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EXTRAORDINARY

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No. 2254/2 - MONDAY, NOVEMBER 15, 2021

(Published by Authority)

PART I : SECTION (I) — GENERAL

Government Notifications

STRATEGIC DEVELOPMENT PROJECTS ACT, No. 14 of 2008

Order under Section 3 (4)

BY VIRTUE of the powers vested in me by Sub-section (4) of Section 3 of the Strategic Development Projects Act, No 14 of 2008 as amended, I Mahinda Rajapaksa, Minister of Economic Policies and Plan Implementation, do by this Order declare that:-

1. The notification containing the relevant information of the Development and Operation of West Container Terminal- 1 project under the Colombo Port Expansion, on Build, Operate and Transfer (hereinafter referred to as "BOT") basis for a period of thirty five (35) years as a Public-Private-Partnership (PPP) with an envisaged investment of USD 650 million which was identified as a Strategic Development Project for the purpose of Sub-section (2) of Section 3 of the Strategic Development Projects Act, No. 14 of 2008 (hereinafter referred to as "SDP Act") was published in *Extraordinary Gazette Notification* No. 2238/39 dated July 30, 2021.

2. The approval of the Cabinet of Ministers has been granted on October 05, 2021 in terms of Sub-Section (3) of Section 3 of the SDP Act to declare that the Development and Operation of West Container Terminal- 1 project under the Colombo Port Expansion, on a BOT basis for a period of thirty-five (35) years as a PPP with an envisaged investment of USD 650 million, as a strategic development project.

3. The above Strategic Development Project shall be known as "Development and Operation of West Container Terminal- 1 project under the Colombo Port Expansion, on BOT basis for a period of thirty five (35) years as a PPP" (hereinafter referred to as "the project") and that the project company to undertake this project is Colombo West International Terminal (Private) Limited (hereinafter referred to as "Project Company").



4. The aforesaid project shall implement and commence commercial operations in three (03) phases as follows:

Phase I

Construction of 600m of the quay wall and terminal area including requisite infrastructure as specified in the BOT Agreement, which is to be completed and commenced operation within a period of thirty-six (36) months from the date of the BOT Agreement to be signed between the Project Company and the Sri Lanka Ports Authority.

Phase II

Completion of the full length of the quay wall of 1,400m including requisite infrastructure as specified in the BOT Agreement, which is to be completed and commenced operation within forty-eight (48) months from the date of the BOT Agreement.

Phase III

Completion of the terminal as specified in the BOT Agreement, which is to be completed and commenced operation within sixty (60) months from the date of the BOT Agreement

5. The exemptions from the enactments specified in the Schedule to this Order shall apply to the Project Company and to its contractors and sub-contractors as approved by the Board of Investment of Sri Lanka (hereinafter referred to as "BOI"). Upon the expiration of the said exemptions, the then prevailing taxes shall become applicable.

SCHEDULE

1. Inland Revenue Act, No. 24 of 2017

- (i) The provisions of the Inland Revenue Act, No. 24 of 2017 relating to the imposition of income tax on the Project Company on the profits and gains generated from the activities from the Project shall not apply for a period of twenty-five (25) years (Tax Exemption Period)

The tax exemption period shall commence from the first year in which the Project Company makes taxable profits or two (02) years after commencement of commercial operations, whichever occurs earlier.

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, No. 24 of 2017 for the time being in force.

- (ii) Dividends distributed and received by shareholders out of the exempted profit, gains shall be exempted from the income tax during the said tax exemption period of Twenty-five (25) years and one (01) year thereafter.
- (iii) The Project Company shall be exempted from the payment of Withholding Tax (WHT) on the following:
- interest on foreign loans taken for the capital expenditure
 - technical fees to consultants employed in the project
- (iv) The expatriate employees of the project company shall be exempted from the income tax arising from the gains and profits from employment in relation to the aforesaid project for a period of five (05) years subject to a maximum number of twenty (20) expatriates.

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

All imports of project related goods required for the implementation of the project as approved by the BOI, shall be exempted from the payment of Value Added Tax (VAT) during the Project Implementation Period of five (05)

years from the date of the BOT Agreement. VAT on local purchases of project related goods or services during the project implementation period shall be deferred.

Thereafter the payment of VAT will be zero rated if the services provided fall within the provisions of paragraph (b) or (c) of subsection (1) of Section 7 of the VAT Act. Any other services, other than the services which are zero rated, will be liable to payment of VAT at the applicable rate.

3. The Ports and Airports Development Levy Act, No. 18 of 2011

The Project Company shall be exempted from the charge and payment of Ports and Airports Development Levy (PAL), on the project related goods as approved by the BOI, imported during the Project Implementation Period of five (05) years from the date of the BOT Agreement.

4. Sri Lanka Export Development Act, No. 40 of 1979

Import of project related items as approved by the BOI shall be exempted from the payment of CESS during the Project Implementation Period of five (05) years from the date of the BOT Agreement.

5. Customs Ordinance (Chapter 235)

All imports of Project related items (other than the items listed in the Negative List published by the Ministry of Finance) as approved by the BOI, shall be exempted from the payment of Customs Import Duty (CID), during the Project Implementation Period of five (05) years from the date of the BOT Agreement.

However, any importation of items in the Negative List shall be considered by the BOI where such items are either not wholly produced in Sri Lanka or are not available in sufficient quality, quantity and time line for project completion.

MAHINDA RAJAPAKSA, M. P.,
Minister of Economic Policies and Plan Implementation.

Ministry of Economic Policies and Plan Implementation.
15th November, 2021,

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