

Sri Lanka

Changes and Developments of Foreign Direct Investment Policy 2017/2018

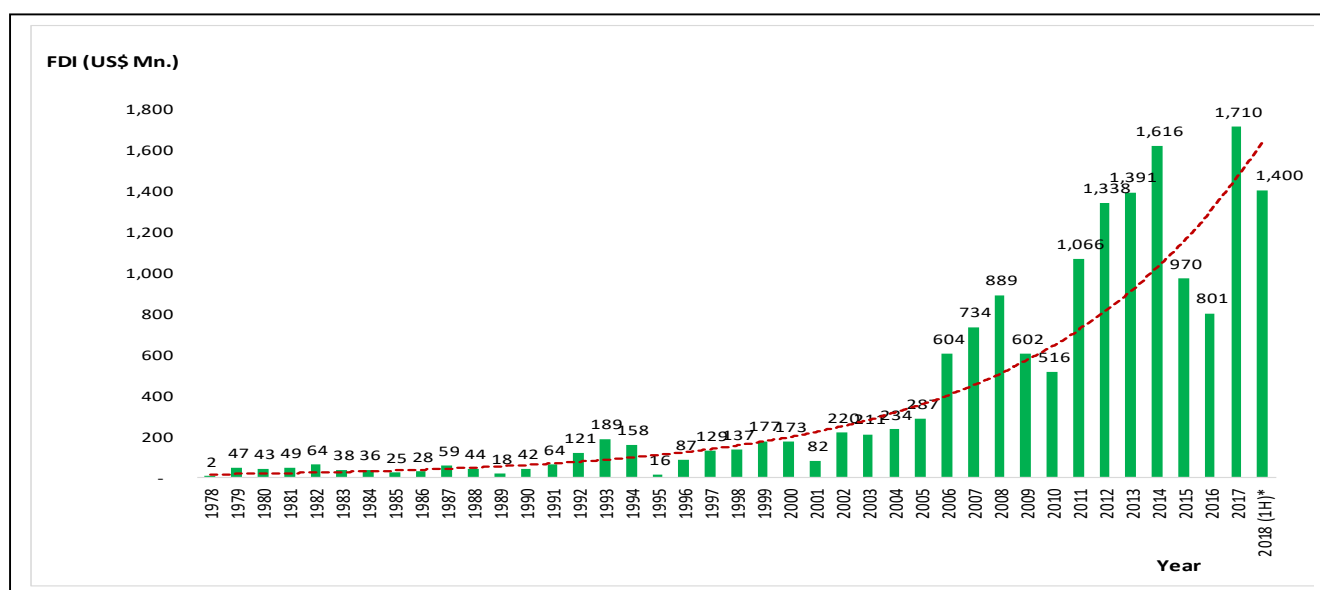
1. Sri Lanka: Country Profile

Official name : Democratic Socialist Republic of Sri Lanka
 Widely use name : Sri Lanka
 Internet domain : .lk

Demographic	
Population	: 21.4 Mn.
Ethnic groups	: Sinhalese (74.9%), Tamils (15.4%), Muslims (9.2%), Others (0.5%)
Religions	: Buddhist (70.2%), Christian (7.4%), Hindu (12.6%), Islamic (9.7%), Other (0.1%)
Official languages	: Sinhala & Tamil
Business Language	: English
Geography & Climate	
Geographical location	: South Asian Region
Geo – Coordinates	: Between 5 55”and 9 50”North Latitudes
	: Between 79 31”and 81 53”East Longitudes
Land area	: 65,610 sq. km with 2905 sq. km of Inland water
Administrative divisions	: 9 Provinces, 25 Districts
Capital city (Administrative)	: Sri Jayewardenepura Kotte
(Commercial)	: Colombo
Standard time	: GMT + 5.30 hours
Climate	: Tropical - with two monsoons
Climate variations	: North- East Monsoon (September -

Resources	
Agricultural	: 18.29% Arable Lands 29.7% Forest cover
Major commercial crops	: Tea, Rubber, Coconut, Cinnamon, Pepper
Major food crops	: Rice, Wide range of Fruits & Vegetables, Spices
Marine coastal line	: About 1,620 km
Minerals	: Limestone, Graphite, Mineral Sand, Gem, Phosphate, Clay
Key Economic Indicators 2017	
GDP	: US\$ 87.2 Bn
GDP growth Rate	: 3.1 %
Exports	: US\$ 11.4 Bn
Imports	: US\$ 21 Bn
FDI	: US\$ 1.7 Bn (2017) US\$ 1.4 Bn (2018-1H) (Provisional)

FDI Trend (1978 to 2018)



2. Investment Policy of Sri Lanka and its Recent Developments

In 1978, Sri Lanka shifted away from a socialist orientation and opened up to foreign investment. From 1978 to 2018, Sri Lanka could attract around US\$ 16.5 bn foreign direct investment to the country for various sectors such as Manufacturing, Infrastructure development, Tourism, IT/BPO etc.

Nevertheless, the country's FDI inflow remain considerably low in comparison to its regional peers, Sri Lanka succeeded in attracting the historically highest recorded FDI inflow to the country in 2017 amounted to US\$ 1.7 Bn. During 1st Half of 2018, Sri Lanka could attract US\$ 1.4 Bn of foreign Direct investment as a preparation to achieve the target of US\$ 2.5 Bn at the end of the year 2018. Recently, the government initiated a series of reforms commenced with a view to rebalancing and stabilizing the Sri Lankan economy as per the Vision 2025 Strategy.

The following transparent investment laws in Sri Lanka aim to foster foreign direct investments and there had been several changes and development of these laws and regulations during 2017/2018.

I. The Board of Investment Law (BOI Law)

The Board of Investment (BOI) Law No. 4 of 1978 and its amendments is the principal law applicable to foreign investments in Sri Lanka. BOI is structured to function as the Central Facilitation point for investors and empowered to enter into agreements with investors.

- **Role and the Legal power of the Board of Investment of Sri Lanka**

The Board of Investment of Sri Lanka (BOI) is the central facilitation point for foreign investors. BOI provide assistance and advice throughout the investment process from initial point of inquiry through project approval, implementation, monitoring and aftercare facilities.

- **Changes to the provisions of BOI Law in 2017/2018**

Since inception BOI has been granting incentives including fiscal incentives as a strategy to attract FDI.

As per the powers vested by the said Law, the BOI could deviate from the laws and acts stipulated in the Schedule B of the BOI act including Inland Revenue law, Customs Ordinance and Exchange Control Act. Accordingly, the BOI granted investment incentives including tax holidays, tax concessions, and granted exemptions from customs Ordinance & exchange control laws for qualified investments. The BOI exercised its authority under the BOI Law until 2011 and in 2012 BOI-Inland Revenue tax concessions were amalgamated and the BOI followed the same tax concessions granted under the Inland Revenue Act thereafter.

In 2017, the government introduced a new Inland Revenue Act in consultation with IMF, allowing the Government to scrap the complicated tax system and establish a "fair but transparent" tax policy for Sri Lanka with plans to increase government revenue from direct taxes.

Instead of providing traditional tax holidays for investments, Sri Lanka has moved to a new incentive regime with the introduction of the new Inland Revenue Act. Accordingly, investors will be granted Incentives by way of Accelerated Depreciation Allowance (ADA) based on the investments made on depreciable assets.

II. Exchange Control Laws Applicable for foreign Investments

The exchange Control Act (Chapter 423) has been repealed and a new foreign exchange Act No. 12 of 2017 has been introduced in July 2017.

The new Exchange Control Act has further liberalized foreign investments and the regulation to implement this act is to be gazetted by 1st November 2017.

The Regulation issued under the previous Exchange Control Act (Regulation No. 1232/14 dated 19-04-2002 as amended by regulation No.1248/19 dated 08-08-2002 and regulation No 1970/49 dated 10-06-2016) granted permission for the issue and transfer of shares in a company up to 100% of the issued capital of such company, to approved country funds, approved regional funds, corporate bodies incorporated outside Sri Lanka and individuals resident outside Sri Lanka (inclusive of Sri Lankans resident outside Sri Lanka) subject to the exclusions, limitations and conditions herein after set out.

Exclusions:-

- (i) Pawn Broking
- (ii) Retail trade with a capital of less than One Million US Dollars
- (iii) Coastal Fishing

Limitations: -

- (a) Foreign investments in the areas listed below could get approval only up to 40% of the issued capital of such company or a higher percentage of foreign investment when approval has been granted by the Board of Investment of Sri Lanka.

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| i. Production of goods where Sri Lanka's exports are subject to internationally determined quota restrictions | vi. Timber based industries using local timber |
| ii. Growing and primary processing of tea, rubber, coconut, cocoa, rice, sugar and spices | vii. Fishing (deep sea fishing) |
| iii. Mining and primary processing of non-renewable national resources | viii. Mass communications |
| | ix. Education |
| | x. Freight forwarding |
| | xi. Travel agencies |
| | xii. Shipping agencies |

- (b) The permission granted in respect of the shares of a company engage in following areas only up to the percentage of the issued capital of the company for which percentage either general or special approval has been granted by the Government of Sri Lanka or any legal or

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| i. Air transportation | v. Industrial enterprise in the Second Schedule of the Industrial Promotion Act, No. 46 of 1990, namely – any industry manufacturing arms, Ammunitions, explosives, military vehicles and equipment aircraft and other military hardware; any industry manufacturing poisons, narcotics, alcohols, dangerous drugs and toxic, hazardous or carcinogenic materials; any industry producing currency, coins security documents |
| ii. Coastal shipping | |
| iii. Large scale mechanized mining of gems; | |
| iv. Lotteries | |
- administrative authority set up for the approval of foreign investment in such businesses.

III. Strategic Development Act No. 14 of 2008

In 2008, Strategic Development Act No. 14 of 2008 was introduced to grant special concessions to for special projects which are in the national interest, likely to bring economic and social benefit to the country and to change the landscape of the country. Full or partial exemptions from following laws on a case by case basis can be granted under the SDP Act.

- Inland Revenue Act No. 10 of 2006
- Value Added Tax Act No. 14 of 2002
- Finance Act No.5 of 2005
- Excise (Special Provision) No. 13 of 1989
- Economic Service Charge Act No. 13 of 2006
- Customs Ordinance Chapter 235
- Nation Building Tax Act No.9 of 2009
- Ports and Airports Development Levy Act No. 18 of 2011
- Sri Lanka Export Development Act No 40 1979
- The Betting and Gaming Levy Act. No. 40 of 1988.

The act specifies a special process to be followed to declare a project as a Strategic Development Project which needs approval from the Parliament. At present, 17 strategic projects have been granted approval by the parliament including CHEC port city project which brings significant investment potential to the country as a financial city. In the year 2017, the parliament granted SDP status for Hambanthta Port Development project.

IV. Land (Restrictions on Alienation). Act, No. 38 of 2014 and its amendments

Under the Land (Restriction of Alienation) Act No. 38 of 2014, foreigners and foreign companies with foreign shareholding over 49% are prohibited to purchase land on outright basis. It introduced a lease arrangement with an upfront lease tax of 15%, which was relaxed subsequently under the Land (Restrictions on Alienation) Amendment Act, No. 3 of 2017.

In the year 2018, the Land (Restrictions on Alienation) (Amendment) Act, No. 21 of 2018 was enacted. Under the Land (Restriction of Alienation) Act No. 38 of 2014, the foreigners are not allowed to purchase condominium parcel situated on or below the fourth floor of a building specified under the Apartment Ownership Law. Under the new amendment in 2018, this restriction has been removed.

V. Sri Lanka Sustainable Development Act, No. 19 of 2017

As a step towards improving the institutional coherence in implementing the SDGs, in October 2017 Sri Lanka enacted the Sustainable Development Act No. 19 of 2017. The Act provides legal provisions for the establishment of a Sustainable Development Council as the national coordinating body for implementing SDGs. The Council is tasked with preparing the National Policy and Strategy for Sustainable Development. This strategy sets a legally sanctioned framework for the implementation of the SDGs. It provides guidance on all matters related to the SDGs in Sri Lanka. All government entities are required to prepare Sustainable Development Strategies in line with the national strategy. The Council monitors the implementation of the national strategy.

VI. Investment Protection

The Article 157 of the island's constitution guarantees the safety of investment protection treaties and agreements approved by parliament by a two thirds majority. Sri Lanka has signed bilateral Investment Protection Agreements (IPA) with 28 countries. Sri Lanka also has bilateral Double Tax Avoidance Agreements (DTAA) signed with 42 countries.

4. Recent Reforms done & Initiatives taken to boost investment climate

With the implementation of Inland Revenue Act No 24 of 2017, in April 2018 the Sri Lankan government moved away from granting tax holidays to attract investments. In this context Board of investment of Sri Lanka concentrated its efforts more towards investment facilitation and several initiatives have been taken accordingly. For this purpose, Sri Lanka followed the 10 items referred in ACTION MENU FOR INVESTMENT FACILITATION published by UNCATD

The key initiatives taken by BOI during 2017/2018 period are;

a. Targeted Investment Promotion

The BOI has identified the target sectors for attracting FDIs and enhance export revenue through an in-depth research study in collaboration with Harvard University's Center for International Development (CID) and the World Bank Group. In identifying the target sectors, special focus has been placed on export oriented merchandise goods as well as services with a view to enhance foreign exchange earnings and also to diversify Sri Lanka's export basket.

'Sector Expert Teams' were set up comprising officers of the BOI and the EDB to work on promoting investments to these identified sectors thereby to increase the exports, in a systematic and focussed manner.

b. Strengthening Investment facilitation

• Acceleration of investment approval process

BOI has taken several initiatives to reduce the time taken for the approval process and to resolve investor issues in an efficient manner by establishing following Committees.

- The Project Screening Committee (PSC) of the BOI immediately screens all investment applications jointly with cross functional departments to grant approval in an expeditious manner.
- Any projects which needs further clearance on operational issues will be referred to higher level of committees such as Single Window Investment Approval Committee (SWIAC) chaired by Secretary to the Treasury and Investment Approval Facilitation Committee (IAFC) chaired by Senior Advisor to the Hon. Prime Minister for a speedy approval.

• Introduction of A web portal to streamline and fast track the investment approval process

Being the investment facilitator, BOI has taken an initiative to improve service delivery by introducing Single Window Investment Facilitation Taskforce (SWIFT) which will act as a facilitation arm of investment approvals process of BOI. Through a function based virtual platform, the SWIFT provides necessary linkages to the relevant line agencies in order to expedite the project approving process.

In May 2018, BOI launched the web portal by interconnecting the first nine line agencies under a single window virtual platform. In this context, BOI entered into nine memorandum of understanding (MoUs) with the Inland Revenue Department, Registrar of Companies, Sri Lanka Customs, Urban Development Authority, Colombo Municipal Council (CMC), Department of Emigration and Immigration, Central Environment Authority (CEA), Geological Survey & Mines Bureau by end of September 2018. With the full implementation by end of 2018, all the 24 line agencies will be interconnected ensuring a speedy investment approval process through better coordination and linkages.

c. Development of new zones and upgrading of existing zones

BOI is mandated to develop export processing zones in the country. In line with government's new initiatives, steps have been taken to identify lands for development of zones. Out of the lands identified as suitable for developing investment zones, the development activities with four sites namely Bingiriya, Milleniya, Mawathagama and Charlie Mount Estate- Matara have already begun and they are in different stages of development process.

d. Addressing the issue of worker shortage in BOI Projects

New Initiatives taken by the BOI to address the issue of labour shortage in BOI zone enterprises includes the following;

- a. The Board of Investment of Sri Lanka, has established a Skill Development Task Force together with the industry stakeholders with a view to attract employees to zonal enterprises and fill the existing vacancies. In this context, the actions will be taken to improve the image of zonal employees based on the recommendations of the Task Force.
- b. Conducting island wide Job Fares, with the assistance of the Department of Man Power and Employment under the Ministry of Labour to fill the existing vacancies.