister may by Order published in the Gazette remove from office the Chairman or any member of the Board appointed under paragraph (a) or (m) of subsection (1), without assigning any reason therefor and such removal shall not be called in question in any court:

Provided, however, that the member appointed under paragraph (m) of subsection (1) shall not be removed from office under this subsection without the concurrence of the President.

(6) In the event of the vacation of office by the Chairman or any other member of the Board appointed under paragraph (a) or (m) of subsection (1), or his removal from office under the provisions of the preceding subsection, the Minister may appoint another person to hold such office during the unexpired part of the term of office of the member whom he succeeds:

Provided, however, that if such vacation of office or removal from office is by, or of, the member appointed under paragraph (m) of subsection (1), no appointment shall be made under this subsection without the concurrence of the President.

(7) If the Chairman or any member of the Board appointed under paragraph (a) or (m) of subsection (1) is temporarily unable to discharge the duties of his office due to ill health or absence from Sri Lanka or for any other cause, the Minister may appoint some other person to act in his place as Chairman or as member:

Provided, however, that if the member so unable to discharge the duties of his office is a member appointed under paragraph (m) of subsection (1), no appointment shall be made under this subsection without the concurrence of the President.

(8) The Chairman or any member of the Board may at any time resign his office by letter to that effect addressed to the Minister.

(9) The Chairman or any member of the Board may be paid such remuneration out of the Fund of the Board, as may be determined by the Minister.

(10) The Board shall, in the exercise, performance or discharge of its powers, duties or functions under this Act, be subject to such general or special directions as may, from time to time, be issued by the Minister in consultation where necessary, with the other Ministers of Ministries represented on the Board.

*Meetings 5.
of the
Board,
quorum
and
regulation
of
procedure.*

(1) Meetings of the Board shall be held at least once in every month and, in addition, as frequently as are necessary for the purpose of discharging its responsibilities under this Act.

(2) The Chairman of the Board shall, if present, preside at all meetings of the Board. In the absence of the Chairman from any such meeting, the members present shall elect one of the members to preside at such meeting.

(3) At any meeting of the Board, seven members shall constitute a quorum.

(4) Subject to the other provisions of this Act, the procedure to be followed in regard to the transaction of business at meetings of the Board, shall be as determined by rules made by the Board.

Powers, 6.

&c. of the
Chairman
of the
Board.

(1) The Chairman shall be the chief executive of the Board.

(2) The Chairman shall subject to the general direction and control of the Board, be charged with the direction of the business of the Board, the organization and execution of the powers, functions and duties of the Board and the administrative control of the employees of the Board.

(3) The Chairman may, with the concurrence of the Board, delegate in writing to any employee of the Board such of his powers, functions or duties as he may from time to time consider necessary, and any employee to whom any such powers, functions or duties are so delegated shall exercise, discharge or perform them subject to the general or special directions of the Chairman.

Disclosure7. A member of the Board who has a direct or indirect of interest pecuniary interest in any business transacted or by proposed to be transacted by the Board shall disclose members the nature of such interest at the meeting of the Board of the where such business is discussed. The disclosure shall Board. be recorded in the minutes of the Board, and such member shall not take part in any deliberation or decision of the Board with regard to that business, and shall withdraw from such meeting while such deliberation is in progress or such decision is being made.

Acts not 8. No act or proceeding of the Board shall be invalid by invalidatedreason only of the existence of a vacancy among its by reason members or any defect in the appointment of a of vacancy,member thereof.

&c.

*Power of 9.
the Board
to establish
committees.*

(1) The Board may establish committees consisting of such number of persons, including persons who are not members of the Board, for the proper exercise, performance and discharge of its powers, duties and functions.

(2) The Board may delegate to such committees such of its powers, duties and functions as may be determined by the Board.

(3) Every committee established under subsection (1) shall determine the quorum for and the procedure to be followed at the meetings of such committee.

*Establishment10.
of Advisory
Committees*

(1) On the advice of the Board the Minister may by Order published in the Gazette, establish Advisory Committees that are oriented towards the development and promotion of specific products, product groups and commodities as well as the functional aspects of export trade.

(2) It shall be the function of each such Advisory Committee to advise the Board on any or all of the matters which the Minister considers necessary for the purposes of carrying out or giving effect to the principles and provisions of this Act.

(3) On the advice of the Board the Minister may appoint to each such Advisory Committee such number of members for such period and on such terms and conditions as he shall determine.

(4) Each such Advisory Committee shall have the power to fix and regulate its own procedure including the power to determine the number of members necessary to form a quorum at its meetings.

(5) A member may resign from office by letter to that effect addressed to the Minister.

(6) A member vacating his office by resignation or by the expiration of his period of office shall be eligible for reappointment.

(7) Where a member becomes by reason of illness or other infirmity, or absence from Sri Lanka, temporarily unable to perform the duties of his office, the Minister may appoint another person to act in his place.

(8) The Minister may, if he considers it expedient to do so, remove, by Order published in the Gazette, any member of an

Seal of the 11.

Board.

(1) The seal of the Board may be altered in such manner as may be determined by the Board.

(2) The seal of the Board shall not be affixed to any instrument or document except in the presence of two members of the Board who shall sign the instrument or document in token of their presence.

PART III

POWERS AND FUNCTIONS OF THE BOARD

Power 12.

*and
function
of the
Board*

(1) The powers and functions of the Board shall be-

(a) to advise the Export Development Council of Ministers on the national export development policy and programmes ;

(b) to recommend to the Export Development Council of Ministers policies and measures on export-oriented investment;

(c) to recommend the adoption of trade agreements or negotiation of inter-country commercial policy, financial and other related arrangements that will facilitate the development of export from Sri Lanka;

(d) to formulate a national export development plan and programme for approval by the Export Development Council of Ministers;

(e) to monitor the implementation of the national export plan and programme and actively assist in the

implementation of the plan ;

- (f) to facilitate the development of supplies of export products ;*
- (g) to administer the Export Development Fund and implement all programmes of assistance for export production and marketing in close co-operation with the various agencies of the Government and of trade and industry ;*
- (h) to function as a focal point within the Government where exporters can deal with all export problems;*
- (i) to carry out export potential surveys related to Sri Lanka products;*
- (j) to carry out research and development on export products;*
- (k) to promote the export of professional and consultancy services from Sri Lanka in order to earn foreign exchange ;*
- (l) to promote and sponsor trading houses, engineering and development work and other activities abroad, that will enhance Sri Lanka's foreign exchange earnings;*
- (m) to carry out feasibility studies on export-oriented projects and to undertake any special projects on export development on a pilot basis ;*
- (n) to promote and sponsor the establishment of joint export groups, export houses and other organizations ;*
- (o) to direct and co-ordinate the market development activities of trade representatives and trade agents abroad of Sri Lanka;*

(p) to act as implementing agency for technical co-operation in the field of export development with organizations and bodies outside Sri Lanka ;

(q) subject to limits and procedures laid down by the Minister in consultation with the Minister in charge of the subject of Finance,-

(i) to acquire shares, stocks or any other interest in any business enterprise incorporated in Sri Lanka or abroad and carrying on or proposing to carry on business in Sri Lanka or abroad;

(ii) to lend money to any person or organization in Sri Lanka or abroad for the purpose of trade development;

(r) without prejudice to the generality of the powers conferred on the Board by this Act, to carry out or provide general export services to all exporters, such as-

(i) trade information of current interest to producers and traders,

(ii) marketing research in foreign markets, ;

(iii) assistance in the development of new products and in the adaptation of existing ones for export markets,

(iv) assistance in the initial stages of marketing a new product or entry into a new

market, in-eluding test marketing exercises,

- (v) organization of buyer-seller meetings in Colombo and in foreign locations,*
- (vi) export consultancy services,*
- (vii) assistance in participation in trade displays, trade fairs and other forms of trade promotion,*
- (viii) training courses in trade promotion and export marketing,*
- (ix) assistance in resolving the problems encountered by individual producers of exports or exporters,*
- (x) assistance in quality control standards, packaging, export credit and insurance,*
- (xi) assistance in import and export procedures and documentation;*
- (s) to acquire and hold any movable or immovable property or dispose of any movable or immovable property acquired or held by it;*
- (t) to levy fees or other charges for services or facilities provided by the Board;*
- (u) to accept gifts, grants, donations or subsidies from both local or foreign sources whether in cash or otherwise and to apply them for carrying out any of the objects of the Board ;*

(v) to recommend to the Minister, where there is no provision in that behalf in any existing law and the Board is of opinion that it is expedient to do so, the making of regulations under this Act in respect of the following matters-

(i) the regulation of the sale and export of export products, the arrangements and payments relating to shipping, freight, brokerage, ware- house or any other charges incurred in the sale of export products abroad;

(ii) the regulation of the insurance, credit, quality control, standardisation, packaging and Internal transport of export products;

(iii) the regulation of the establishment and activities of joint export groups, export houses, and other organizations engaged in exports; and

(w) to do all such other acts or things which are connected with, or are in furtherance of, the exercise, performance and discharge of the powers, duties and functions of the Board under this Act or any other written law.

(2) Every decision made by the Board in the exercise of its powers under this Act shall be implemented by every Ministry represented on the Board :

Provided, however, that the Export Development Council of Ministers or the Cabinet of Ministers may vary any decision made by the Board.

PART IV**FINANCE**

Export Development Fund. 13.

(1) There shall be established a fund to be called the Export Development Fund (hereinafter referred to as “the Fund “). There shall be credited to the Fund-

(a) all such sums of money as may be voted from time to time by Parliament for the use of the Board;

(b) all such sums of money as may be received by the Board in the exercise, performance and discharge of its powers, duties and functions ;

(c) all such sums of money as may be received by the Board by way of loans, donations, gifts, or grants from any sources whatsoever, whether in or out-side Sri Lanka ; and

(d) the proceeds of all cess imposed under this Act on imports or on any exports.

(2) There shall be paid out of the Fund all such sums of money required to defray any expenditure incurred by the Board in the exercise, performance and discharge of its powers, duties and functions.

(3) The initial development Fund of the Board shall be eighty million rupees, The amount of the initial Fund shall be paid out of the Consolidated Fund in such instalments as the Minister in charge of the subject of Finance may in consultation with the Minister determine and such sums shall be credited to the Fund.

Levy of 14.
dress on
imports
and
Exports.

(1) There shall be charged, levied and paid a cess at such rates as may be determined by the Minister from time to time, with the concurrence of the Minister in charge of the subject of Finance, by Order published in the Gazette, on such imports and exports specified in the Order.

(2) The amount of cess imposed under this section may be varied or rescinded by a like Order.

(3) Every Order made by the Minister under this section shall come into force on the date of its publication in the Gazette or on such later date as may be specified therein, and shall be brought before Parliament for approval within four months of the date of its publication. Any such Order which is not so approved shall be deemed to be revoked as from the date of its disapproval, but without prejudice to the validity of anything previously done thereunder.

(4) This section shall have effect as though it formed part of the Customs Ordinance, and the provisions of that Ordinance shall apply accordingly.

(5) The proceeds of the cess recovered under this section shall be paid monthly by the Principal Collector of Customs to the credit of the Fund.

(6) The cess imposed under this section shall be in addition to any import duty or export duty or any other cess levied under any other written law.

*Borrowing*15. The Board may, with the consent of the Minister or powers of in accordance with the terms of any general authority the Board. given by him, borrow temporarily, by way of overdraft or other- wise, such sums as the Board may require for meeting the obligations of the Board or discharging its duties under this Act:

Provided that the aggregate of the amounts outstanding in respect of any temporary loans raised by the Board under this section shall not at any time exceed such sum as may be determined by the Minister in consultation with the Minister in charge of the subject of Finance.

*Application*16. The provisions of Part II of the Finance Act, No. 38 of the of 1971, shall mutatis mutandis apply to the financial provisions control of the Board.

of the

Finance

Act No. 38

of 1971.

Financial 17. The financial year of the Board shall be the year of calendar year.

the Board.

*Exemption*18. There shall be exempt from income tax-

from

income

tax.

(a) the profits and income of the Board; and

(b) any sum paid by the Board to any person as a subsidy or grant out of the Fund.

PART V

STAFF

Director- 19.
General of
the Board

(1) There shall be a Director-General of the Board appointed by the Minister for such period as may be determined by the Minister. The Director-General shall be the Secretary to the Board.

(2) The Director-General shall be remunerated in such manner and at such rates, and shall be subject to such terms and conditions of service, as may be determined by the Board.

(3) Where an officer in the public service is appointed as Director-General, the provisions of subsections (3), (4), (5) and (6) of section 20 shall 'mutatis mutandis' apply to and in relation to him.

Appointment 20.
of officers,
servants and
agents.

(1) The Board may appoint such officers, servants and agents as it considers necessary for the efficient exercise, performance and discharge of its powers, duties and functions.

(2) The officers, servants and agents shall be remunerated in such manner and at such rates, and shall be subject to such conditions of service, as may be determined by rules made by the Board.

(3) At the request of the Board any officer in the public service may, with the consent of that officer and his appointing authority, be temporarily appointed to the staff of the Board for such period as may be determined by the Board, with like consent, or be permanently appointed to such staff.

(4) Where any officer in the public service is temporarily appointed to the staff of the Board, the provisions of subsection (2) of section 13 of the Transport Board Law, No. 19 of 1978, shall mutatis mutandis apply to and in relation to him. Any such officer shall be entitled to the total remuneration including all allowances attached to the post he is appointed to in the Board, subject to statutory deductions and any other deductions approved by the Board.

(5) Where any officer in the public service is permanently appointed to the staff of the Board, the provisions of subsection (3) of section 13 of the Transport Board Law, No. 19 of 1978, shall mutatis mutandis apply to and in relation to him.

(6) Where the Board employs any person who has entered into a contract with the Government by which he has agreed to serve the Government for a specified period, any period of service with the Board by that person shall be regarded as service to the Government for the purpose of discharging the obligations of such contract.

PART VI

GENERAL

Acquisition 21.

*of
immovable
property
under the
Land
Acquisition
Act.*

(1) Where any immovable property is required to be acquired for the purpose of the business of the Board and the Minister, by Order published in the Gazette, approves of the proposed acquisition, that property shall be deemed to be required for a public purpose and may accordingly be compulsorily acquired under the Land Acquisition Act and be transferred to the Board.

(2) Any sum payable for the acquisition of any immovable property under the Land Acquisition Act shall be paid by the Board.

State 22.

*property,
both
movable
and
immovable,
to be made
available to
the Board.*

(1) Where any immovable property of the State is required for the purpose of any business of the Board, such purpose shall be deemed to be a purpose for which a special grant or lease of such property may be made under section 6 of the Crown Lands Ordinance, and accordingly the provisions of that Ordinance shall apply to a special grant or lease of such property to the Board.

(2) Where any movable property of the State is required for the purpose of the Board, the Minister may, by Order published in the Gazette, transfer to and vest, in the Board the possession and use of such movable property.

Directions 23.

*of the
Minister.*

(1) The Minister may, from time to time, give the Board general or special directions as to the exercise of the powers and the performance of the duties of the Board and such directions shall be carried out by the Board.

(2) The Minister may, from time to time, direct in writing the Board to furnish him such information with respect to the property, business and activities of the Board, as he may require and the Board shall carry out every such direction.

Power to 24. It shall be lawful for the Chairman of the Board or call for any any officer generally or specially authorized by him to information. call for any information on the production, collection, processing or export of a product or commodity, from any person or organization.

Members, 25. All members officers and servants of the Board officers shall be deemed to be public servants within the and meaning and for the purposes of the Penal Code.

*servants
of the
Board
deemed to
be public
servants.*

The Board 26. The Board shall be deemed to be a scheduled deemed to institution within the meaning of the Bribery Act, and be a the provisions of that Act shall be construed scheduled accordingly.

*institution
within the
meaning
of the
Bribery
Act.*

*Protection 27.
for action
taken
under this
Act or on
the
direction
of the
Board.*

(1) No suit or prosecution shall lie-

(a) against the Board for any act which in good faith is done or purported to be done by the Board under this Act; or

(b) against any member, officer, servant or agent of the Board for any act which in good faith is done or purported to be done by him under this Act or on the direction of the Board.

(2) Any expense incurred by the Board in any suit or prosecution brought by or against the Board before any court shall be paid out of the Fund, and any costs paid to, or recovered by, the Board in any such suit or prosecution shall be credited to the Fund.

(3) Any expense incurred by any such person as is referred to in paragraph (b) of subsection (1) in any suit or prosecution brought against him before any court in respect of any act which is done or is purported to be done by him under this Act or on the direction of the Board shall, if the court holds that such act was done in good faith, be paid out of the Fund, unless such expense is recovered by him in such suit or prosecution.

Secrecy. 28. Every member, officer, servant, agent or auditor of the Board shall, before entering upon his duties, sign a declaration pledging himself to observe strict secrecy respecting all transactions of the Board and all matters relating to such transactions and shall by such declaration pledge himself not to reveal any such transaction or matter except-

(a) when required so to do by the Board, a court of law, or the person to whom the transaction or matter relates ;

(b) in the performance of his duties ; and

(c) in order to comply with any of the provisions of this Act or any other written law.

Regulations.29.

(1) The Minister may make regulations for the purpose of carrying out or giving effect to the principles and provisions of this Act.

(2) In particular and without prejudice to the generality of the powers conferred by subsection (1), the Minister may make regulations in respect of the following matters:-

(a) where there is no provision in that behalf in any existing law, the sale and export of export goods, the arrangements and payments relating to shipping, freight, brokerage, warehouse or any other charges incurred in the sale of export products abroad ;

(b) where there is no provision in that behalf in any existing law, the insurance, credit, quality control, standardization, packaging and internal transport of export products;

(c) the establishment and activities of joint export groups, export houses, and other organizations engaged in exports ;

(d) the provision of a scheme for the registration of exporters;

(e) any matter in respect of which regulations are authorized or required by this Act to be made.

(3) Every regulation made by the Minister shall be published in the Gazette and shall come into operation on the date of such publication or on such later date as may be specified in the regulation.

(4) Every regulation made by the Minister shall, as soon as convenient after its publication in the Gazette, be brought before Parliament for approval. Any regulation which is not so approved shall be deemed to be rescinded as from the date of disapproval, but without prejudice to anything previously done thereunder.

(5) Notification of the date on which any regulation is deemed to be rescinded shall be published in the Gazette.

Power of 30.

*the Board
to make
rules.*

(1) The Board may make rules in respect of all or any of the matters for which rules are authorized or required by this Act to be made.

(2) No rule made by the Board under this Act shall have effect until it has been approved by the Minister.

Offences. 31. Every person who contravenes or fails to comply with any provision of this Act or of any regulation or rule made thereunder shall be guilty of an offence and shall, on conviction by a Magistrate, be liable to a fine not exceeding one thousand rupees or to imprisonment of either description for a term not exceeding two years or to both such fine and imprisonment.