



United Professionals Movement

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07th December 2015

✓ Secretary, Ministry of Industry and Commerce
Ministry of Industry & commerce, No. 73/1,
Galle Road, Colombo 03
Attention: Mr. T.M.K.B. Tennekoon
Secretary, Ministry of Industry and Commerce

Dear Sir,

Signing of India-Sri Lanka Economic and Technology Co-Operation Framework Agreement (ETCFA)

We are thankful to you for inviting us for a "consultative" meeting on 27th November 2015, in respect of signing the above document. Herewith in this response letter (consists of 5 pages) Pages 1-2 explain our rationale towards recommended solution and Pages 3-5 indicates proposed steps towards implementing same. We request your official response within next 14 days or on or before 21st December 2015 for the same.

It was noted that as per the instruction and date plan given by the prime-minister of Sri Lanka – Hon. Ranil Wickramasinghe, Department of Commerce is in the process of finalizing a document. Further please be noted, that when the questions were raised by stake holders present, the officials failed to substantiate the need for such an agreement between India and Sri Lanka. We believe it is your obligation to share with the stake holders what benefits the country would accrue by proposed liberalization through ETCFA going beyond the available provisions to do so with existing SAFTA, GATS etc. and BOI concessions.

We as professionals, have our deep concerns on this consultative process, as signing of an agreement between India and Sri Lanka has to be decided based on the necessity and requirements rather than deciding on signing an agreement and to collect information from other professionals, is not a proper way of entering in to such an important process. As professionals of this country we request you to create a series of discussions and dialogue rather than "one sided consultative" process, to ensure active participation of stake holders.

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We, disagree with signing a "framework agreement" as this could be interpreted that we have agreed to sign an agreement with India where most of the details and annexures would be added at a later stage even without our knowledge and consultation. Hence we strongly believe that the complete agreement with annexures have to be prepared and discussed with the relevant stake holders before entering into any type of agreement, as signing an agreement even in skeleton form would bind us to the terms and conditions of the agreement. In this regard we would like to emphasize the following important points.

- i. The already signed SATIS agreement is too a framework agreement and it is much more comprehensive than the proposed ETCFA.
- ii. The draft CEPA agreement which was unofficially circulated also had much more comprehensive approach than the ETCFA, though we as professional did not agree on the content of CEPA, on certain Sri Lankan ground realities.

Thereby this draft ETCFA or so called "Framework Agreement" is not in line with the precedence.

It is a known fact that only very few professionals have been working in India, where as hundreds and thousands in other countries such as Australia, New Zealand, USA and Middle East.

Some important debarring factors are as follows:

- i. Indian GDP is US \$ 1,800 and Sri Lankan GDP is around US \$ 3,600. Hence for Sri Lankan professionals, offering their services in India is not an attractive option as the potential to earn is less compared to offering their services in any other country with comparable or higher GDP to Sri Lanka.
- ii. Indian Professional registration restricts the non-Indians working in India.
- iii. In India every year they produce 1,500,000 engineers compared to ours of 2,000 / year and 70% of them are unemployed and unemployable.
- iv. Total Sri Lankan population is around 20 million and whereas total unemployed Indian population is in excess of 20 million compared to ours around 300,000 youngsters.
- v. India imposes barriers such as stringent VISA restrictions and Federal State Laws prohibiting Sri Lankans exploring job opportunities in India.
- vi. In Sri Lanka when we do not have any National Registration Criteria in place and compared to all the aforesaid facts, signing of ETCFA or any other service liberalization agreement will not be favorable to Sri Lankan economy.

In the light of above stated information and facts, to move ahead the Department of Commerce should pay serious attention to our concerns stated below.

1. Transparency and feedback mechanism to the document creation process

- a. The document shared with us, is in a very preliminary draft stage (for example – Technology Cooperation section is just the heading) and hence it is important to establish a comprehensive participatory mechanism involving all stake holders to ensure their concerns are addressed in a just and fair manner. As suggested under Article III in the document under discussion – “Indo-Sri Lanka Economic & Technology Cooperation Framework Agreement Committee” should be formed inclusive all stake holder participation and they should be accountable for the preparation of a document.
- b. Representing United Professionals Movement covering following professional groups we request **07 slots** to be allocated in the proposed steering committee. Our membership includes Engineers, Doctors, Lawyers, Architects, Quantity Surveyors, IT professionals, HR professionals and Quantity Surveyors.
- c. As claimed by the officials, the proposed document is for the benefit of Sri Lankans, and hence it should be a public document. We hereby request that the final document should be open for public feedback and request you to create addressing public concern procedure with enough time frame and with proper reporting mechanism of decisions reached by the public concerns.

2. What is the Justification of a Framework Agreement?

- a. We are at a lost to understand the justification of bringing in “Early Harvest” chapter to regularize said anomalies such as “Conformity Assessment procedures” of already operational Indo-Sri Lanka Free Trade Agreement (ISLFTA). We are of the view whether it is streamlined under the “Early Harvest” scheme or otherwise the anomalies created by ISLFTA including nominated ports, negative lists and specially bi- party agreement signed by two countries superseded by state laws should be eliminated to open up

markets on equal grounds and due consideration to be given under the recommended document

- b. We totally reject setting up specific time frames for ETCFA agreement without addressing the anomalies created by the ISLFTA.
- c. As a regularizing mechanism "Early Harvest" should not be used to operationalize any other sections including but not limited to Trade in Services, Economic Cooperation, Technology Cooperation, and Investments.

3. Trade in Services Liberalization

- a. Any trade in Services liberalization should be done only after carrying out a transparent skill gap study for the identified sectors through a positive list with the consent of the respective professional regulatory organization/organizations
- b. It must be a prelude, that all the Service Sectors shall have National Registration / National Licensing mechanism before finalizing any agreement. The government of Sri Lanka should lead and facilitate bringing in necessary regulatory and legislative frameworks in a timely manner.
- c. Related National Regulatory mechanisms have to be strengthened before signing any economic partnership agreement with any country. Relevant government institutes including Registrar of Companies, Department of immigration and Emigration, Board of Investments of Sri Lanka, Department of Customs, Inland Revenue Department, but not limited to should be realigned in terms of liberalization requirements in accordance with National Registration / National Licensing.

4. General Conditions

- a. No products and services which harm the ozone layer, global warming or any product or service which is phased out in the world shall be sold or dumped in Sri Lanka.
- b. Sri Lankan Supreme Court shall have ultimate jurisdiction on any disputes or legal matters arising out of foreigners operating within Sri Lankan territory under the proposed agreement (it may not be practical to go through International arbitration process for professional indemnity and liability situations)

Last but not least, we firmly believe that it is our responsibility and obligations towards our future generations. Please look at the problem at hand more holistically. Together we could embark on a journey that will safe guard interests of Sri Lanka.

Finally, we strongly request your official response within next 14 days or on or before 21st December 2015.

Thanking You,

With Best Regards,

 07/12/2015
Signed by: on behalf of United Professionals Movement:
Gamini Nanda Gunawardana

Copy:
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