

**Report of the Special Committee**

**appointed to**

**Review the New Tourism Law**

**and make**

**Recommendations for a Way Forward**

**for**

**Sustainable Development of Tourism**

**Submitted to**

**Hon. Anura Bandaranaike**

**Minister of Tourism**

**May 2006**

B.M.I.C.H.  
Colombo.  
22 May 2006


Hon Anura Bandaranaike  
Minister of Tourism  
Ministry of Tourism  
No.64, Galle Road,  
Colombo 3.

Dear Sir,

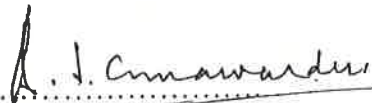
On your recommendation we were appointed to a Special Committee by the Cabinet of Ministers to review the New Tourism Law (Tourism Act.No.38 of 2005) and make recommendations for a "Way Forward" for sustainable development of tourism.

We have pleasure in submitting our report herewith.

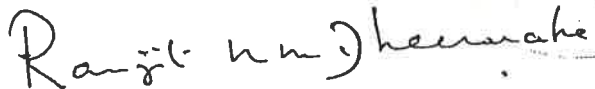
Yours faithfully,



H M S Samaranayake, Chairman  
(formerly Chairman of the Tourist Board  
and Freelance Tourism Consultant)



Asoka Gunawardena, Member  
(Chairman of the Finance Commission  
and Freelance Management Consultant)



Justice Ranjit Dheeraratne, Legal Consultant  
(formerly Judge of the Supreme Court)

# Table of Contents

Title	Page
<b>Executive Summary</b>	(i)-(iii)
Chapter 1 – Background Information	01
1.1 – Introduction	01
1.2 – Terms of Reference	02
1.3 – Commencement of Committee Work	04
1.4 – Inception Report	05
1.5 – Work Plan and Methodology	06
1.6 – Structure of the Report	07
1.7 – Acknowledgements	07
Chapter 2 – Sri Lanka (Ceylon) Tourist Board, its Strengths and Weaknesses (TOR-1)	
2.1 – Introduction	08
2.2 – Initiatives of the Board	09
2.3 – Facilitation Functions of the Board	11
2.4 – Product Development Functions of the Board	12
2.5 – Tourism Promotion Functions of the Board	14
2.6 – Regulatory Functions of the Board	15
2.7 – Statistics and Research Functions of the Board	16
2.8 – Domestic Tourism and Community Relations Functions	17
2.9 – HRD Functions of the Board	18
2.10 – Strengths and Weaknesses of the Board	18
Chapter 3 – Sri Lanka Institute of Tourism and Hotel management (Formerly Ceylon Hotel School) - Historical Review	22
3.1 – Introduction	22
3.2 – Its Establishment	22
3.3 – Hotel School under Tourist Board Management	24
3.4 – Shifting of the Hotel School to Different Premises	25
3.5 – Attempts to Privatize the Hotel School	26
3.6 – School under Tourist Board Management – Second Time	27
3.7 – A Permanent Abode for the Hotel School	28
3.8 – Change of Management of the School for the Second time	29
3.9 – Back to Tourist Board Management for the Third Time	31

3.10 – Findings and Conclusions	32
Chapter 4 – Review of Previous Proposals Relating to Public-Private Sector Partnership in Tourism Management	34
4.1 – Introduction	34
4.2 – Historical Context	34
4.3 – Proposals Made during the Period 1994 – 2000	36
4.4 – Attempts Made during the period from 2001 to 2004	41
4.5 – Conclusions	45
Chapter 5 – Finance Act No 25 of 2003 – A Critical Review (TOR-2)	46
5.1 – Introduction	46
5.2 – The Finance Act No. 25 Of 2003 and Earmarking of Taxes	46
5.3 – Tourism Development Fund and Extra-budgetary Financing	48
5.4 – Governing the Management of Public Expenditure	50
5.5 – Framework for Best Practices in Tourism Expenditure	53
Chapter 6 – Tourism Act No. 38 of 2005 – A Critical Review (TOT-3)	55
6.1 – Introduction	55
6.2 – What the TA Seeks to Achieve	55
6.3 – Composition of the Management Bodies	56
6.4 - Coordination Problems	60
6.5 – TDF and the Finance Act No. 25 of 2003	60
6.6 – Members, Officers and Servants of the CTB	61
6.7 – Conclusions	61
Chapter 7 – The Way Forward (TOR-4)	62
7.1 – Introduction	62
7.2 – Mahinda Chinthana	63
7.3 – The Core Tourism Functions	64
7.4 – Proposed Institutional Arrangement	68
7.5 – Tourism Advisory Committee	67
7.6 – Staff and the Departments of the Board	69
7.7 - Tourist Development Fund	69
7.8 – Tourism Development Areas	70
7.9 – Part IV, Chapter IX of the Tourism Act No. 38 of 2005	70
7.10 – Sri Lanka Conventions Bureau	71
7.11 Sri Lanka Institute of Tourism and Hotel management	70



## **Appendices**

Appendix A – Summary of the Work Plan	01
Appendix B – List of References	03
Appendix C – List of Associations, Government Agencies and the Individuals who made Representations	05
Appendix D – Legal Opinion on the Tourism Act No. 38 of 2005	07

## **Supplements**

Supplement A – Copies of Draft Legislation Prepared in the Past

Supplement B – Proposed New Legislation

1. Amendments to Ceylon Tourist Board Act NO. 10 1966
2. Sirimavo Bandaranayike Institute of Tourism and Hotel  
Management – A New Bill

## Executive Summary

The Committee had the occasion to closely study the present law on tourism contained principally in the Ceylon Tourist Board Act No. 10 of 1966 and the Tourist Development Act No. 14 of 1968, and the proposed law contained in the Tourism Act No. 38 of 2005 which has not been put into operation. The Committee had also the benefit of meeting and discussing various functional aspects of tourism with the office bearers of the stakeholder Associations and also some selected individuals from the relevant public and private sector organizations. The functioning of all State institutions connected with tourism in Sri Lanka since their inception was subjected to a close scrutiny by the Committee for the purpose of effectively addressing the requirements of the Terms of Reference. In consequence of the above mentioned exercises, the Committee is pleased to make the following recommendations as the "Best Way Forward" for tourism in Sri Lanka.

The Committee is of the view that on the whole, the Tourist Board incorporated under the Tourist Board Act No. 10 of 1966, from its inception has been functioning satisfactorily and the structure of the law on tourism as it stands today requires only a few changes

The Committee is of the view that the proposed proliferation of legal bodies sought to be created by the new Tourism Act No. 38 of 2005, is inexpedient, and it is an unnecessary and an expensive exercise.

Tourism "product development" cannot be divorced from "tourism promotion", and the two functions must necessarily and logically be handled by one legal body.

The subject of MICE (Meetings, Incentive travel, Conventions and Exhibitions) promotion is presently handled by the Sri Lanka Conventions Bureau, a Company Limited by Guarantee, incorporated under the Companies Act, and the Committee sees no reason to vest the functions of the Convention Bureau on a newly created legal body.

The Hotel School and the School of Tourism has been so far functioning well under the management of the Tourist Board. In view of the importance of injecting academic excellence and also improve the course content of the School to match international standards, particularly at this stage of development of the School, the Committee considers it necessary to recommend that the School should function as a separate legal body under a differently constituted Board of Management. Draft legislation required for this purpose is given in Supplement B to this Report

While the Committee finds that the creation of the Tourist Development Fund is laudable, it is of the view that (a) the disbursement of the Fund by the proposed law on a pre-determined ratio rather than disbursement in terms of the needs and (b) the lack of necessary checks and accountability on the disbursement of the Fund require reconsideration. The Committee recommends that the Fund be disbursed annually, among the Tourist Board, the Institution recommended for running the Hotel School and the Sri Lanka Conventions Bureau, as determined by the Special Committee consisting of the Deputy Secretary to the Treasury, the Secretary to the Ministry in charge of the subject of Tourism and the Chairman of the Tourist Board. The Special Committee, in determining the amounts to be disbursed to the three institutions, shall have regard to the respective budgets submitted by the recipient institutions. The Committee is of the view that no part of the Tourist Development Fund should be used for capital development projects.

The Committee considers that in the performance of core tourism functions, namely Product Development, Marketing and promotion and regulation of tourist services, the public-private sector partnership is vitally necessary while the State retains the ultimate control of the public finances forming the Tourist Development Fund. The Committee recommends that the stakeholder Associations be adequately represented in the principal decision making body and its advisory body. Mindful of the above mentioned considerations, the Committee recommends,

- (a) that the Sri Lanka Tourist Board be managed by a Board consisting of nine members appointed by the Hon. Minister, of whom two shall be representatives of the Tourist Hotels Association of Sri Lanka (THASL) and one

representative each from the Sri Lanka Association of Inbound Tour Operators (SLITO) and Association of Small and Medium Tourism Enterprises in Sri Lanka (ASMETSL)

- (b) the setting up of a Tourism Advisory Committee consisting of eleven members appointed by the Minister, of whom three members are nominated by the THASL and one each nominated by the SLITO, the ASMETSL and Travel Agents Association to advise the newly constituted Sri Lanka Tourist Board

For convenience, a draft Bill to amend the Ceylon Tourist Board Act No. 10 of 1966 incorporating the above recommendations of the Committee is submitted separately in Supplement B to this Report. The Committee therefore recommends that the Tourism Act No. 38 of 2005 be repealed as the Committee considers it inexpedient for the Hon. Minister to bring it into operation by an Order made in terms of section 1 of that Act.

# Chapter 1

## Background Information

### 1.1 Introduction

The New Tourism Law formulated by the Ministry of Tourism, in consultation with the various stakeholders in the tourism industry and also on the basis of the various attempts made since the early 1990s to bring the tourism private sector inputs into the management of tourism in Sri Lanka, was approved by the Cabinet of Ministers of the Government of HE the President Chandrika Bandaranaike Kumaratunga in September 2005. This New Law was tabled in Parliament in early October 2005 and was passed by the Parliament on 18<sup>th</sup> October.2005.

The primary objective of the New Tourism Law is to decentralize two of the major functions, which are now handled by the Sri Lanka Tourist Board (SLTB) as a multi-functional National Tourism Organization, namely Tourism Marketing and Promotion (TM&P) and Tourism Human Resources Development (THRD) and also to bring the private sector inputs into the management of tourism, both by way of financial contribution and also by way of participation in the tourism management process. Accordingly, the Law provides for the establishment of three separate Statutory Boards with private sector representation in each Board of Management, as follows.

1. Sri Lanka Tourism Development Authority (SLTDA), to handle all functions which are presently handled by the SLTB, except TM&P and THRD.
2. Sri Lanka Tourism Promotion Bureau (SLTPB) to handle general tourist promotional activities including destination promotion.
3. Sri Lanka Institute of Tourism and Hotel Management (SLITHM) to handle all THRD functions.

In addition, the Law also provides for the conversion of the Sri Lanka Convention Bureau, which presently functions as a Company Limited by Guarantee, under the Companies Law with private sector participation and financial contribution, into a Statutory Board.

Further, the Law provides for the setting up of a Tourism Development Fund (TDF) by combining the Tourism Development Levy (TDL) and the Embarkation Levy (EL), as provided for in the Finance Act No. 25 of 2003, and the distribution of this Fund, which should come under the purview of the SLTDA, according to statutorily fixed ratios among the four Boards of Management, for their operations, namely SLTPB 70 percent, SLTDA 14 percent, SLITHM 12 percent and SLCB 4 percent.

There is also provision in the Law for the Minister to appoint an Advisory Committee, consisting of the representatives of the relevant stakeholder, to advise the Minister and the SLTDA on any matter relating to the travel and tourism industry.

Although the Law was passed in parliament on 18<sup>th</sup> October 2005, it has not been gazetted, as required, by the Hon Minister for it to be implemented due to various reasons, among which are the following.

1. The change of Government after the Presidential Elections held on 17 November 2005, with Mahinda Rajapaksa being elected as the new President on the basis of his Election Manifesto, Mahinda Chinthana.
2. Various representations made to the Hon Minister and the newspaper articles and comments expressing reservations on the New Tourism Law.

In the light of the various comments and reservations expressed and particularly in the light of the changes in the government policies as enunciated in "Mahinda Chinthana" the Minister of Tourism in the New Government, Hon Anura Bandaranaike (who was also the Minister of Tourism, Investment Promotion and Industries in the previous Government) proposed to the Cabinet of Ministers by means of a "Note to the Cabinet" dated 24 January 2006 and obtained approval to review the New Tourism Law by a Special Committee comprising of the following members:

1. H. M. S. Samaranayake, (a former Chairman of the Tourist Board) as Chairman of the Committee
2. Rajith Perera (a former Director General of the Tourist Board) as Member
3. Ananda Kasthuriarachchi (Attorney-at-Law) as Member

With the appointment of this Committee, the implementation of the New Tourism Law was held in abeyance, until the submission of the Committee Report with recommendation for a way forward.

## **1.2 Terms of Reference (TOR)**

The Terms of Reference approved by the Cabinet and given to the Committee are reproduced below.

1. The Sri Lanka Tourist Board (SLTB) was set up in 1966 in terms of the Ceylon Tourist Board Act No.10 of 1966 (Copy attached). Review the strengths and weaknesses of this Act in the present context of tourism development in Sri Lanka.



2. The New Tourism Law was passed by Parliament on 18 October 2005, but has not been gazetted as yet. During the last two months, there have been several articles published in the press regarding the New Tourism Law, and therefore the Hon Minister wants to review the Law to ensure that the Government is taking correct action to move this industry further forward. Present your views on the New Tourism Law.
3. The Finance Act No. 25 of 2003 came into effect from September 2003 (copy attached). The Tourism Fund collected under this Act consists of 1/3 from Airport Tax (70 percent of TDF Revenue) and one percent turnover from tourist establishments after transfer payments (30 percent of TDF Revenue). Recommend suitable measures to manage this public fund to obtain optimal benefit for the economy of Sri Lanka.
4. With the change of administration in November 2005, the government is guided by the thinking of President Mahinda Rajapaksa, contained in "Mahinda Chinthna", duly accepted by voters.

After evaluating the Ceylon Tourist Board Act No. 10 of 1966 and the New Tourism Law, and in the light of the financing available through the Finance Act No. 25 of 2003, make recommendations for the best way forward for Sri Lanka Tourism in its Resort Development Programme, Marketing and Promotion, Human Resources Development etc.

The Cabinet decision required the Committee to complete its deliberations and submit the Report in six weeks.

However, it was clear from the detailed TOR as outlined above that the work entrusted to the Committee was very much wider in scope than mere review of the New Tourism Law already enacted by the Parliament and making recommendations to bring it in line with the thinking of the new government. A further relevant factor that should be taken into consideration in determining the time period is the availability of the consultants selected for this assignment to work on a full-time basis.

These matters were discussed at the meeting that the Hon Minister had with the Committee (only the Chairman Samaranayake and Ranjith Perera, Member, were present at the meeting) on 30 January 2006 at his official residence. The Minister requested the Chairman to commence work as soon as possible and submit an Inception Report giving the scope of work involved, proposed Work Plan to address the TOR fully and the time period required for successful completion of the work. At the request of the Chairman to locate the Committee Secretariat at a neutral venue, it was decided to set up the Secretariat at the BMICH office complex.

## Commencement of Committee Work

In terms of the above decision, the Committee Secretariat was set up at the BMICH office complex in rooms 2G 26 and 2G 27. The Chairman and one Committee Member namely, Mr. Ranjith Perera commenced work from 1st February 2006. The other Committee Member, Mr. Ananda Kasthuriarachchi, Attorney-at-Law was not able to attend office, presumably due to his daily court work.

A few days later, it was intimated to the Chairman that the services of Mr. Ananda Kasthuriarachchi would not be available due to his court work and other commitment. Further, the other Committee Member Mr. Ranjith Perera wrote to the Hon Minister stating that his services could be made available only up to the 10<sup>th</sup> of March 2006 as he had already made plans to travel abroad on an important personal matter. Therefore it was decided to request the Hon Minister to make suitable replacements after the submission of the Inception Report.

Accordingly, the Chairman along with the other Member Mr. Ranjith Perera proceeded to suitably man and equip the office, collect all the documents which are considered necessary and relevant to the committee work, draw up the Work Plan and prepare the Inception Report.

TOR requires the Committee to assess the strengths and weaknesses of the Sri Lanka (Ceylon) Tourist Board in the context of the tourist industry at present; undertake a detailed study of the New Tourism Law in all its aspects in order to present the views of the Committee on it, particularly in the context of the new government policy – Mahinda Chinthana; propose measures required to be taken for better management of the funds collected by means of the Embarkation Levy and Tourism Development Levy, in terms of the Finance Act No. 25 of 2003; and make recommendations for the “best way forward” for future development and promotion of tourism in Sri Lanka.

It is clear from the above that the operative phrase in the TOR is “the best way forward”. In other words, the Committee is required to make recommendations on the best institutional arrangement that should be put in place for optimal utilization of the funds generated through the EL and TDL for sustainable future development of tourism, so that tourism will become a major contributor to the economic and social development of Sri Lanka.

Accordingly, the Work Plan developed to address the TOR in a comprehensive and effective manner included the following major components.

- Collection and study of all the documents relevant to the subjects under investigation
- Calling representations from the major stakeholders, namely the Travel Trade Associations and individuals having wide experience in and knowledge of the Tourism Industry in Sri Lanka.

- Study Visits to a few selected successful tourism destinations in the Afro-Asian region to study their models and learn from their experiences.

Based on the above Work Plan and the availability of the consultants, it was estimated that the time period required to complete the Committee would be around 12 calendar weeks, provided that the replacement of consultants was made without delay.

## 1.4 Inception Report

In terms of the request made by the Hon Minister, the Inception Report containing the detailed Work Plan and Methodology, recommendations regarding the reconstitution of the Committee and the availability of the Consultants and the time period required for completion the work was submitted to the Hon Minister on 13<sup>th</sup> February 2006.

The Hon Minister was out of the country at the time of submission of the Inception Report. However, on his return, he moved to obtain the approval of the Cabinet of Ministers for the proposals contained in the Inception Report and to reconstitute the Committee by appointing the following Members.

- Hon Justice Ranjith Dheeraratna, retired Supreme Court Judge as the Legal Consultant to the Committee.
- Mr Asoka Gunawardana, retired SLAS Officer (retired as the Additional Secretary to the Ministry of Provincial Councils, and presently as the Chairman of the Finance Commission and also as a Freelance Management consultant, as a Member of the Committee.

These appointments were made to take effect from 2<sup>nd</sup> March 2006.

Mr. H. M. S. Samaranayake continued to work as the Chairman of the Committee. The reconstituted Committee commenced working as a team effective from 7<sup>th</sup> March 2006, according to the Work Plan and Methodology approved by the Cabinet of Ministers, which is outlined in the ensuing subsection.

The Committee also enlisted the services of a reputed local Consultant on legal drafting and a reputed International Consultant on Tourism Institutional Planning, on an adhoc basis, after obtaining the necessary approvals, namely

- Mr Nilin Abeysekara, a retired Legal Draftsman to assist the Committee on legal drafting (Local Consultant).
- Mr. John Yacoumis, an International Tourism Consultant and Visiting Professor of Tourism, Surrey University, UK with wide experience in working in the Caribbean, South Pacific, Middle East and South Asia including Sri Lanka, in

various aspects of tourism. In Sri Lanka, he first worked as Consultant to the Tourist Board through the Technical Assistance provided by the Commonwealth Secretariat and the UNDP in the late seventies for a period of four years. Later he also worked as the Project Manager of an EU supported Regional Tourism Training Project, whose Secretariat was based in Colombo, for three years.

Mr. Yacoumis's services were made available on an honorary and unremunerated basis and were provided off-site by means of electronic and other forms of communication with the Committee from Saudi Arabia where he is currently based and working as the Senior Tourism Development Advisor to the Saudi Supreme Commission for Tourism.

## **1.5 Work Plan and Methodology**

As explained in the previous section, the work Plan and the Methodology has four major components, including the preparation of the Final Report. A summarized version of the Work Plan is attached to the Report as Appendix A. The four major components are:

1. Identification of all the documents (Publications, reports, legislative enactments, periodicals, information sheets etc) and using them as reference materials. The list of Documents used as reference materials is given in Appendix B
2. Calling representations from the relevant stakeholders, that is Travel Trade Associations, Governmental Agencies and selected individuals from both the private and public sectors with wide knowledge and experience in the tourism industry. The list of stakeholders consulted is given in Appendix C.
3. Study Visits to three selected countries, namely Thailand, Singapore and Seychelles to learn from the experiences of these countries with different models of public-private partnerships in tourism management. Separate reports outlining the experiences of these countries are given in Appendices D, E & F
4. Preparation of the Final Report to answer the TOR given to the Committee, based on the information collected and the knowledge gained from the above exercises.

However, the Committee regrets that the planned Study Visits could not unfortunately take place due to inadequate technical support made available by the government agency charged with the responsibility of making the necessary arrangements for travel.

Consequently, the Consultants attempted to obtain whatever possible information by approaching the countries through various sources and methods, which did not prove to be quite successful. The Appendices D on case studies was prepared on the basis of the information that the Consultants were able to obtain through these methods and sources.

## 1.6 Structure of the Report

The Report, prepared to address the TOR succinctly, is presented in seven chapters with five appendices and two supplements. The seven chapters were designed to address the TOR, while the appendices give the details of the Work Plan and the Methodology adopted, the selected case studies and a considered legal opinion, highlighting the legal defects and inconsistencies of the New Tourism Law.

The two supplements are presented as separate reports. Supplement A is meant to be an Information Document, which assembles the various draft legislation prepared in the past, beginning from the early 1990s and under different governments, containing proposals for public-private sector participation in tourism management. Supplement B gives draft legislation designed to provide the necessary institutional and legal framework to carry the tourist industry forward for a better future.

It should be mentioned that this draft legislation is presented in final form. If agreed, all that remains to be done is to obtain formal clearances for these drafts from the Legal Draftsman and the Attorney General and also the approval of the Cabinet of Ministers and present them to Parliament for approval.

Chapter 1 of the Main Report gives background information as a back drop to the study, while Chapter 2 attempts to address TOR 1 on the Strengths and Weaknesses of the Tourist Board in the present day context. Chapter 3 on Historical Review of the Hotel School and Chapter 4 on Review of Previous Proposals Relating to Public-Private Partnership in Tourism management, are designed to provide background information for better understanding of the reasons that prompted the Committee to make the recommendations contained in Chapter 7 on the "Way Forward". Chapter 5 on Critical review of the Finance Act 25 of 2003 is an attempt to address TOR 4, while Chapter 6 attempts to address TOR 2 on the New Tourism Law

## 1.7 Acknowledgements

The Committee wishes to place on record its grateful thanks and appreciation to all the Travel Trade Associations, Governmental Agencies and the individuals who assisted the work of the Committee by appearing before it and providing the necessary data and information.

Thanks are also due to the Sri Lanka Tourist Board for providing all the logistical support for the Committee to function effectively, in terms of the directions given by the Hon Minister.

## Chapter 2

### Sri Lanka (Ceylon) Tourist Board Its Strengths and Weaknesses (TOR.1)

#### 2.1 Introduction

Sri Lanka (Ceylon) Tourist Board was the outcome of a major policy decision taken by the government in 1966 to develop foreign tourism on an organized basis, as part of a policy package designed to address the pressing economic problems faced by the country at that time. This statutory body created by the Ceylon Tourist Board Act No. 10 of April 1966, under the Ministry of State, provided the institutional and legal framework for rapid development of foreign tourism in the country. Prior to that, tourism was a subject handled by a government department called the Government Tourist Bureau, which came under the purview of the Ministry of Defense and External Affairs.

The economic problems faced by the country at that time were not confined to Sri Lanka alone, but were common to practically all the developing countries who gained independence after the Second World War. They included the following

- Acute shortage of foreign exchange, creating deficits in the Balance of Payments.
- Chronic unemployment, creating many social and political problems.
- Slow rate of economic growth, due to insufficiency of capital investment.
- Imbalanced and lop-sided economy, depending overwhelmingly on the three plantation crops, Tea, Rubber and Coconut, to pay for all imports and for capital formation
- Geographical concentration of the bulk of the economic activities in major urban centers and in the plantation areas.

Tourism was seen as an industry, which can find quick solutions to all these problems due to its ability to earn foreign exchange, as it is an invisible export, and also create income and employment, as it is essentially a service oriented industry.

Thus, the Ceylon Tourist Board (CTB) was created to promote rapid economic development, through the development of foreign tourism. The rationale was that statutory Boards and Corporations allow a greater degree of freedom in decision making and flexibility in financial management than a Government Department whose activities are hampered by the Administrative Regulations (ARs) and the Financial Regulations (FRs) of the government.



## 2.2 Initiatives of the Board

The mandate given to the Board is defined in simple and general terms by the objects of the Board as follows:

- (a) the encouragement, promotion and development of tourist travel
- (b) the encouragement, promotion and development of adequate, efficient and attractive tourist services; and
- (c) the doing of all such acts or things as may be necessary for, or conducive to, the attainment of the objects specified in paragraphs (a) and (b) above

The objects of the Board defined in this manner permitted the Board to take action on any activity which was considered necessary or conducive to the development and promotion of tourism.

As international tourism in the modern sense of the word was a new economic activity for Ceylon at that time, the Board took a series of initiatives to develop and promote tourism on a systematic basis. They included the following:

- (a) enlisting the services of a very experienced and internationally reputed Tourism Expert, Som Nath Chib, as Advisor to the Board on all aspects of tourism for a period of four years, with funding assistance from UNDP
- (b) simplification and Standardization of Frontier Formalities to facilitate travel into and out of the country
- (c) commissioning of a Hawaii-based multi-disciplinary team of tourism consultants to prepare a Ten Year Tourism Development Master Plan commencing from 1967, with funding assistance from UDAID
- (d) advising the government to enact enabling legislation to vest the CTB with powers to acquire land for tourism development purposes, introduce Codes for classification, registration and licensing of all tourist facilities and services, impose price control regulations etc. This was done by means of the Tourist Development Act No.14 passed in April 1968.
- (e) establishment of the first National Holiday Resort at Bentota, with provision for development of several hotels by the private sector by providing all infrastructure services.

---

1) The first Board comprised of Mr. A. C. H. De-Soya (ex-Civil Servant and a Businessman) as Chairman, Mr. H. W. Jayawardana Q.C, Mr. Ralph Deraniyagala (former Clerk to the house of Representatives), Mr. Chandra Cooray, (Ex Civil Servant), Deputy Secretary to the Treasury as Finance Ministry Representative, Mr. Upali Senanayake (Wild life Expert), Dr. P. R. Thyagaraja and the Commissioner of Local Government, as the Representative of the Ministry of Local Government

- (f) advising the government to enact enabling legislation to vest the CTB with powers to acquire land for tourism development purposes, introduce Codes for classification, registration and licensing of all tourist facilities and services, impose price control regulations etc. This was done by means of the Tourist Development Act No.14 passed in April 1968.
- (g) establishment of the first National Holiday Resort at Bentota, with provision for development of several hotels by the private sector by providing all infrastructure services.

The Board also has identified and developed six main functional areas in terms of the objects of the Board as outlined above, namely

1. Tourism Statistics and Research, which are considered fundamental to all its other activities
2. Tourism Planning and Development
3. Tourism Marketing and Promotion
4. Regulation of all tourist facilities and services in terms of the Tourist Development Act.
5. Domestic Tourism and Community Relations
6. Tourism Manpower Development

These were the principal tourism functions performed by the Tourist Board right from the inception and each of these functions was entrusted to a separate Department with an Executive Director in charge. In addition, the Board also set up four Servicing Departments, namely the Secretariat and Legal, Administration and Personnel, Finance and Accounts and Internal Audit, with a Director in charge of each Department.

Although tourism Research and Statistics, Domestic Tourism and Community Relations and Manpower Development are not specifically mentioned as the objects of the Board in the Act, the Board very rightly included these functions within its ambit as they are very much related to the development and promotion of tourism.

Further, all the assets of the Government Tourist Bureau, which included mainly the chain of 18 Rest houses located at vantage points and the Ceylon Hotel School located at the former Colombo Club and later renamed as Samudra building, were vested with the Board by the CTB Act. Since the Board was not expected to engage in any commercial operations, all the Rest houses were leased out to the private sector for their operation.

However, the Hotel School was taken under the control of the Board as part of its responsibilities to provide trained manpower for the successful operation of the upcoming hotel industry.

### 2.3 Facilitation Functions of the Board

One of the priority requirements for the development and promotion of tourism was to make it easier for the tourists to enter and leave the country by reducing and standardizing the frontier formalities. On the basis of the recommendations of the UN Advisor, the then Minister in charge of Tourism appointed a National Facilitation Committee (NFC), consisting of representatives from the Departments of Civil Aviation, Immigration & Emigration, Customs, Quarantine, Police and the Tourist Board.

The NFC, over several years of deliberation and experimentation, was able to agree on many areas for reduction, simplification and standardization of the very cumbersome frontier formalities that existed at the time. These can be listed as follows

- Reduction of the size of the Embarkation and Disembarkation Card to fit into the passport by reducing the items of information. ( It was 8x12 inches at the time)
- Abolition of the Customs Declaration Form (for foreigners only) which required the passengers to declare the amount of money and the valuables in their possession.
- Abolition of the routine customs checks for foreign passport holders.
- Exemption of bona fide tourists from the selected major generating countries from the requirement of obtaining a visa prior to arrival, on a unilateral basis. This exemption now applies to nearly 40 countries.

In addition to the above, the officials of the Departments of Immigration & Emigration, Customs, Police and the Quarantine manning the desks at the frontiers were given training and orientation regarding the methods of handling tourists courteously and politely. These training and orientations sessions have proved to be invaluable in changing the attitudes of the officials.

Simplification and standardization of frontier formalities is not a subject presently handled by the Board. It is taken as a mission fulfilled by the Board.

## 2.4 Product Development Functions of the Board

The first Tourism Development Master Plan, which is commonly known as the Harris-Kerr-Foster Plan, provides the blueprint for tourism development up to today. Corresponding to the major natural, socio-cultural and man-made attractions available in the country, the Plan identified six major tourist development regions as follows:

1. Colombo Cities Region
2. Greater Colombo Region
3. South and South-west Coast Region
4. East Coast Region
5. Ancient Cities Region
6. High Country Region

So far, the bulk of the tourism development in the country has taken place within these broad regions and their demarcations remained valid even today. The reason for this seems to be that the bulk of the tourist attractions available in the country are located within these six regions.

The development policy followed by the Board, in terms of the recommendations of the Ten Year Plan, was planned and regulated development of tourism with a view to maximizing the economic benefits of tourism on the one hand, and minimizing the possible adverse effects of such development on the physical and socio-cultural environment of the country, on the other. The Master Plan provided the guidelines for planned development while the Tourist Development Act of 1968 provided the legal framework for regulated development.

The strategy adopted by the Board for the development of tourism facilities and services was to encourage the indigenous private sector to undertake investment in the development of tourism facilities and services and their commercial operation. This was somewhat exceptional to the development policies adopted by the successive governments in power at that time (prior to 1977) with inward looking economic policies under which the public sector played a major role.

The policy declaration itself was not sufficient to attract the private sector to invest in tourism projects and undertake their operations, as their experience was confined largely to such fields as plantation estate management, export and import trade, printing, insurance, construction etc. The government, being mindful of this, offered an attractive package of fiscal, monetary and other incentives to lure the private sector to tourism and the Tourist Board was entrusted with the task of administering these incentives.

The incentive package ranged from income tax holidays, investment relief, exemptions from customs duty to loans on easy terms, land for hotel and resort development on long term lease on nominal rentals etc. At the same time, the Tourist

Board undertook promotion of Sri Lanka abroad on a continuing basis, which was a further incentive to the private sector to undertake high-risk investment in hotel and resort projects with long gestation period.

The private sector responded remarkably well by gradually developing hotels and resorts and other tourism facilities and services. These incentives attracted not only the big companies but also medium and small scale operators. However, the development of hotels and resorts was confined largely to small and medium size unites (mostly less than 50 rooms at the initial stages) mainly in the beach and circuit areas. The Government therefore was compelled to intervene and undertake investment in large and high class properties, particularly in Colombo City. The Treasury investment in Intercontinental Hotel, the CWE investment in Obcroi Hotel, and the Insurance Corporation Investment in Ramada Hotel are examples. However, the government divested its interests by selling the shares to the private sector at a later stage under its privatization programme.

The incentives schemes administered by the Tourist Board, as an integral part of its development strategy, was not confined to the development of hotels only but also extended to the other sub-sectors of the industry. Thus the duty free imports allowed for transport and other equipment benefited the Travel Agency and Restaurant sectors. Similarly, approvals for liquor licenses, permits to accept foreign currency, listing in the Board's promotional publications etc. were some of the incentives made available to all sectors of the tourist industry.

Because of the various initiatives taken by the Board in the area of product planning and development, Sri Lanka today has a well-balanced tourism plant, which can cater to practically all segments of the international tourism markets. This can be seen from the following statistics of licensed tourist business establishments, maintained by the Board.

#### Licensed Tourism Business Establishments As at end 2005

Category	No. of Units
1. Tourist Hotels	248
2. Supplementary Accommodation	494
3. Bed and breakfast Accommodation	22
4. Independent Restaurants (general & specialty)	428
5. Travel & Transport Agencies	502
6. Tourist Shops	144
7. Spice Gardens	29
8. Water Sports Centers	14
<b>Total</b>	<b>1,881</b>

Source: Sri Lanka Tourist Board

The total room strength in the tourist hotels amounted to 13,162, while the supplementary accommodation units accounted for another 3,962 rooms, adding to total accommodation capacity strength of 17,124 rooms

## **2.5 Tourism Promotion Functions of the Board**

Promotion and development of foreign tourist travel to Sri Lanka is one of the principal functions assigned to the Tourist Board by the CTB Act. Accordingly, the Board has set out to promote the country by adopting the promotional strategy and plan recommended in the Ten Year Tourism Development Master Plan. The strategy adopted was as follows

- Firstly, to create an awareness of the Sri Lanka tourism product among the major travel and tour operators (travel trade) and induce them by various means to include the Sri Lanka product range in their tour catalogues.
- Secondly, to approach the consumer through the travel trade and the travel media to give an exposure to the Sri Lanka tourism product and create a desire in him to buy the Sri Lanka product.

Accordingly, one of the first things that the Board did was to establish a network of tourism promotional outlets in the principal cities of the main generating markets. These included Boards own offices in the principal cities and representation offices in the others. Some of the offices opened in the 1970s were closed down after the onset of the ethnic conflicts which started in the early 1980s. At present the Board has its own offices in Frankfurt, London, Paris, Tokyo and Beijing and representation offices in Delhi and New York.

The Board carried out all its overseas tourist promotional activities through these offices. The promotional activities carried out on a regular basis can be identified and listed as follows.

- Servicing of travel inquiries from the consumers, trade and the media.
- Distribution of travel literature to consumers, trade and media.
- Continuous liaison with the travel trade and the travel media
- Organization of familiarization and educational tours to the trade and the media.
- Regular participation in travel fairs, both consumer and trade.
- Conducting of seminars, workshops, and road shows on an ad.hoc basis.

It should be emphasized that the inadequacy of funds becoming available from the government to undertake any meaningful tourist promotional work was the perennial problem of the Board right from the inception. Therefore, the Board's promotional work was largely generic in nature and directed mostly at the travel trade. Consumer promotions were confined to participation in consumer fairs, conducting of road



shows and media exposure received as a result of media familiarization programmes. The Board has never or rarely been able to undertake advertising on a campaign basis directed at the consumer, due to budgetary constraints

Thus, the Board has depended heavily on the tour operators to promote and sell the Sri Lanka product to the potential consumers. This was particularly true in the case of European markets, which are dominated by the giant operators producing package tours on a bulk basis and selling to millions of consumers both in winter and in summer seasons. The Sri Lanka travel trade, particularly the few giant ground handling agents who commanded the bulk of the hotel room capacity, embraced this beach oriented mass tourism market, which turned out to be very lucrative in the short term.

The compelling reason that prompted them to do so was the onset of the ethnic and insurgency problems in the 1980s and the 1990s, which made it almost impossible to sell Sri Lanka to other segments of the travel markets. The lack of sufficient financial resources to counter the adverse publicity received due to the Sri Lanka events, made it all the more difficult to sell the country in the international market place.

However, in recent years the above situation has changed considerably for the better. The travel trade spearheaded by the Tourist Board is forging ahead to sell Sri Lanka beyond the Beaches and focusing on nature and adventure. Further, the Government has passed legislation to generate revenue by means of an Embarkation levy and a Tourist Development Levy, both paid to a Tourist Development Fund, which has already proved very substantial, and the bulk of the Fund is earmarked for tourist promotional purposes.

Consequently, a controversy has now arisen as to the most appropriate institutional structure that should be put in place to make optimal use of the funds that have become available through the Tourist Development Fund, for sustainable future development and promotion of tourism.

## **2.6 Regulatory Functions of the Board**

As stated above, the development policy adopted by the Board was planned and regulated development of tourism with the view to maximizing the economic benefits and minimizing possible adverse effects of tourism development on the physical and socio-cultural environment. The purpose of regulation therefore was not to exercise control or to make things difficult for the private sector operators but to enhance the quality of the tourism product to enable Sri Lanka to compete effectively in the international market place. Thus the aim of regulation can be interpreted as follow:

- To prevent haphazard and uncontrolled development of tourism facilities and services

- To ensure that the facilities and services provided to the tourists conform to the accepted international standards
- To provide a symbol of excellence for the facilities and services provided

In the above sense of the word, regulatory functions of the Board can be considered as a quality control exercise. It provides a mechanism for the operators to safeguard themselves against the Consumer Protection Laws in the major generating countries. In another sense, improvement in the quality of the Sri Lanka product offer can be considered as helping to enhance the competitive position of Sri Lanka as a tourist destination. As such, it is an integral element of the total concept of marketing.

Prior to the promulgation of the various Tourist Codes as provided for in the Tourist Development Act 14 of 1968 for registration and licensing of various types of tourism businesses, the Tourist Board adopted administratively a method of granting approvals to tourism business establishments, such as Hotels, Guesthouses, Travel Agencies, Restaurants, Tourist Shops etc. The compliance of the Board's requirements for approval was secured through the administration of the various incentive schemes, such as granting of approvals for Liquor Licenses, Permits to accept Foreign Currency, Listing in the Board's promotional materials etc.

However, with the promulgation of the four Tourism Codes, namely the Tourist Hotels Code, Travel Agents Code, Guide Lecturers Code and the Specified Tourist Services Code, all facilities and services offered for the use of the tourists have been brought within the ambit of the law. Accordingly, all tourist facilities and services developed for the use of the tourists are required to be registered and licensed under the provisions of the relevant Codes. This means that they have to conform to and maintain the stipulated minimum standards to qualify for registration and annual licensing.

It is important to note that the Tourist Development Act of 1968 has designated the Director General of the Tourist Board as the "Competent Authority" for implementation of all Codes. In this capacity he acts independently of the Board.

## **2.7 Statistics and Research Functions of the Board**

Without risk of being challenged, it can be said that the Board has an excellent record in the area of tourism statistics and can proudly claim credit for its accomplishments. Its Basic Data Programme has been acclaimed both by the Pacific Asia Travel Association (PATA) and by the United Nations World Tourism Organization (UNWTO) as one of the best, if not the best, in any country in the world

The coverage of the Basic Data Programme is very wide and includes, in addition to visitor arrival statistics with detailed profile information, the statistics of Accommodation Operations, Foreign Exchange Earnings, Government Revenue

Collections, Tourist Prices, Airline Operations, and Passenger Movements etc. In addition to the coverage, there is a high degree of accuracy and conformity to international standards. Further, the timeliness of publication of the statistics is maintained reasonably well.

The Basic Data compiled and maintained by the Board are disseminated through the vehicle of two regular publications, namely

- Monthly Bulletin of Statistics, published before the end of the following month
- Annual Statistical Report, published within six months from the end of the year in question

These publications have proved to be useful not only for the travel industry but also for the governmental agencies, researchers and the general public.

However, in the area of qualitative research, the Board's activities have fallen short of expectation and this can be attributed mostly to lack of financial and human resources.

## **2.8 Domestic Tourism and Community Relation Functions**

Although domestic tourism is not a function which is specifically assigned to the Board by the CTB Act, it has taken several initiatives to provide accommodation facilities for the use of domestic travelers. A survey conducted by the Board in the early 1770s has revealed that around three-quarters of the local population travel for pilgrimage purposes and another one-tenth for holiday purposes. The balance was mostly business travelers. In most cases pilgrimage travel is also combined with holiday travel.

Accordingly, the Board has set up Pilgrim Resorts in major religious centers (for example, Kataragama and Anuradhapura) and holiday resorts and bungalows in popular holiday spots (for example: Nuwara Eliya, Bandarawela, Bentota, Passikudha, Girithale), which have proved to be very popular among all classes of domestic travelers. This has encouraged the private sector organizations also to provide similar facilities at reasonable costs.

It should be emphasized that the Board has taken this initiative largely as a community relations exercise. At the initial stages of the tourism development programme, the middle class, particularly the professional classes, were very critical of the government and the Board for providing luxury facilities for the foreign tourists, while completely neglecting the basic requirements of the domestic travelers.

In fact, the public support for the foreign tourism development programme would not have been forthcoming, if not for the timely action taken by the Board to provide basic accommodation facilities at the important domestic travel centers at affordable prices and also launch a community education programme, through schools and public exhibitions, about the economic and social importance of foreign tourism development in the country.

## **2.9 HRD Functions of the Board**

The Ceylon Hotel School which was established in 1964 by the Government Tourist Bureau under the Ministry of Defense and External Affairs came directly under the management of the Ceylon Tourist Board after it was set up in June 1966. Thus the human resources development required for the operation of the hotel and catering industry became one of the main functions of the newly established Tourist Board. The Board undertook to perform this function remarkably well. A detailed account of the operation of the Hotel School under the management of the Tourist Board is given separately under Chapter 3 of this Report.

Suffice it to mention here that except for the few large hotels located particularly in the Colombo city, owned and/or managed by foreign companies, almost all the manpower requirements of the hotel and restaurant industry in Sri Lanka were supplied by the Ceylon Hotel School. This indeed is a remarkable achievement of the Ceylon Hotel School under the management of the Tourist Board.

## **2.10 Strengths and Weaknesses of the Board**

### ***Strengths***

As shown by the preceding brief analysis of the operation of the Tourist Board since its inception, it has undoubtedly made a major contribution for the positive development and promotion of the country's tourism industry. The statistical table given under section 3 of this chapter indicates the magnitude of development of the tourism facilities and services over the last four decades under the guidance of the Tourist Board.

Similarly, the volume of tourism has increased from around 20,000 arrivals per year in the first half of the 1960s to around 550,000 in 2004. In the area of foreign exchange earnings, tourism has been able to surpass three traditional export products, rubber, coconut and gems and become the fourth largest earner of foreign income. At the same time, it has generated income and employment, both directly and indirectly, to over one hundred thousand people.

This remarkable progress has occurred notwithstanding the extremely adverse conditions under which both the Tourist Board and the tourist industry as a whole have had to operate. It cannot be overemphasized that the Board's tourism development and promotion programme have been severely affected by the near two decades of terrorist activities in the North-East coupled with nearly half a decade insurgent activities in the South which created the image that Sri Lanka is a destination with insurmountable security problems. On the top of all these occurred the worst natural disaster known to living memories of Sri Lanka – The Tsunami disaster of December 2004.

The undoubted achievements of the Tourist Board in adverse conditions clearly suggest that it possesses and has made good use of certain strengths. It would appear that its pre-eminent strengths lie in the fact that it has embodied a whole of government approach to the development and promotion of the tourist industry. It was quite rightly conceived as a single regulator entrusted with the leadership and coordination of all the sectors in an otherwise diverse and fragmented industry. The underlying rationale for this was the need not only to integrate the tourism industry, but also provide an equally integrated and cost-effective implementation of the whole spectrum of functions and activities needed for the sustainable planning, development, promotion and regulation of the industry.

The fact that over the years the Board has been able to mobilize the private sector on a relatively massive scale to undertake risky investments in capital intensive projects to build accommodation and other facilities and operate the services, itself can be described as a very substantial achievement of the Board and a reflection of its strengths.

Today, it can be said that almost all the investments in tourism facilities and services and their operations are in the hands of the private sector. It is also true to say that the Tourist Board in its catalytic role as promoter and facilitator of the private sector, has been solely responsible in bringing about this development.

It is an undeniable fact that if not for the set-backs suffered by the Sri Lanka tourism industry as a result of the internal security problems and the natural disaster, the performance of the Tourist Board with regard to the mission entrusted to it would have been far more impressive than what the above figures indicate

### *Weaknesses*

This question was put specifically to the stakeholders in the Travel Trade who came before the Committee to make representations.

The three Travel Trade Associations could not specifically enumerate the weakness of the Tourist board (copy of TOR was given and read out to them), except to say that the institution is now four decades old and therefore it needs to change along with the time. They further said that the private sector has no say in the management of the



tourist industry as there is no representation of the private sector in the management of the Board's affairs. All the Associations made representation regarding the problems that they have with the present Chairman of the Board. This of course was noted as a problem with an individual and not with the Board as an institution

However, the individuals from the Travel Trade who came before the Committee held different views. They do not seem to think that the present problems of the industry are due to any weaknesses of the Board as an institution but attribute them to certain attitudes of the leadership of the industry and also the Chairman of the Board and the Secretary to the Ministry, who unfortunately have found it not possible to get on together, due mainly to their failure to understand their mission as public servants. All of them are of the view that the Tourist Board, as a statutory body, has successfully carried out the mission entrusted to it, despite the country's problems. The SMEs in particular feel safer, if the industry is managed by a government institution like the Tourist Board.

However, based on the several studies carried out by the various organizations, including UNWTO on the current trends in the management of the tourist industries of many countries of the world, the Committee is of the view that there are certain weaknesses in the Tourist Board as an institution, in the context of the modern day development of tourism. These weaknesses are enumerated below under different headings

#### *1. Method of appointment to the Board of Management*

Out of the seven Members, two are appointed ex-officio to represent the Ministries of Finance and Local Government, while the other five, including the Chairman, are appointed by the Minister. Very often these appointments are given to political supporters who do not possess a knowledge and/or experience in tourism. They very often take up these appointments for their personal benefits, rather than in the interest of the tourist industry. The Chairmen very often are saddled with the task of running the institution without any contributions from the Board Members. In such situations, the Board can function effectively, if the Chairman happens to be a person with proven abilities and a good flair for public relations

#### *2. Funding Arrangements for operation of Board's Activities*

Until the end of 2003, the Board was solely dependent on an annual grant voted by the Parliament to finance all its operations. The money allocated from the government budget was found to be woefully inadequate to carry out any meaningful marketing and promotional campaign. This inadequacy of marketing resources was felt particularly after the onset of the ethnic and insurgency problems, which created a negative image for Sri Lanka as an insecure destination for holiday travel.



However, with the passing of the Finance Act No. 25 of 2003 and the imposition of the Tourist Development Levy and the Embarkation Levy, this situation has now changed. The problem today is one of optimal use of funds becoming available from the TDL and EL

3. *Inability to Attract Qualified and Experienced Personnel*

The Board, quite obviously, need professionally qualified and experienced personnel to carry out the functions assigned to it, such as Research and Statistics, Planning and Development, Marketing and Promotion, Regulation, Manpower Development etc. Being a statutory body, the Board has not been able to get a salary structure commensurate with the required qualifications by normal procedure. This has led to the deterioration of the standard of work of the Board.

(no) This situation also has now been rectified with the recent upgrading of the salary scales of the Board Staff to those of the Board of Investment.

4. *Absence of Private Sector Inputs in the Management of Board's Affairs*

Public-Private Sector partnership in the management of tourism is the current trend in many parts of the world. This partnership implies two things – firstly the private sector should have a say in the management of the tourism industry. Secondly, in order to have a say they should also make a contribution to the funds. This is now secured by means of the Tourist Development Levy.

According to the provisions of the Ceylon Tourist Board Act, there is no room to secure private sector representation in the Board of management. This is a distinct weakness in the Tourist Board as it is presently constituted.

It should however be stated that there is no need or logic in totally dismantling an institution that has operated quite successfully for nearly four decades, to rectify the above or any other perceived weaknesses.

## Chapter 3

### **Sri Lanka Institute of Tourism and Hotel Management (Formerly Ceylon Hotel School) Review of the Past and Assessment of Future needs**

#### 3.1 Introduction

This Chapter is presented as a corollary to the previous Chapter on the Sri Lanka Tourist Board, as the School was managed as a department of the Board since it was vested with the Board in 1966, except for two brief periods. Over the last four decades of its existence, the School has gone through many vicissitudes, shifting its premises from place to place, changing its management from hand to hand, modifying its curriculum from time to time, etc, all of which have to some extent retarded its development and expansion.

Therefore, there is a definite and clear need to put in place a stable institutional and legal framework to ensure its smooth operation and efficient management, so that it will be able to fulfill its mission in the best interest of the country. For this purpose, it is necessary to set out in some detail the historical development and present status of this education and training institute, in order to better understand and evaluate its past performance and to determine the most appropriate institutional arrangement that will enable it to fulfill its mission. This is in keeping with the mandate given to the Committee to review the past and recommend the best way forward.

#### 3.2 Its Establishment

The Sri Lanka Institute of Tourism and Hotel Management, which was originally known as the "Ceylon Hotel School" and operated under that name until 2001, was established in 1964 on a prime location at the Samudra Building (formerly known as the Colombo Club), Galle Face Centre Road, Colombo 03, by the then Prime Minister, Mrs. Sirimavo Bandaranaike. The subject of Tourism and the Government Tourist Bureau at that time came directly under the purview of the Ministry of Defense and External Affairs and the Prime Minister of the country was the Minister in charge of these subjects.

Since Sri Lanka (Ceylon at that time) did not have the expertise or the experience in operating hotel schools and providing professional training in hotel and catering services, the Prime Minister sought to obtain technical assistance by way of experts, trainers and equipment from several sources, namely multilateral sources (UNDP, ILO) and bilateral sources (Canada, Germany, Switzerland, Austria, Italy and the UK).

The accommodation plant available at that time was somewhat outmoded and rudimentary as there was no organized tourism in the modern sense of the word. Apart from the chain of Rest-houses operated by the Government Tourist Bureau (around 18 in number) at some vantage places, the only other accommodation available was the residences of the colonial masters, later converted into hotels, such as Galle Face Hotel, Grand Oriental Hotel and Mount Lavinia Hotel in Colombo, NOH in Galle, Queens Hotel and Swiss Hotel in Kandy, Grand Hotel and St. Andrews Hotel in Nuwara Eliya, Bandarawela Hotel in Bandarawela and Welcomb Hotel in Trincomalee.

The visitor traffic to the country at the time included mostly cruise and ocean liner passengers, going up to several hundred thousands per year, who came on shore while the passenger liners were anchored in the Colombo harbour. Very rarely did they stay in the harbour for more than one day. The overnight visitors, numbering around 20,000 per year, constituted mostly business and ethnic traffic. The cruise passenger traffic fluctuated heavily from year to year, depending on the arrival of passenger liners, while the number of overnight visitors remained more or less static over several years, fluctuating around 20,000 to 25,000.

The objective of setting up a well-equipped hotel school to provide professional training in hotel and catering services at that time appears to have been driven by a vision that it would be prudent to start with the development of the necessary manpower prior to the launching of a full scale tourism development programme on an organized basis, in addition to the immediate objective of upgrading the service standards of the existing accommodation plant by supplying trained manpower. Sri Lanka was fortunate to have adopted this visionary approach as trained manpower was readily available when the new hotels came into existence after the introduction of organized tourism in 1966, for their operation.

The newly established hotel school started with a Three Year Diploma Course in Catering, which was later changed to a Three Year Diploma Course in Hotel and Catering Operations. Along with the Three Year Diploma Course, which would provide trained personnel to take up managerial positions, the School also offered six-month craft courses in the following disciplines, to provide manpower requirements at the operational levels, namely

- Basic Cookery
- Restaurant and Bar Services
- Hotel Reception
- Hotel House Keeping

In addition to the six-month courses, the School also conducted two-month Crash Courses to provide professional training to the employees of the existing hotels and new hotels, in conjunction with the six-month courses, in order to cater to the increasing demand for training.

At the initial stages, particularly after the School came under the management of the newly established Ceylon Tourist Board, practically all the lecturers who conducted the above courses came from abroad, under the multilateral and bilateral Technical Assistance Programmes available to the government.

### 3.3 Hotel School under Tourist Board Management

As stated in Chapter 1 Section 1 above, all assets of the Government Tourist Bureau, including the Ceylon Hotel School, were transferred to the Ceylon Tourist Board, after its establishment in June 1966. Since then, the Ceylon Hotel School came directly under the management of the Ceylon Tourist Board. Although manpower development was not specifically stated as one of the objects of the Board in the Act, it can be argued that the industry's workforce is an integral part of the overall tourist destination product, for which the Tourist Board has an explicit mandate. As such, the Board considered it as a vitally essential prerequisite for the effective development of tourism, and therefore set out to manage it in an exemplary manner.

Accordingly, the Board took action to equip the training kitchen up to the required standards, set up ten guest rooms in the upstairs of the Samudra Building and opened a public bar and a restaurant to provide practical training for the students. A graduation ceremony was held to award certificates to the first batch of students passing out of the School. Subsequently, the graduation ceremonies became annual events for students' passing out of the School every year.

Although the students passing out of the School found very lucrative employment in the existing and new hotels that were coming up almost year after year, there were concerns expressed by the hotel owners in the early 1970s that the training provided by the School did not adequately meet the requirements of the up-coming hotel industry, due to two main reasons, namely

- The Three Year Diploma Course conducted by the School was mostly theoretical in content and therefore the trainees lacked practical skills in handling operational level work.
- The output of trainees at operational levels, namely Reception, Housekeeping, Restaurant and Bar Services and Cookery (through five-month courses and crash courses) was woefully inadequate.

Consequently, the Board obtained the services of an ILO expert in 1975 by the name of Mr. J. Napper, for a period of two years to redesign the school curricula with a view to meeting the requirements of the hotel operators. After detailed consultations with the relevant stakeholders the ILO expert recommended what is called "Modular System" by abolishing the Three Year Diploma Course and the crash courses. The Modular System, however, retained the five-month craft level courses in the four disciplines. The main elements of the system are as follows:

- Basic Level Courses in Cookery (four months), Restaurant & Bar Services (three months), Hotel Reception (three months) and Hotel Housekeeping (three months)
- Industrial training for six months in a hotel
- Intermediate Courses in Cookery, Food and Beverage Services and Accommodation Operation, after completing at least two basic level courses and the relevant industrial training
- Diploma or Full Graduation Course

This system, which is also called the Pyramid System, soon became very popular because of several reasons, namely

- It gave training opportunities to a larger number of candidates seeking admission to the School
- It provided a large pool of trainees at operational levels for the hoteliers to run their operations
- It provided an opportunity to specialize in certain aspects of hotel management, namely Cookery, Food & Beverage Services and Accommodation Operations leading to a Diploma

Right from the inception of the Tourist Board management, the School became a very popular institution for vocational training. The entry requirement to follow any of the courses offered was very basic – G.C.E Ordinary level with at least two credit passes. A large majority of the candidates at the initial stages came from well to do families living in and around Colombo with English speaking background. The remuneration package that the Hotel School trained employees received proved to be very attractive, when compared with what the other professional services could earn. There was also a substantial amount of demand coming from overseas sources for Ceylon Hotel School trained personnel at all levels. Thus there was very heavy competition to gain admission to the School for training, which the School could not cope with.

### 3.4 Shifting of the Hotel School to Different Premises

In 1979, the Hotel School lost its prime premises in the Samudra building at the Galle Face Centre Road. Both the Hotel School and Tourist Board premises were forced to give way to the Taj Samudra Hotel, without being able to obtain suitable alternative premises. Therefore, the Hotel School was shifted to the Parkway Building at No.2 Park Street, Colombo 2. It had not been built to operate a hotel school and therefore a fair amount of structural alterations had to be effected, particularly to set up the training kitchen with modern equipment and also the necessary classrooms.

Again in 1986, the School had to give way as the owner of the building in which the School operated wanted the building back because of the low level of rent paid by the Board. Fortunately, the Palm Beach Hotel in Mount Lavinia, which was running at a loss due the downturn in the tourist industry, was offered to the Tourist Board by its owners at

a very low rental. Although it was a much better place in a much better environment to operate a hotel school, the hotel was in a run-down condition needing extensive repairs and renovations.

The Palm Beach Hotel had 48 guest rooms, out of which 18 were converted into classrooms and office rooms to accommodate the needs of the School, while the balance 30 rooms continued to be operated as guest rooms for the hotel. Thus the Hotel was operated along with the School and the facilities of the Hotel were used to provide practical trainings for the students. There was a full-time resident Manager to operate the Hotel, while the School was placed in the charge of a Tourism Consultant as there was no Principal of the School at that time.

However, the kitchen available in the Hotel was very basic and not large enough to install the extensive equipment that the School needed to provide training in Cookery. Therefore, the School operated at the Palm Beach Hotel was able to provide training only in Reception, Housekeeping and Restaurant and Bar Services.

The Hotel School also suffered a set back along with the tourist industry beginning from the early 1980s due to the onset of the terrorist problem in the North-East and the insurgency problem in the South. The tourist hotels started retrenching the staff due to decreasing occupancy levels and a substantial number of trained staff migrated to other countries seeking employment. This created problems for the School in finding qualified and competent lecturers, which lead to a deterioration of the standard of training offered by the School.

### **3.5 Attempt to privatize the Hotel School**

In late 1986, on the orders of the Minister in charge of tourism, the officials of the Ministry in association with the Chairman of the Tourist Board took action to set up a Private Limited Company under the Companies Act with the Tourist Board participation, to operate the School by taking it outside the management of the Tourist Board.

Accordingly, a company by the name of Sri Lanka Hotel and Tourism Institute (PVT) Ltd. was incorporated on the 19<sup>th</sup> of February 1987 by issuing 191,000 ordinary shares. The Ceylon Tourist Board was the largest shareholder with 75,000 shares. The other share holders with 10,000 or more shares were - Buhari Hotel, Maradana, Galle Face Hotel, Asian Hotels Corporation, Insurance Corporation, Taj Samudra Hotel and Hotel Services Ceylon Ltd.

The Board of Directors of the Company consisted of nine members with the Chairman of the Ceylon Tourist Board, as the biggest shareholder, becoming the Chairman of the Board and the Senior Assistant Secretary of the Ministry becoming the Executive Director. The other Directors of the Board were the hoteliers (who purchased more than 10,000 shares) and the Insurance Corporation



Forbes Financial Services (PVT) Ltd was appointed as the Secretaries to the Company. The services of the Tourism Consultant, who managed the School before, were discontinued and a Senior Lecturer of the School was appointed as the Acting Principal.

Very soon the Company ran into difficulties. Now there was no money forthcoming from the government at least for the operation of the School. The income generated from the operation of the Hotel and the fees charged from the students were not sufficient to meet the current expenditure of both the Hotel and the School. The Senior Lecturers started leaving the School due to lack of career prospects and the loss of prestige as a result of the privatization of the School. Similarly, the numbers of student enrolling also started declining, partly as a result of the deterioration of the quality of training and partly as a result of the non-availability of the Cookery Course and the other higher level courses. As a result, both the Ministry and the Company were contemplating action to close down the School and hand back the Hotel to its owners.

Meanwhile, there were agitations by the parents of the School students and other well-wishers against the privatization and demanding that the Tourist Board should take back the management of the School. The matter was also raised in Parliament by some interested MPs and the Minister was compelled to give an assurance that the School would not be closed down. The ultimate outcome was that the Ceylon Tourist Board was directed to take back and operate the School under its management.

### **3.6 School under Tourist Board Management – Second Time**

After taking over the management of the Hotel School for the second time, the Board set out to rehabilitate the School by shifting it to a better building at Nawala Road. A fully equipped Kitchen was installed and a new Principal and two Vice-Principals were recruited locally. In order to induce qualified hotel school graduates to join the school as lecturers, certain incentive schemes were introduced, which helped the Tourist Board to fill all the vacancies in the academic grades.

With the introduction of these measures, it was possible for the Board to restore all the training courses at all levels. The School again became very popular and the competition for entry was becoming intense, despite the fact that two rounds of basic level courses were conducted per year. In addition, the School also took under its management, the Guide Lecturers Training Programme, which was hitherto conducted by the Board. Further, basic training in computer literacy was also introduced into the school curriculum.

In 1990-1991, the Board commissioned a Team of Consultants, with UNDP funding assistance, to re-evaluate the work done by the Board. While recommending certain improvements to the school curricula, they have also carried out a study of the future manpower requirements of the country, after making an allowance for annual attrition as a result of migration to other countries for more lucrative employment. It was found that the demand for training was not only for employment in Sri Lanka but also for better



employment abroad. It was found that the space available in the Colombo Hotel School was not sufficient to meet this demand.

Therefore, in order to meet the current and future demand for training and also to offer training opportunities to the youth living in outstation areas, the consultants recommended setting up of Satellite Schools in key provincial towns. Accordingly, the Board set up three Satellite Schools during the period from 1991 to 1994, in Kandy (for the up country region), Anuradhapura (for the North Central region) and in Weligama (for the Southern region). These Satellite schools offered only basic level training at the initial stages.

During the period from 1995 to 2000, more Satellite Schools were established in Kurunegala (to serve the North-Western region), Bandarawela (to serve the Hill Country region) and Kuruwita (to serve Sabaragamuwa region), with the assistance of the Provincial Councils, while improving the facilities and the scope of training in the existing Satellite Schools. Further, two more Satellite Schools were opened in Trincomalee and Jaffna, under the Hundred Day Programme in early 2002.

There were two main objectives in expanding the Hotel and Catering Training Programme by setting up Satellite Schools in Provinces and upgrading the facilities of the main Hotel School in Colombo, which have not been sufficiently understood by many, namely:

- To open the avenues to the educated youths in the outstation areas to find employment in this very lucrative field; which had hitherto been confined to the Colombo youth only.
- To produce a surplus of trainees in this field for export to other countries with a view to solving the country's twin problems of educated youth unemployment and the shortage of foreign exchange to pay for the imports.

The country's policy planners therefore need to appreciate the fact that the Hotel School has the potential to contribute towards the solving of two of the major economic problems facing the country today.

### **3.7 A Permanent Abode for the Hotel School**

It was noted above that the Tourist Board was forced to move the School from place to place due to lack of a permanent abode, resulting in the fluctuations of the standards of training and the output of the trainees. All attempts made prior to the mid 1990s to provide permanent premises for the School have failed due to various reasons. However, in 1995 it was possible to make a breakthrough, due mainly to the personal interest taken by the then Minister of Tourism and the Chairman of the Tourist Board.

Accordingly, Cabinet approval was obtained to put up a custom made building to house the school on the vacant land located just in front of the Tourist Board, which belonged to the Board. The building was designed by a local architectural firm with the assistance of consultants from The Hague Hotel School. The construction work was done by a local construction company. It is a custom made, multi-storied and ultra-modern building with all facilities for both theoretical and practical training. The School has the capacity to produce nearly 1500 trainees per year, at all levels. The soft opening of the new building took place in January 2000 after which the school was shifted to the new premises from the Nawala building.

### 3.8 Change of Management of the School for the Second time

With the construction of an ultra modern building to house the school, interest was shown by several quarters, particularly the Hotel School Graduates Association, to at least participate in the management of the School. As a result of certain representations made to the Hon Minister, a Committee, consisting of the following members was appointed with detailed Terms of Reference.

- Mr. K. Marimuttu, Additional Secretary of the Ministry, Chairman
- Mr. Malin Hapugoda, Managing Director, Hospitality Management Consultants (PVT) Ltd., Member
- Mr. Sumithra Gunasekara, Managing Director, Ceylon Cold Stores Ltd, Member
- Mr. Sunil Dissanayake, Director (Human Resources) Carson Management Servfices (Pvt) Ltd., Member
- Mr. Sudath Karunanayake, Director (Trade Standards), Ceylon Tourist Board, Secretary to the Committee.

It is interesting to note that all three private sector members of the Committee were graduates of the hotel school.

The main recommendation of the Committee was that the Ceylon Hotel School and the School of Tourism should be granted autonomous status by taking it out of the management of the Ceylon Tourist Board, on similar lines as the National Institute of Business Management (NIBM), which operates under the supervision of the Ministry of Industries.

Following the recommendations of the Committee, it is not clear whether the Minister gave any directions to take action to grant autonomous status to the School. However, with the appointment of a new government in the latter part of 2000, after the general elections, the new Minister of Tourism has sought and obtain approval of the Cabinet of Ministers to take the management of the School out of the Tourist Board and entrust it to an independent Board of Governors, consisting of nine members as follows.

- Secretary to the Ministry of Tourism, Dr. P. Ramunujan, as the Chairman
- A representative of the Ministry of Provincial Councils
- A representative of the Ministry of Finance
- A representative from the Institute of Vocational Training
- Director General of the Sri Lanka Tourist Board
- Principal of the Ceylon Hotel School
- Two representatives of the Hotel School Graduates Association
- A representative of the Tourist Hotels Association

The two representatives of the Hotel School Graduates Association were Messers Malin Hapugoda and Sumithra Gunasekara, while the Hotels Association's nominee was Mr. Hiran Cooray. The Additional Secretary to the Ministry of Tourism, Mr. George Michael functioned as the Secretary to the Board of Governors.

It is apparent that the Minister took this extraordinary action of setting up an independent institution to manage the school, without any legal backing, because of the pressures exerted by the interested parties. It is also interesting to note that the two nominees of the Graduates Association were the very same members who served in the Committee referred to above.

Since the new Institute called "Sirimavo Bandaranaike Institute of Tourism and Hotel Management" had no legal status, as it was set up by a directive of the Minister, it had not been possible to get a separate budget from the Treasury for its operation and therefore it was compelled to depend on the budgetary allocations given to the Tourist Board for operation of the Hotel School, using the machinery of the Tourist Board. Thus the Tourist Board continued to handle the finances of the new Institute through its Finance Division. Since the Hotel School staff, both academic and non-academic, continued to be the employees of the Tourist Board (although working under a new management), it was legally obliged to pay their salaries and all other emoluments. A Senior Assistant Secretary from the Ministry was seconded to the Institute to function as the Registrar.

Further, the vacancy created by the resignation of the then Principal of the Hotel School, Mr. Sarath Senevirathna, due to alleged harassment and the interference by some members of the Board of Governors, remained unfilled for a long time. Later, the services of a senior employee from the private sector Company "John Keels Group", namely Mr. Kumar. S. Thambyah was obtained to fill the vacancy of the post of Principal of the Institute, with his company paying an allowance to compensate for the loss of his remuneration due to low salary scales paid by the Tourist Board. The new Principal continued to work for some time, against several odds, but eventually submitted his resignation, reportedly due to the withdrawal of the allowance paid by his company and to excessive interference.

Nevertheless, the Board of Governors continued to manage the Institute, despite many odds, such as financial constraints, loss of lectures due to the introduction of the

Voluntary Retirement Scheme (VRS), resignation of the Principal, and low enrolment of students, particularly in the satellite schools etc. As a result the standard of the Institute started deteriorating fast with no possible solution in sight. So much so, that there was speculation that the Institution was going to be handed to a private tourism sector organization for management.

However, the Board of Governors had taken initiative in two main areas to improve the management and operation of the School, namely:

- At the very early stages, a Bill to give legal status to the institute under the title "Sirimavo Institute of Tourism and Hotel management" had been drafted, but has not been able to be presented to the Parliament due to the change of administration in 2002. It is not clear as to why it was not presented to the Parliament for approval afterwards, since the same Board of Governors continued to manage the Institute.
- The services of a Sri Lankan consultant working abroad, by the name of Professor Chandana Jayawardana, were obtained to upgrade the curriculum so that it will be able to affiliate itself with reputed hotel schools abroad, through the funds made available from the Tourism Cluster Resources granted by the USAID.

These measures, however, have remained ineffective due to the problems encountered in their implementation.

### **3.9 Back to Tourist Board Management for the third time**

With the change of government in 2004 and the creation of a new Ministry of Tourism, Investment Promotion and Industries, the new Secretary appointed to the Ministry Dr. U Vidanapathirana has refused to chair the Board of Governors of the Institute as it was a body set up without any legal sanction. Therefore, the Tourist Board was again directed to take back the management of the School for the third time.

With the use of the funds becoming available to the Board from the Finance Act No. 25 of 2003, it has been possible to for the Board to implement several measures for the improvement of the School. These included the following

- Obtaining approval of the Cabinet of Ministers for a special salary for the Principal of the School, higher than that paid to the Director General of the Board, with the facility of a car for official and private use up to a limit.
- A substantial increase in the salaries paid to the different grade of lecturers, which helped to attract qualified and experienced lectures
- Closing down of the non-operational satellite schools in Jaffna, Trincomalee, Kurunegala and Kahawita, thereby saving otherwise wasteful expenditure.

- Installation of equipment and provision of facilities to introduce all four basic level courses in the other satellite schools at Kandy, Anuradhapura, Bandarawela and Matara, which has led to an increase in the demand for training through these schools
- Re-structuring of the three year Diploma Courses along with the four basic level courses each of five months duration, in accordance with the recommendation of the Chandana Jayawardana Report.
- Introduction of double sessions (morning and evening) in the Colombo main School, in order to increase the student intake and meet the growing demand.
- Increase in the fees charged for all levels of training.
- Affiliation of the School to Salzburg Hotel School in Austria.
- Opening of a training hotel within the school premises by the name of Samudra Hotel, using the available facilities within the building, to provide practical training.

The above measures have vastly improved the standard of operation of the School and have led to an increase in the demand for admission not only to the main School in Colombo but also to satellite schools. However, there are criticisms of the increase in the fees charged, saying that they are exorbitant and not affordable by the poorer section of the society.

The counter arguments of the Tourist Board is that scholarships are made available to those who are not able to pay the increased fees and that despite the increase in fees there is no decrease in the enrolment of the students

### 3.10 Findings and Conclusions

The following conclusions emerge from the description and the analysis presented in the preceding subsections

- 1 The non-availability of a permanent abode for the operation of the Hotel School for nearly three and half decades has hampered its development to the required international standards. However, this situation has now been rectified with the construction of a custom made building complex at a prime location in Colombo
- 2 All attempts made in the past to take the Hotel School outside the management of the Tourist Board have proved to be failures. Its operations from time to time have failed due mainly to the interference by groups and individuals with vested interests

- 3 Despite all adverse circumstances, the School can boast a proud record of performance, that it has been able to supply almost all trained manpower requirements of the expanding hotel industry in Sri Lanka.
- 4 In addition, the products of the Hotel School have been able to find very lucrative employment in many foreign countries, particularly in the Middle East, East Asia, Australasia and Europe. Thus the products of the School have been able to contribute to the much needed foreign exchange earnings of the country
- 5 The Finance Act No.25 of 2003 provides a stable source of financing the operation of the School, in addition to the funds that can be generated through its own operations
- 6 The School has the potential to make a substantial contribution to solving two of the major economic problems facing the country, namely (a) shortage of foreign exchange earnings and (b) educated youth unemployment.
- 7 There is a clear need for a stable institutional and legal framework for the future management and expansion of the School

With regard to the establishment of a stable institutional and legal framework for the operation of the School, it is quite evident that the historical association and tutelage of the School with the Tourist Board was necessary and useful in the initial formative stages of both the School and the tourism industry as a whole. The School is now well established and can be said to have not only grown and expanded but, more importantly, it has also developed sufficient institutional capacity in its sphere of operation.

The proposed re-designation of the School as the Institute of Tourism and Hotel Management (ITHM) and its management by an independent body confirms its coming of age, as it were, and suggests the prospect of its further development and expansion as a regional centre of excellence in tourism and hotel management education and training. It also signals the need for it to function as an independent body with its own charter.

The Tourist Board's direct involvement in the Hotel School was part of its necessary development role. This has now been fulfilled and the mandate should now be relinquished. The day-to-day management and administration of tourism and hotel training institutions is not normally part of a national tourism administration, such as the Tourist Board, or the proposed Sri Lanka Tourism Development Authority.

The Committee therefore is recommending the creation of a separate statutory body to be called "Sirimavo Bandaranaike Institute of Tourism and Hotel Management" (SBITHM), as proposed in the draft legislation prepared before. The rationale for calling it "Sirimavo Bandaranaike Institute" is to pay tribute to its founder, as explained in Section 1 of this Chapter. Further details regarding this proposal are given in Chapter 7.

## Chapter 4

### Review of Previous Proposals Relating to Public-Private Sector Partnership in Tourism Management

#### 4.1 Introduction

In Chapter 1 Section 1, it was stated that the New Tourism Law or the Tourism Act No.38 of 2005 has been formulated by the present Ministry of Tourism in consultation with the relevant stakeholder and also on the basis of the previous attempts made since the early 1990s to bring the tourism private sector inputs into the management of tourism. It can be said that the present Law is an outcome of an attempt to incorporate some of those proposals made from time to time, but under different circumstances and for different reasons.

It is therefore considered relevant and pertinent to undertake a review of the proposals made from time to time and the circumstances under which those proposals have been made and the reasons as to why those proposals were not implemented, as a backdrop to the present study. The purpose of this Chapter, therefore is to present such a review for better appreciation and understanding of the recommendations that the Committee makes in Chapter 7 on "The Way Forward"

The Draft Legislative Documents prepared from time to time and under the patronage of different Chairmen of the Tourist Board and in consultation or in association with the relevant tourism private sector stakeholders are assembled together and presented separately as a Supplement to this Report (Supplement A). Since several individuals, both from the public and private sectors, were involved in initiating these proposals and have played key roles in advocating them, their names have to be mentioned in the descriptive analysis given below, as an inevitable requirement to understand the context

#### 4.2 Historical Context

The primary functions assigned to the Tourist Board by the Tourist Board Act are promotion and development of tourist travel and the encouragement, promotion and development of tourist facilities and services. For the performance of these functions the Tourist Board received a grant from the National Budget passed by the Parliament every



year. Up to the early 1980s, the annual grants received by the Board from the national budget were found to be adequate to finance its activities, although the funds allocated from the annual grant for tourist promotion were not commensurate with the budgets allocated for tourist promotion by the competing destinations. In the allocation of funds for tourist promotion, the Tourist Board lagged behind most other competitive destinations, particularly in the South East Asian region. For instance Thailand, Kenya and Maldives were considered as direct competitors to Sri Lanka for the European package holiday markets. Their promotional budgets have swelled from year to year while Sri Lanka's budget allocations for tourist promotion have remained virtually stagnant. This can be seen from the figures given in the Table 4.1 below

**Table 4.1 – Government Grant to Tourist Board and allocation for Tourist Promotion (1990 – 1994)**

Year	Government Grant Rs Million	Board's Income Rs.Million	Allocation Promotion Rs Million	Allocation Promotion US\$ Mn
1990	60.0	5.2	36.8	0.91
1991	70.0	5.0	34.6	0.83
1992	81.5	6.8	47.2	1.08
1993	90.0	8.5	57.0	1.18
1994	93.2	10.0	57.9	1.17

Source: Sri Lanka Tourist Board Annual Report

The government grant to the Tourist Board for all its operations was only Rs.60 million in 1990 and this was increased only marginally every year to Rs.93.2 million in 1994. Only around two-thirds of the grant has been allocated for tourist promotion. In US\$ terms, this amounted to around one million dollars, which was far below the promotional budgets of the competing destinations.

Further, Sri Lanka was in an unfortunate situation when it came to promotion of the country as a tourist destination, because of the worsening security situation. The latter part of the 1980s saw the industry dropping to very low levels due both to heightened terrorist and insurgent activities. Tourist arrivals dropped from 407,000 in 1982 to 185,000 in 1989, foreign exchange earning dropped from US\$ 147 million in 1982 to US\$ 76 Million in 1989 and the overall annual hotel occupancy rate dropped from 58 percent in 1982 to 31 percent in 1989.

However there was a marked change in the country's security situation after the defeat of the southern insurgency movement in 1989 and entering into peace negotiation with the northern terrorists in the early 1990s by the President Premadasa administration. This led to a gradual recovery of the industry giving high hopes for the travel trade. These changes can be seen from the figures given in the Table 4.2 below.

**Table 4.2 – Trends in Sri Lanka Tourism  
(1982 – 1994)**

Year	Tourist Arrivals	FE Earnings US\$ Mn.	Hotel Rooms Nos	Occupancy Rate(%)
1982	407,230	146.6	7,579	47.8
1989	184,732	76.0	9,459	31.0
1990	297,888	132.0	9,556	47.2
1991	317,703	156.8	9,679	48.4
1992	393,669	201.4	10,214	55.3
1993	392,250	208.0	10,365	57.0
1994	407,511	230.7	10,742	56.6

Source: Sri Lanka Tourist Board, Annual Statistical Report

With the gradual improvement in tourist arrivals, increase in hotel room capacity and the hotel room occupancy rates the travel trade was becoming impatient about the inability of the government to allocate sufficient funds for tourist promotion, despite repeated representations made to Treasury through the Tourist Board and the Tourism Ministry, who were very supportive of their demand.

Therefore, in the early 1990s, the travel trade spearheaded by the then President of the Tourist Hotels Association, Mr. Gilbert Jayasuriya and also the then President of the Group Tour Agents Association, Mr. Sunimal Senanayake made a proposal to the then Secretary to the Treasury Mr. Paskaralingam, who had regular consultative meetings with the private sector business operators, to set up a Tourist Promotional Cess Fund with voluntary contributions from the travel trade, by way of a tax on the turnover of their businesses. This proposal has been made subject to the condition that the government should provide matching funds by contributing an equal amount, and that the fund so created should be managed by a separate statutory body to be called "Tourist Promotion Authority of Sri Lanka. They have also used a private Law Firm to prepare draft legislation for this purpose.

Although, the Treasury Secretary had agreed to this proposal in principal, he wanted more time to consider the proposal and arrive at a decision in consultation with the relevant governmental agencies and other stakeholders.

### **4.3 Proposals Made During the Period 1994 - 2000**

Meanwhile, there was a change of government in 1994 (Peoples' Alliance Government) and a new Minister of Tourism, Hon Dharmasiri Senanayake and a new Chairman of the Ceylon Tourist Board, Mr. H. M. S. Samaranayake were appointed. Soon after these appointments, a high powered delegation from the travel trade, consisting of Messers Gilbert Jayasuriya, President of the Tourist Hotels Association, Sunimal Senanayake, President of the Group Tour Agents Association, Toney Furkhan and Asker Moosaaji,

former Presidents of the Hotels Association and a few others paid a courtesy call on the new Chairman of the Tourist Board and renewed the "Demands" that they had made to the previous administration on two matters, namely

- To declare the tourist industry as an "Export Industry", in the same manner as the other newly established industries like the Garments Industry, so that the tourist industry will automatically be entitled to a range of monetary and fiscal concessions
- To enact legislation to set up a separate statutory body to handle tourist promotional work which will be financed out of a Cess fund created with contributions from the private sector and the government. A copy of the draft legislation already prepared by them was also made available to the Chairman

Unfortunately, it was not possible for the Committee to find a copy of this draft legislation to be reproduced in the Supplement A to this report. But the available records show that the proposed legislation provided for the establishment of a separate (from the Tourist Board) statutory body to be called "Tourism Promotion Authority of Sri Lanka" with a Board of Management consisting of representatives from both the public and private sectors. Its activities were to be financed by a separate fund called "Tourist Promotional Fund" with contributions from both the private sector (by way of a tax on turnover) and the Government (by way of a vote passed in Parliament).

The Government contribution should at least match the collections from the private sector. The earmarked amount would be approximately US\$ five million, the amount recommended in the second Tourism Development master Plan. The Board of Management can have a public sector majority with Chairman of the Tourist Board and a representative of the Ministry of Finance as ex-officio members. Initially, the Chairman of the Tourist Board would be appointed as the Chairman of the Authority as well.

Although this proposal was canvassed with the Hon Minister and HE the President, both of them were not in favour of creating a separate statutory body to handle tourist promotional work and the proposal therefore was held in abeyance for sometime as the travel trade did not insist on this demand as they were more keen to win their other demands, namely concessions to the industry.

The demand to grant "Export Industry Status" to the tourist industry was canvassed at the highest levels, supported by both the Tourist Board and the Ministry but there were objections on several grounds. The most vehement objections came from the Treasury supported by their World Bank Advisors.

However, two years later the demand for concessions was granted through the Budget Speech. Tourist Industry along with a few other industries was declared a "Thrust Industry" and granted several concessions, namely

- Duty free imports for refurbishment of tourist hotels,
- Duty free concessions for import of tourist vehicles
- Exemption from turnover tax
- Reduction of Corporate tax from 30 percent to 15 percent

With the rejection of the proposal for a separate statutory body to handle Tourist promotional work financed by a Cess Fund, Chairman of the Tourist Board put forward an alternative proposal. This sought to bring the private sector representatives into the management of the Tourist Board, without creating a separate statutory body, and set up a Tourist promotional Cess Fund as proposed by the travel trade. As this alternative proposal was found acceptable to many, it was put to the Cabinet of Ministers for approval. After receiving Cabinet approval, the proposal including the brief was presented to the Legal Draftsman to prepare the legal document. This document is included in the Supplement A to this report.

### *Tourism Authority of Sri Lanka*

It is called “

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF AN AUTHORITY CALLED THE TOURISM AUTHORITY OF SRI LANKA, FOR THE EFFECTIVE DEVELOPMENT AND THE PROMOTION OF THE TOURISM INDUSTRY IN SRI LANKA, AND FOR MATTERS CONNECTED THEREWITH AND INCIDENTAL THERETO

It provides for a Board of Management of nine members appointed by the Minister, consisting of the following

- (a) a Representative of the Ministry of Finance
- (b) a Representative of the Ministry of Provincial Councils
- (c) two Representatives from the Tourist Hotels Association
- (d) two Representatives from the Travel Agents Association
- (e) two members appointed by the Minister of Tourism, with proven experience in tourism
- (f) the Chief Executive Officer of Air Lanka Ltd

The Chairman was to be appointed by the Minister from among the members appointed under ©, (d) and (e) above. It is thus seen that the travel trade has four representatives, with provision to appoint one of them as Chairman. The Tourist Board Act was to be repealed and all functions of the Board were to be exercised by the Authority. Provision has also been made to set up a Fund consisting of moneys collected by way of a Contributory Levy charged from all tourist business establishments and also moneys voted by the Parliament.

It is thus seen that the provisions made in this Draft Act were extremely favourable to the tourism private sector. However, they were not agreeable to go with it. The reasons adduced were:

- They were not yet ready to handle other tourism functions, such as Planning and Development, Regulations, Research and Statistics, Human Resources Development etc.
- Provisions making government rules applicable to the Authority
- Provisions made for accounts to be audited by the Auditor General.
- Provisions made for all staff of the Tourist Board to be absorbed into the Authority.

### *Tourism Promotion Authority of Sri Lanka – A Guaranteed Company*

Since the travel trade was pressing for a separate organization to handle tourist promotion only, the Chairman of the Tourist Board came up with another proposal. This was to set a Company Limited by Guarantee (Guaranteed Company) under the Company's Act, similar to the one set up for MICE promotions (Sri Lanka Conventions Bureau), without having to go through the Cabinet and Parliamentary approval procedures.

This proposal was readily accepted by the travel trade and therefore the Ministry approval was sought and obtained to set up such a company. A "Tourism Think Tank" set up by the Chairman of the Tourist Board, consisting of representatives from the three trade associations (namely, Tourist Hotels Association, Group Tour Agents Association and Travel Agents Association) and the national carrier Sri Lankan Airlines and chaired by a very senior member of the travel trade, Mr. Asker Moosaaji, was entrusted with the task of drafting the Memorandum and Articles of Association for the proposed guaranteed Company.

Quite unfortunately, this relatively simple task which would otherwise have been completed in a matter of few weeks, dragged on for several months, due to the vehement objections raised by the Travel Agents Association to give any kind of representation to the Group Tour Agents Association in the Board of Management of the proposed company. They had raised this objection on the ground that all members of the Group Tour Agents Association were also members of the Travel Agents Association. They further argued that since the Resident Representatives of foreign tour companies were also made members of the Group Tour Agents Association, their Association could not be recognized for purposes of giving representation in a statutory body.

The Group Tour Agents Association, on the other hand, argued that their members handle almost all of the group tours, including charter inclusive tours, which constituted the bulk of the tourist traffic to Sri Lanka and therefore they should be adequately represented in

the Board of Management of the new Company. They further argued that, unlike members of the Travel Agents Association, who handle mostly outbound travel, their members were responsible in bringing the bulk of the tourist traffic to the country. Therefore, they played the most vital role in promoting the country as a tourist destination.

This tug-a-war between the two associations went on for sometime and finally just before the general elections of 1999, the Chairman of the Tourism Think Tank, Mr. Asker Moosaaji, submitted the draft Memorandum and Articles of Association of the proposed Company to the Chairman of the Tourist Board. This document is also included in the Supplement A to this Report for reference and information.

According to the Memorandum, the Company was to be called "Tourism Promotion Authority of Sri Lanka" and it should be managed by a Board of Management consisting of ten members as follows:-

- (a) The Chairman of the Ceylon Tourist Board
- (b) The Secretary to the Ministry of Tourism who is in charge of the subject of tourism
- (c) Representative of the Treasury
- (d) President of the Sri Lanka Tourist Hotels Association,
- (e) President of the Travel Agents Association
- (f) President of the Sri Lanka Association of the Inbound Tour Operators
- (g) Three persons from the private sector having experience and knowledge of, and who have contributed to the tourist industry
- (h) A Representative of the National Carrier - Sri Lanka Airline Ltd

The members of the Board are called "Directors" and the Directors would appoint a Chairman from among themselves. The Board of Directors was entrusted with all powers to conduct the affairs of the Authority and was made responsible direct to the Minister. The primary object of the Authority was the promotion of Sri Lanka as a destination for tourist

The Authority will have a Fund consisting of all subscriptions and membership fees received from the members and all sums of monies received by way of grants, gifts, donations subsidies etc. All affairs of the Board will be conducted by a Chief Executive Officer, appointed by the Board of Directors.

With the appointment of the new Minister of Tourism, Hon Luxhaman Kiriella, after the General elections of October 2000, the Chairman of the Tourist Board submitted the Memorandum to the New Minister, suggesting that the ministry initiate action to set up the Company, as he was going to submit his resignation from the post of Chairman.



#### 4.4 Attempts Made during the Period from 2001 to 2004

There were two proposals made during the period from 2001 to 2004 to promote public private partnership in the management of tourism, one during the time when Mr. Renton de Alwis was the Chairman of the Board and the other when Mr. Paddy Vithana was its Chairman.

The Draft Act prepared during the time of Mr. De Alwis, after extensive consultations with the various stakeholders is titled as follows.

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF A STATE COUNCIL KNOWN AS THE SRI LANKA TOURISM DEVELOPMENT COUNCIL; FOR THE DEVELOPMENT OF THE TOURISM INDUSTRY AND TO PROVIDE THE LEGAL INFRASTRUCTURE TO PLAN, IMPLEMENT, ENCOURAGE, FACILITATE, TRAIN, EDUCATE PERSONEL, REGULATE, MONITOR THE ENTIRE INDUSTRY AND ITS ALLIED INDUSTRIES

This Draft Act was prepared by the Chambers Colombo and the liaison work between the Chambers and the Board was entrusted to Mr. Dileep Mudandeniya, Board's Additional Director of Marketing, who is also an Attorney-at law.

From the very title of the Act, it is clear that all the functions which were handled and continued to be handled by the Tourist Board, including Research, Product Development, Regulation and Manpower development, were been entrusted to the proposed Council. One of the objects of the Council was stated as "Encouragement and promotion of private sector participation in the tourism industry and its promotional and training work.

With regard to the composition of the Council, this would consist of fourteen members appointed by the Minister as follows:-

- (a) five members nominated by Sri Lanka Hotels Association and the Sri Lanka Association of Travel and Tourism
- (b) the person for the time being holding the post of Director General of the Council.
- (c) another three members who are identified as professional contributors to the travel industry by the Minister.

In addition

- (d) The persons who are holding the post of Chairmen in the Regional Tourism Councils established under Part III of the Act shall be ex-officio members of the Council
- (e) The Minister shall appoint one of the members of the Council referred to in paragraph © above to be the Chairman of the Council.



- (f) The Minister may appoint a person from the office of the Secretary to the Ministry of Tourism as an observer.

The other provisions made in the Act are summarized below

1. Staff and Departments of the Council (Part II)

- Director General of the Council appointed by the Minister in consultation with the Council, who shall be the Chief Executive Officer of the Council
- Such other officers and the servants as the Council may deem necessary
- The Council shall establish and maintain such number of Departments as may be necessary

2. Establishment of Regional Councils (Part III)

- The Act makes provision to establish five Regional Councils consisting of the following
  - (a) Chairman and up to five members appointed by the Minister
  - (b) The Director of Tourism in each Region appointed by the Minister
  - (c) One representative of the Provincial Ministries of Tourism

3. National Institute of Tourism (Part IV)

- A Statutory Body for Manpower Development managed by a Board of Governors consisting of the following:
  - (a) Chairman of the Council
  - (b) The Chief Executive Officer of the Council
  - (c) Two persons appointed by the Minister on the recommendation of the Council
  - (d) Chief Executive Officer of the Sri Lanka Tourism Marketing Bureau
  - (e) Eight persons appointed by the Minister out of Five nominees each submitted by the Tourist Hotels Association, Sri Lanka Association of Travel and Tourism and Hotel School Graduates Association
    - i. three representatives from the Tourist Hotels Association
    - ii. three persons nominated by Sri Lanka Association of Travel and Tourism
    - iii. two nominees from the Hotel School Graduates Association
  - (f) Two members who are professional in travel and tourism appointed by the Minister

(g) The Director of the Institute appointed by the Minister on the recommendation of the Board of Governors

The Minister shall appoint one of them, other than the person appointed under (g) above to be the Chairman of the Board of Governors.

4. Appointment of an Agent to be in Charge of the Tourism Promotional Activities (Part V)

- The Minister, by order published in the Gazette to appoint as an agent of the Council a company registered under the Companies Act No 17 of 1982 for promotion of Sri Lanka as a tourist destination.

5. Tourism Advisory Commission (Part V)

- The Minister to appoint an Advisory Commission consisting of not less than five and not more than eleven persons to advise the Council and the Minister on matters relating to the tourism industry

6. Finance and Accounts

- The council shall have a Fund maintained in consultation with the Minister into which all monies received are credited.
- In addition, the Council shall levy a Cess on the following services

- (a) A prescribed amount on Air Tickets issued to and from Sri Lanka having agreed stoppage in Sri Lanka
- (b) A prescribed amount on passengers on passenger cruise vessels sailing to and from Sri Lanka a journey by sea which has an agreed stoppage in Sri Lanka
- (c) A prescribed amount on licensed tourist services operated by a licensed provider of tourist services
- (d) Distribution of Cess collection shall be in the following proportion.

- i. 80 % for Sri Lanka Tourism Marketing Bureau
- ii. 15% for National Institute of Tourism
- iii. 5% for the Council

In addition to the above, provision was also been made for the following regulatory functions for which there was provision already available in the Tourist Development Act No 14 of 1968.

7. Compulsory acquisition of Land, vesting of foreshores and Rest houses in the Council and alienation of land.

8. Protection of Highways and Places of Scenic Beauty and Environment
9. Regulation of Prices, Fees, Rates, and Charges in respect of Tourist Services and Registration of Tourist Enterprises

The above proposals are available only in draft form. There are, of course, several shortcomings and legal defects in the draft, which would probably have been rectified if the draft has been finalized. It is not clear what ultimately happened to these proposals.

With the change of Government in early 2002, it appears that these proposals were reviewed by a committee appointed by the Prime Minister Hon Ranil Wickremasingha, headed by a private sector Consultant, Mr. Harry Selvanathan. This was done during the time of Mr. Paddy Vitharana, who succeeded Mr. Renton de Alwis as Chairman of the Tourist Board. The draft Act prepared during the time of Mr. Vitharana is titled:

.. AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF THE SRI LANKA TOURISM COUNCIL; TO VEST THE SAID COUNCIL WITH SUCH POWERS AS ARE NECESSARY FOR FACILITATING THE PLANNING AND IMPLEMENTATION OF THE POLICY RELATIONG TO THE TOURISM INDUSTRY AND OTHER RELATED INDUSTRIES; TO PROVIDE FOR THE ESTABLISHMENT OF REGIONAL TOURISM COMMITTEES; TO PROVIDE FOR THE REGULATION AND MONITORING OF THE INDUSTRY; TO REPEAL THE TOURIST BOARD LAW No 10 of 1966 AND THE REPEAL OF CERTAIN PROVISIONS OF THE TOURIST DEVELOPMENT ACT NO 14 OF 1968; AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

This Draft Act appears to be an attempt to improve the previous draft prepared during the time of Mr. Renton de Alwis. However, there are many similarities and deviations. These are highlighted below.

1. Both Acts provide for an Apex body called "The Tourism Development Council"
2. The composition of the Council in the Second Draft is very different to that of the First. All Council members are appointed by the Minister and consist of the following:
  - (a) the Chairman of the Council
  - (b) the managing Director of the Council
  - (c) the Chairmen of the Regional Tourism Committees
  - (d) two members nominated by the Hotels Association
  - (e) two members nominated by the Association of Travel and Tourism
  - (f) three members from among persons who have gained recognition in connection with the travel and tourism industry

3. Regional tourism Councils in the First draft is changed to Regional Tourism Committees and the composition is also changed with two private sector tourism entrepreneurs.
4. Tourism Advisory Committee provided for in the First Draft is changed to International Advisory Committee on Tourism
5. A new section on Tourism Development Areas is provided for in Second Draft. A similar provision is already available in the Tourism Development Act No 14 of 1968, as amended.
6. The National Institute of Tourism which was to be set up as a statutory body in the First Draft has been made a Guaranteed Company under the Company's Act with a change in name to "National Institute of Tourism and Travel"
7. Sri Lanka Tourism Promotional Bureau, which was to be set up as an Agent of the Council in the First Draft is changed to Sri Lanka Tourism Promotion and Marketing Agency in the Second Draft
8. Since this draft has been prepared after the Finance Act No 25 of 2003, all collections from the two levies is credited to a Fund set up under the Act called "Tourism Development Fund" and the monies available in the Fund to be distributed as follows
  - i. 80 % to the Sri Lanka Tourism Promotions Agency
  - ii. 15% to the National Institute of Travel and Tourism
  - iii. 5% to the Council for development purposes
9. Unlike in the First Draft, Article 154 of the Constitution is made applicable to the Audit of the accounts of the Tourist Development Fund.
10. Part V Chapter VIII contains provisions taken from the Tourist Development Act No 14 of 1968, with regard to regulatory matters

## 4.5 Conclusions

It is clear from the above account that the New Tourism Law (Tourism Act No. 38 of 2005) has been prepared by drawing bits and pieces from the provisions made in the two draft Acts prepared for the establishment of the Tourism Development Council, which was supposed to be the Apex body for governing the affairs of the Institute and the Marketing Bureau.

In the New Tourism Law there is no provision for such an Apex body. The New Tourism Law instead seeks to establish four independent bodies, creating the Tourism Authority, the Tourism Promotion Bureau, which is essentially a desegregation of the Tourist Board, by hiving off the Tourist Board the Institute of Tourism and Hotel Management, and by converting the Convention Bureau, which is now a Guaranteed Company under the Company's Law, into an independent statutory Board.

It is unfortunate that after nearly five years of deliberations and consultations with the relevant stakeholders, it has not been possible to come up with a coherent proposal to promote public- private sector partnership in the management of the tourist industry in Sri Lanka.

## Chapter 5

### **The Finance Act No. 25 of 2003 A Critical Review (TOR 3)**

#### **5.1 Introduction**

The Chapter attempts to address TOR 3 about the recommendation of “suitable measures” to “manage” the public funds created and provided under the Finance Act No. 25 of 2003, in order to “obtain optimal benefits for the economy of Sri Lanka”. The Finance Act No. 25 of 2003 created public funds without providing for appropriate institutional arrangements for their application and management. This chapter will examine the public expenditure management issues arising from earmarking of taxes for specific purposes and the provisions of the Tourism Act, No. 38 of 2005 for the management of ensuing extra-budgetary financing of tourism development. The chapter will go on to proposing a public expenditure management approach to the use of the funds generated under the Finance Act, No 25 of 2003.

#### **5.2 The Finance Act No 25 of 2003 and Earmarking of Taxes:**

Provision was made for the imposition of two levies under the Finance Act, No 25 of 2003 as follows.

- a. Embarkation Levy in such amount as the Minister may determine by Order published in the Gazette, on every passenger leaving Sri Lanka whether by air or ship to be collected by the operator of such aircraft or ship. Such amount collected by the operator is paid to the Competent Authority. For purposes of the Embarkation Levy, the Competent Authority in respect of persons leaving by aircraft is the Director-General of the Civil Aviation Authority and for persons leaving by ship the Director of Merchant Shipping.

The money collected by this Levy is disbursed in accordance with such instructions as may be issued from time to time by the Deputy Secretary to the Treasury (DST). Currently the Director-General of Civil Aviation Authority remits the moneys so collected as per instructions of the DST as follows.

- i. One-third to the Airport and Aviation Service Ltd.
  - ii. One-third to the Ceylon Tourist Board.
  - iii. One-third to the Consolidated Fund
- b. Tourism development Levy of one per centum on the turnover in any year of every institution licensed under the Tourism Development Act, No. 14 of 1968. The Levy is paid in such manner as may be prescribed by the relevant Minister in consultation with the Minister in charge of the subject of Finance and is collected by the Director General of the Ceylon Tourist Board established by the Ceylon Tourist Board Act, No. 10 of 1966.

The relevant authorities responsible for the collection of the levies are required to furnish returns as specified under the Finance Act, No. 25 of 2003 to the DST to the Treasury. No other provisions are made in respect of the use of the moneys collected.

The Finance Act, No 25 of 2003 thus provides for the earmarking of moneys raised by way of public taxation (levy) for specific use by the Ceylon Tourist Board as established under the Ceylon Tourist Board Act, No. 10 of 1968. It may be noted that while the Tourism Development Levy constitutes a charge on the turnover of institutions licensed for tourism purposes and therefore constituting a specific related end-use, the Embarkation Levy is of a more general nature and hence the link between the tax and its benefits is more indirect. These moneys do not form a part of the Consolidated Fund. Hence they remain outside the budgetary process.

The Finance Act, No. 25 of 2003 was implemented with effect September 2003. The Ceylon Tourist Board received following sums from the two levies during the period from 2003 to 2005

Table 5.1 – Sri Lanka Tourist Board Receipts by Sources (2003 – 2005)  
(Rupees million)

Sources	2003	2004	2005
Tourism Embarkation Levy	-	780.4	674.2
Tourism Development Levy	0.1	300.6	172.2
Sub-total	0.1	1,081.0	846.7
Government Grant	204.0	-	-
Own Sources	21.8	30.9	39.0
Grand Total	225.9	1,119.9	885.7

Source: - Sri Lanka Tourist Board

In 2004 and 2005, the contributions by the two levies constituted as much as 96.5 percent and 95.6 percent respectively of total funds generated by the Ceylon Tourist Board. After the introduction of the two levies the Treasury has stopped its annual grant to the Tourist

Board. In 2003, the last year in which the Treasury grant was made available to the Tourist Board Tourist, the amount received by the Board was Rs. 204 million

### **5.3 Tourism Development Fund and Extra-budgetary Financing:**

The Tourism Act, No. 38 of 2005 provides for the establishment of a Tourism Development Fund, to be managed and administered by the Sri Lanka Tourism Development Authority to be established under the Act, and the manner in which the moneys are to be utilized for the development and promotion of tourism.

The Tourism Development Fund (TDF) receives money as follows.

- a. One-third of the sum collected by way of Embarkation Levy in terms of section 2 of the Finance Act, No. 25 of 2003.
- b. All such sums of money as are required to be paid into the Fund by or under the Tourism Act, No. 33 of 2005. The Tourism Act, No. 38 of 2005 provides for a Tourism Development Levy to be charged, levied and collected by the Director-General of Tourism, in terms of section 12 of the Finance Act, No 25 of 2005, which shall be paid into the above Fund.

Moneys so paid into the TDF are disbursed as follows.

- a. Defray any expenditure incurred by any organization or person in the promotion or development of tourism in accordance with regulations made for such purpose.
- b. As required to be paid out of the Fund.

Section 24 (8) of the Tourism Act, No 33 of 2005 requires that "all moneys lying to the credit of the Fund shall be disbursed in the following manner" to the respective agencies established under the Act.

- a. Seventy per cent (70%) to be paid to the Sri Lanka Tourism Promotion Bureau.
- b. Twelve per cent (12%) to be paid to Sri Lanka Institute of Tourism
- c. Fourteen per cent (14%) to be paid to the Tourism Authority.
- d. Four per cent (04%) to be paid to the Sri Lanka Conventions Bureau.

The TDF is established outside of the parliamentary (i.e., budgetary) appropriation process being financed with ear-marked taxation. It is established as an integral component of a larger institutional system, and constitutes the financing mechanism for "facilitating the planning and implementation of the policy relating to the tourism industry and other related industries" as well as "the regulation and monitoring of the industry". For this purpose the Tourism Act, No 33 of 2005 provides for the establishment of an institutional structure comprised of a Tourism Development



Authority and three service specific agencies consisting of a Tourism Promotion Bureau, an Institute of Tourism and Hotel Management, and a Conventions Bureau. The TDF constitutes the financing mechanism for this institutional structure. It leaves the financing of the programme operations of these agencies outside the parliamentary appropriation process.

There are fundamental problems pertaining to the management of public finances in the institutional system that is proposed, even though each of the agencies so established and financed are corporate entities. On the one hand is the issue of accountability. In this regard it is pertinent to note that while the Authority shall have its own Fund and is made subject to the audit of its accounts, no such explicit provision is made in respect of the other three agencies. However the issue of accountability is not only the audit of the accounts of these agencies. It is also about calling to question the officials of these agencies about the use of the moneys. Then accountability is also about to whom and how a public agency is made answerable for its actions, both ex-ante and ex-post.

The purpose for which moneys are disbursed from the fund and hence used is defined as being for "making payments in connection with the promotion and marketing of Sri Lanka as a tourism destination". The adequacy of this statement of purpose to ensure strategic allocation of resources at the agency level is a moot point. To be fair the agencies will be guided by their respective statements of objects. But then statements of formal objects do not necessarily constitute what an agency actually does.

Indeed the purpose for which moneys are made available to the three agencies can be used is specified only in respect of the Promotion Bureau, as being "for the implementation of powers, duties and functions assigned to it". Interestingly it is "the responsibility of the Bureau to make optimum use of the funds allocated". This is a broad canvas. The role and function of the Ministry in this regard is not clear. As far as the Bureau is concerned the Minister assigns powers, duties and functions taking into account the needs of the industry. However the imperatives of a principal-agent relationship as far as the agencies are concerned is not explicit. As public agencies using public finances their fundamental accountability is to Parliament through the Ministry.

While provision is made for the audit of the accounts of the TDF in terms of Article 154 of the Constitution there are no safeguards available in terms of remedial action in the event of public interest failure on the part of any of the agencies. The Tourism Development Authority is required to formulate and present to the Minister a "four year plan for the development of tourism within Sri Lanka", which shall be submitted for the Cabinet of Ministers for approval". The moneys collected by way of the levy and disbursed as provided for "shall be used solely for the purpose of making payments in connection with the marketing and promotion of Sri Lanka as a tourist and travel destination".

There is no assurance that such plan will in fact constitute the sector results framework for the agency operations in the "marketing and promotion of Sri Lanka as a tourist and travel destination". It is well to note in this context that the item of the TOR being

examined in this Chapter is about “obtaining optimal benefits for the economy of Sri Lanka”. Thus the concern expressed in the TOR is about the optimal use of the resources which then must be addressed in a macro sector-wide context than a narrow agency-based programme.

Thus there is a fundamental ex-ante disconnect between these provisions as to the purposes for which the moneys paid out of the TDF shall be used and the legal provisions to ensure accountability of the respective agencies to actually use the moneys for those purposes. Indeed the long title of the Tourism Act, No. 38 of 2005 sets out its purpose as being to vest the Authority with such powers as are necessary for facilitating the planning and implementation of the policy relating to the tourism industry. However it would seem that the accountability imperative of the legislative intent has not been coherently carried through to provide for the accountability of the agencies.

This requires a well defined results framework to be achieved though a well established principal-agent relationship that will constitute the institutional framework within which the agencies will deliver. The agencies are not accountable to the Authority from whom they receive the specified disbursements. The Ministry has no role in the disbursement of moneys out of the Fund. The agencies would continue to receive public moneys required to be paid out of the Fund as provided for. Indeed “all of the moneys lying to the credit of the Fund shall be disbursed” in terms of the specific amounts stipulated. The overall purpose of the legislation can well be negated by the institutional arrangements for the management of the fund.

#### **5.4 Governing the Management of Public Expenditure on Tourism Promotion and Development**

The fundamental issue regarding the TDF is its extra-budgetary nature in being financed with earmarked taxation. Many public expenditure management problems can arise with extra-budgetary funds and financing.

- a. Earmarking of government revenues places ensuing public funds outside the domain of the budgetary scrutiny and appropriation process, and bringing such decisions within the domain of executive decision making.
- b. Earmarking of revenues reduces flexibility in resource allocation affecting prioritization of programmes. Thus it can lead to the misallocation of resources with excessive spending in some areas simply because funds are available.
- c. Earmarking does not allow the expenditure programme to be scrutinized as a whole and therefore prevents making necessary trade-off between different expenditures. It allows the likelihood of such expenditure decisions not being subjected to public expenditure criteria but to the ability of influential lobbies to secure financing for favoured programmes.

However there are examples of earmarking of revenues, notably the cess funds that finance sector specific operations. Earmarking presumes taxpayers willingness to pay for a desired service. As to whether the Embarkation Levy would meet this criterion as much as the Tourism Development Levy is perhaps irrelevant to the discussion in this chapter. It would be difficult to argue that the tourism sector requires special budgetary practices and procedures. The issue that earmarking provided for by the Finance Act, No 25 of 2003 perhaps addresses is that of ensuring the predictability of adequate funds to sustain industry support programmes for promotion and development. Hence it is all the more reason why the moneys paid out of the TDF should conform to good public expenditure management practices. Good public expenditure management should be ensured at all costs.

The fundamental issue about earmarking revenue and extra-budgetary financing of public expenditures is that it can distort the allocation and use of those resources. Revenue collected must be allocated and used responsively, efficiently and effectively. The institutional arrangements for managing the use of public resources must then ensure fiscal discipline (expenditure control), allocation of resources consistent with policy priorities (strategic allocation) as well as good operational management (economy, efficiency and effectiveness). Therefore it is necessary to ensure that earmarked revenue and extra-budgetary financing conforms to these imperatives of good public expenditure management.

In this regard it would be relevant to review current practices in the management of earmarked revenues and extra-budgetary financing of public sector programmes. As noted above there are a number of cess funds that are currently operating financing the sectoral promotion and development programmes, notably the Tea Board, Export Development Board, Coconut Development Authority, Rubber Development Department. A circular on the management of cess funds issued recently by the Secretary to the Treasury is noteworthy (PE/Gen of 06.04.2006). It states that certain cess and development funds are collected by the Treasury and channeled to the respective agencies. It notes the following deficiencies where channeled directly to the agencies.

- a. Violation of accounting and auditing requirements.
- b. Certain expenditures not being related to the specific development activities and the thrust envisaged in the relevant statutes.

In this regard the circular refers to the Budget Speech of His Excellency the President, made on December 08<sup>th</sup>, 2006 where the following proposal is made in regard to the management of public funds.

“Special management committees will be appointed to effectively monitor and ensure efficient use of such funds for specific development activities permitted under such funds”.

It is in pursuance of this proposal that the above circular has proposed the appointment of a Management Committee consisting of the following to manage cess funds in a "professional manner".

- a. Secretary to the Treasury, Chairman
- b. Secretary to the concerned Line Ministry
- c. Chairman of the relevant Organizations.

The circular requires all such levies to be remitted to the Treasury with immediate effect. Required funds for development and other work would be allocated by the above Committee and released to the respective institutions on a monthly basis.

A brief review of the organizational arrangements for disbursements out of the Tea Cess Funds would be relevant. The levy of the Tea Cess was brought within the purview of the Tea Board Law, No. 14 of 1975, to be recovered from tea exporters at the point of export and transferred to the Tea Board. The current arrangement is for the recovery of the cess money by the Director General of Customs who remits such collections to the Treasury. The proceeds of the Tea Cess are distributed between the three agencies in the tea sector, namely, the Sri Lanka Tea Board, the Tea Research Institute, and the Tea Small Holders Authority. The distribution of the cess collection is effected by a Tea Cess Committee, appointed and chaired by the Secretary, Plantation Industries and consisting of the Heads of the three Institutions.

The procedure for distribution of cess moneys involves periodic meetings of the Committee. The Committee meets with a statement of cess collections sent by the Treasury and projected cash flow statements of the Institutions. The cess collection is shared according to the comparative needs of the three Institutions. Funds are released by the Treasury on the basis of the cash flow statement submitted by the Secretary, Plantation Industries. The Treasury releases funds to the Tea Board. The amount of cess money released by the Treasury, that may not be the total collection, is distributed between the three Institutions according to the shares agreed upon at the Tea Cess Committee meeting.

Moneys remitted to the Treasury are usually held in a deposit account to the credit of the agency to which the revenue is earmarked. The Treasury therefore functions as the custodian of such moneys. It is necessary to note that the procedural arrangements established by the Treasury for the management of earmarked revenues are not consistent with the provisions in the respective laws that earmark the revenue. Thus as far as the Embarkation Levy is concerned the Finance Act, No 25 of 2003 requires the Competent Authority to disburse money collected in accordance with such instructions as may be issued from time to time by the Deputy Secretary to the Treasury.

According to the Director General of the Civil Aviation Authority the embarkation levy collected by him is remitted in equal proportions to the Airport and Aviation Service Ltd., Ceylon Tourist Board, and the Treasury (Consolidated Fund) on the basis of the current instructions by the Deputy Secretary to the Treasury. It is imperative that earmarked

revenues are held in a deposit account and not paid into the Consolidated Fund if such moneys are to be available for the specific use earmarked and transferred directly to the agencies concerned for expenditure towards the specific purpose. Of course such course of action runs the risk of the agency not having access to total collection as is the case with regard to the cess funds in deposit with the Treasury.

It is, within the framework of above issues that the governance and management of the revenues earmarked by the Finance act, No. 25 of 2003 for public expenditure on tourism promotion and development should be delineated in order to obtain optimal benefits for the economy of Sri Lanka. The measures for the management of expenditures out of these revenues should be in line with good governance imperatives of accountability, transparency, predictability and participation of stakeholders. The achievement of optimal benefits from the earmarked revenues as much knows what results are to achieved as is the process by which the revenues are used to achieve the results.

The earmarked revenues will finance the public sector tourism programme in its near totality. It is therefore imperative that the relevant public officials could be called to task for their actions, that the public have access to how the moneys are used, that due procedures for the utilization of moneys are clear, known in advance and effectively enforced, and that the tourism stakeholders are able to participate in the process providing for a reality check for agency actions. It is within such an institutional framework that optimal benefits can be obtained. While a clear focus on tourism promotion and development results is necessary, an exclusive focus on results without due consideration of process is likely to destroy the process and eventually produce unanticipated results.

### **5.5 Framework for Best Practices in Tourism Expenditure Management**

Thus the measures to obtain optimal benefits from the revenues earmarked for the tourism sector should be delineated within the framework of a coherent tourism promotion and development programme framework on the one hand and due processes for the financing of such a programme on the other.

As pointed out earlier, the TOR in fact posits tourism development within the framework of the economy of Sri Lanka, i.e., in terms of obtaining optimal benefits for the economy. This is interpreted to mean a focus on and taking into account national development objectives. While this dimension will be examined in greater detail in the next chapter, it is sufficient to note at this stage of the need to manage the use of fund moneys in an inclusive rather than an exclusive sectarian manner. Hence the sum total of the tourism development programme must add up to and contribute towards national development objectives. Measures for the management of the Fund must ensure this.

Governance imperatives of due processes for the financing of a tourism promotion and development programme goes beyond simple treasury control. Treasury control cannot by itself ensure that the revenues would yield optimal benefits to the economy of Sri Lanka. What is needed is a comprehensive governance framework built around accountability, transparency, predictability and participation.



The following governance framework is proposed for the management of the revenues earmarked for the promotion and development of tourism.

- a. A sector-wide tourism promotion and development policy and programme framework as the basis for results to be achieved, financing of outputs and accountability for actions. An annual update of the sector programme for the budgetary year being presented in Parliament would provide opportunity for scrutiny in the appropriation process.
- b. A clear statement of the objectives of the fund. Section 23 (1) of the Tourism Act, No 38 of 2005 is inadequate as a statement of fund objectives. It can be argued that section 23 (1) should be read in conjunction with the relevant Chapters that provide for the agencies whose operations are to be financed out of the fund. However these do not establish a basis for assessing the performance of the use of the revenues.
- c. Identification of the persons responsible for decisions regarding the disbursements out of the fund. In the Tourism Act disbursements out of the fund are automatic in terms of the respective shares as set out in section 8. There is no accountability for the apportionment of moneys between the different agencies and hence the different programme components. A Board of Trustees or a Fund Management Committee is necessary. A committee comprised of the Secretary to the Ministry, Deputy Secretary to the Treasury, and the Chairman of the Tourist Board is proposed. Additionally the Fund Management Committee may be assisted by a Technical Advisory Committee.
- d. Identification of beneficiaries of the fund. The question is as to whether the beneficiaries of the fund would be fixed (as in the case of the Tourism Act, No 38 of 2005) or open to be determined as new sector needs emerge to be decided upon by the Fund Management Committee.
- e. A set of decision making rules or guidelines according to which the moneys accruing to the fund would be disbursed.
- f. Rules of procedure to ensure financial discipline in the disbursement and the use of moneys. This would include the maintenance of bank accounts, records, financial and technical audits, reviews of fund operations, etc.
- g. Reporting and disclosure to industry stakeholders. Bi-annual industry stakeholder reviews in July and March each year, for pre and post budgetary stakeholder consultation on the sector programme.

## Chapter 6

### Tourism Act No. 38 of 2003 (New Tourism Law) A Critical Review (TOR 2)

(concerning) on 3 Areas -

- ① Institutional framework
- ② Legal empowerment
- ③ Ministry power

#### 6.1 Introduction

The Tourism Act No.38 of 2005 (TA) passed in Parliament on 18<sup>th</sup> October 2005 was certified by the Speaker on 30<sup>th</sup> November 2005, but it had not yet being put into operation by Order of the Hon Minister which requires to be Gazetted. The drafting errors and the legal defects and inconsistencies of the TA have been pointed out in Appendix D and therefore no reference will be made to them here unless it is absolutely necessary. This Chapter therefore attempts to undertake a critical review of the substance of the TA in terms of the institutional framework that it seeks to establish.

#### 6.2 What the TA Seeks to Achieve

As indicated in the Preamble, the TA seeks to provide for (a) the establishment of the Tourism Development Authority (b) the vesting the said Authority with such powers as are necessary for facilitating the planning and implementation of the policy relating to the tourism industry and other related industries; (c) regulation and monitoring of the industry; (d) the repeal of the Ceylon Tourist Board Act No. 10 of 1966; (e) the repeal of certain provisions {sections 77 to 82} of the Tourist Development Act No. 14 of 1968; and (f) for matters connected therewith and incidental thereto.

After the Hon. Minister makes Order, by a Gazette notification, fixing the date of operation of the TA, he is further required to make Order, by a Gazette notification, fixing a date for the repeal of the Tourist Board Act.

The TA seeks to create four separate Legal Entities, namely (1) The Tourism Development Authority; (2) The Sri Lanka Institute of Tourism and Hotel Management; (3) The Sri Lanka Tourism Promotion Board; and (4) Sri Lanka Conventions Bureau. It also seeks to create a Tourism Advisory Committee.

The TA further seeks to create a Tourist Development Fund from one-third of the Embarkation Levy and the entirety of the Tourism Development Levy, imposed by the Finance Act No.25 of 2003, and seeks to spell out how the Fund should be disbursed



among the four legal entities established under it, which will serve the tourist industry.

### 6.3 Composition of the Managing Bodies and the Advisory Committee

#### *Sri Lanka Tourism Development Authority (Section 2)*

The Sri Lanka Tourism Development Authority is composed of the following nine persons appointed by the Minister-

- (a) Chairman of the Board
- (b) Director General of the Authority,
- (c) Secretary of the Ministry or his representative,
- (d) Secretary to the Treasury or his representative,
- (e) A member nominated by the Tourist Hotels Association of SL,
- (f) A member nominated by the SL Association of Inbound Tour Operators,
- (g) A member nominated by the Travel Agents Association of SL
- (h) A member appointed by the Minister from among persons possessing experience and knowledge in the fields of travel and tourism, and
- (i) The Secretary of the Ministry of the Minister in charge of the subject of Provincial Councils or his representative

(f) The functions of registration, licensing, and regulation of Tourist Enterprises and Services are vested with the Authority.

Out of the nine persons constituting the Authority, it would appear that factually only two persons mentioned at (a) and (h) are appointed by the Minister and seven others are factually ex-officio members. This is not only unusual but also unsatisfactory. To maintain that Minister's nominees are in a majority, it would be more appropriate that members in categories (e), (f) and (g) are nominated by the Minister from a list of names forwarded by those respective associations. Another unsatisfactory feature is that the Secretary of the Ministry (or his representative) of Tourism serving in the Authority, when the Secretary is the Chief Accounting Officer of the Ministry and thereby supervising all functions operating under the Ministry.

#### *Sri Lanka Institute of Tourism and Hotel Management (Section 35)*

Sri Lanka Institute of Tourism and Hotel Management is to be managed and administered by a Board of Management of thirteen persons appointed by the Minister comprising of the following:

- (a) Chairman of the Board,
- (b) Director General of the Institute,
- (c) Director General of the Authority,
- (d) Two persons appointed by the Minister, who shall be persons possessing knowledge in the fields of tourism, travel and training in hotel management,
- (e) The Managing Director of the SL Tourism Promotion Bureau,
- (f) Six persons appointed by the Minister in consultation with the respective Associations and selected in the following manner
  - two representatives from the Tourist Hotels Association of SL,
  - one person nominated by Travel Agents Association of SL
  - one person nominated by the SL Association of Inbound Tour Operators;
  - two nominees from the Hotel School Graduates Association; and
- (g) the Secretary to the Minister in charge of the subject of Tourism or his representative.

It is significant to note that unlike in other legal bodies sought to be created by the TA, in the Board of Management of the Institute, there is no provision for a representative of the Ministry of Finance or the Treasury, who will be the financial watch-dog for the State. One can see no rationale for the Managing Director of the SL Tourism Promotion Bureau to serve on the Board of Management. Further, although the nominees of the Travel Agents Association and the Association of Inbound Tour Operators are included in the Board of Management, the National Tourist Guides Lectures Association is completely ignored. This is despite the fact that the Institute presently conducts courses to train various categories of Guides, but without similar courses designed to train manpower for the travel agency sector.

Another shortcoming noted in the composition of the Board of Management of the Institute is the absence of a representative from the Ministry of Provincial Councils although there are several Satellite Hotel Schools established in provincial cities with the assistance of the Provincial Councils.

### ***Sri Lanka Tourism Promotion Bureau (section 40)***

The Bureau consists of eleven members comprising of the following;

- (a) the Chairman of the Bureau appointed by the Minister;
- (b) the Director General of the Authority;
- (c) the Managing Director of the Bureau;
- (d) the Secretary to the Ministry of the Minister in charge of the Subject of Finance or his representative,
- (e) not more than six persons who shall be nominees of the Joint Council of the SL Association of Inbound Tour Operators and the Tourist Hotels Association of SL. and

- (f) the Secretary to the Ministry in charge of the subject of Tourism or his Representative.

The observations made earlier regarding the Secretary of the Ministry in charge of Tourism (or his representative) sitting as a member of a legal body connected with Tourism, will equally apply here.

As regards the appointments at (e), it should be noted that the nominations are made by a Joint Council of the two major travel trade associations, namely Hotels Association and the Inbound Tour Operators Association, which is presently dominated by the big operators, although all sectors of the tourist trade including independent restaurants, supplementary accommodation providers, tourist shops etc, whether big, medium or small, are contributing to the Tourist Development Levy (see Chapter 6). These nominations give the two Associations (excluding the Travel Agents Association) an absolute majority in the decision making – six for the Joint Council and five for all others, and the Promotion Bureau will be the recipient of the largest share of the Tourist Development Fund – 70 percent.

In view of the recent formation of another travel trade Association called Association of Small and Medium Enterprises in Tourism (ESMET) consisting of SME's in all sectors of the travel trade; it is doubtful whether the Joint council is a representative body of the entire travel trade.

### *Sri Lanka Conventions Bureau (section 43)*

There is some confusion in the wording of section 43 as to the maker of the appointments to the Bureau and its composition, which is shown elsewhere; but it is apparent that the Bureau is composed of at least twelve persons, namely

- (a) the Director General of the BMICH or his representative,
- (b) the President of the Hotels Association of SL or his representative,
- (c) the President or the Vice President of the SL Inbound Tour Operators Association,
- (d) the President of the Colombo City Tourist Hotels Association or his representative,
- (e) the General President or the Vice President of the SL Association for the Advancement of Science
- (f) the President or the Vice President of the Organization of Professional Associations of SL,
- (g) the President of the Chamber of Commerce and Industry of SL
- (h) the person representing the Ministry of Finance on the Board of the Tourism Development Authority,
- (i) the Director General of the Tourism Development Authority,
- (j) an executive of SL Air Lines Ltd. nominated by the management of the SL Air Lines Ltd. or an officer not below the rank of a Senior Executive, and

- (k) two nominees of the Minister in charge of the subject of Tourism, one of whom shall be an officer of that Ministry.

At present the work of the proposed Bureau is handled by a company incorporated under the Companies Act called The Sri Lanka Conventions Bureau (Guarantee) Ltd.

### Tourism Advisory Committee (Section 33)

This Committee has no legal personality and it functions according to the TA, are advising the Minister and the Authority, on any matter in relation to the travel and tourism industry. The Advisory Committee could consist of a minimum of nine members and a maximum of fifteen members composed as follows:-

#### (a) Ex-officio Members

- (i) the Chairman of the Authority,
- (ii) the Chairman of the SL Institute of Tourism and Hotel Management,
- (iii) the Chairman of SL Tourism Promotion Bureau,
- (iv) the Chief Executive of the national career of SL, and

#### (b) Appointments by the Minister

- not less than five and not more than eleven persons who possess wide experience and qualifications in relation to global travel, tourism and related industries,

The purpose of the Advisory Committee is to tender advice not only to the Minister but also to the Authority. However, the Chairman of the Authority is also a member of the Committee. It is incongruous that those who are expected to receive advice are also made the giver of such advice.

A further inconsistency in the TA is that Advisory Committees are provided only for two statutory bodies created by TA, namely the Authority and the Institute. It is not understood why a similar advisory committee is not provided for the Tourism Marketing Bureau, which receives as much as 70 percent of the Tourism Development Fund and which is dominated by the nominees of the Joint Council of Tourism.

The impression created is that they are given a blank cheque to spend money on promotion, according to their whims and fancies. There is no guarantee that the six nominees of the Joint Council are those who have distinguished themselves in the field of tourism marketing and promotion and whether the interest of the industry will supercede the sectarian interest of their business organizations in making vital decisions on marketing and promotion



## 6.4 Co-ordination Problems

The generally recognized core functions of tourism are Research, Product Development, Promotions and Regulations. There should be a high degree of co-ordination between these factions in order to avoid lop-sided developments and to promote a well balanced tourism industry which will bring maximum economic and other benefits to the country. This is all the more necessary because of the fragmented nature of the tourism industry.

What the TA seeks to do is to divide these core functions of tourism into two categories and entrust them to two independent statutory bodies, each functioning independently of the other, namely Research, Product Development and Regulation to the Authority and Promotions to the Marketing Bureau. The only provision for co-ordination is that the Director General of the Authority and the Secretary to the Ministry of Tourism, who is supposed to be the principal Supervising Officer and the Chief Accounting Officer as far as public funds are concerned, are made members of the Boards of Management of both statutory bodies.

The uneasy and awkward situation created for the Secretary by making him a member of all four Boards of management has been pointed out elsewhere in this report. The moot question is whether the Director General of the Authority sitting in the Board of Management of the Marketing Bureau will have the necessary clout to play the co-ordinating role. The situation would have been different if the same person is made the Chairman of the Authority as well as the Chairman of the Marketing Bureau.

As it stands at present, there is nothing to prevent the two institutions pulling in different directions and fighting for supremacy and a greater share of the Tourist Development Fund. The chances of this happening are quite high as there is no well laid out and generally accepted overall tourism development and promotions policy and strategy for Sri Lanka at present. According to information available to the Committee, this has happened elsewhere in some countries. There is no guarantee that it will not happen in Sri Lanka, if the TA is implemented. The TA then will become a very costly experiment.

## 6.5 TDF and the Finance Act No. 25 of 2003 (Section 23)

It could be seen that the Finance Act is anterior in date to the date of certification of the TA. This has resulted in the following anomalies, namely

- According to the Finance Act, the Tourist Development Levy should be collected by the Director General of the Ceylon Tourist Board who will be no more when the TA comes into operation,
- According to the Finance Act. The Tourist Development Levy has to be collected on the turnover of every institution licensed under the Tourist Development Act No. 14 of 1968.

Do the rates of disbursement of the Tourism Development Fund given in the TA need be reviewed? Would it be more appropriate to provide for the disbursement of the Fund to a "maximum of" a certain *per centum* per the legal body mentioned, instead of stating "a sum amounting to" a certain *per centum*? Should the disbursements be made in accordance with the needs of the recipient legal body and on plan or plans accepted by the Tourism Development Authority?

## 6.6 Members, Officers and Servants of the Ceylon Tourist Board

Subsection 67 (2) (d) of the TA states, "all persons who were members of the Ceylon Tourist Board on the day preceding the date of repeal (of the Tourist Board Act), shall, with effect from the date appointed for the repeal, be deemed to be members, officers and servants of the Authority".

To allay any fears the employees of the Tourist Board may entertain regarding security of their employment, it is advisable to add after the word "Authority" the following words:- "subject to terms and conditions not less favourable than the terms and conditions attaching to their employment under the Tourist Board" {See subsection 33 (1) of the Sri Lanka Transport Board Act No 27 of 2005}

## 6.7 Conclusions

It would appear that the functions performed presently by the Tourist Board are sought to be distributed among three distinct legal bodies. If the objective in creating these three legal bodies is to make room for the participation of the private sector tourism operators, who are stakeholders in the industry, in the management of tourism, it may be asked whether their participation could not be successfully obtained by any other less expensive alternative method, without creating a proliferation of legal bodies?

Couldn't the same be achieved by making amendments to the present Ceylon Tourist Board Act? Could broad basing the composition of the Ceylon Tourist Board to accommodate the Private Sector be an alternative? The Private Sector participation could be further buttressed by providing its representation in the Advisory Body.

# Chapter 7

## The Way Forward (TOR. 4)

### 7.1 Introduction

This chapter attempts to assemble the analyses, findings and conclusions presented in the previous chapters on TOR 1, 2 and 3 and recommend a "Way Forward" for sustainable development and promotion of tourism, so that the tourist industry will be able to contribute substantially to the economic and social development of Sri Lanka.

It should be reiterated that the analyses, findings, conclusions and recommendations presented in the previous chapters were based on the Work Plan and the Study Methodology described in Chapter 1. As part of the study methodology, over twenty five documents consisting of legislative enactments, reports and publications were scanned and used as reference materials to collate the necessary information.

Following this, representations were called from the relevant travel trade associations, public sector agencies and the individuals. Altogether, more than 25 such associations, agencies and individuals made oral representations to the Committee. These representations proved to be immensely valuable in ascertaining the views and opinion of a good cross section of the various stakeholders in the travel industry.

However, the study visits to Singapore, Thailand and Seashells proposed in the Inception Report as an integral part of the study methodology to learn from the experiences of other countries with regard to public-private sector partnership in tourism development and promotion, could not be undertaken due to the failure of the designated agency to obtain the necessary approval for travel. The Committee therefore attempted to collect the required information by using various methods and sources, which did not prove to be successful. In the circumstances, the Committee had no choice but to rely on whatever information available from the published sources on the subject that is under study.

Chapter 2 of the Report attempts to address TOR 1 on the strengths and weaknesses of the Tourist Board. The analyses suggest that the strengths of the Tourist Board, judging by its performance over the last four decades, far exceeds its identified and perceived weaknesses and therefore no logical reasons can be adduced for its total abolition to rectify these weaknesses. Chapter 3 of the Report addresses the related question of the future management of the Ceylon Hotel School, which is now administered as a separate department to the Tourist Board. Chapter 4 gives an account of the previous attempts made to bring about institutional changes for management of tourism with private sector participation.



Chapter 5 presents a critical review of the Finance Act No. 25 of 2003 to address TOR 3, pointing out its inherent weaknesses in the areas of accountability and management of public funds. Chapter 6 presents a critical review of the so called New Tourism Law, the Tourism Act No. 38 of 2005, to address the TOR 2. The review highlights the inherent weaknesses of the institutional framework that is put in place for future development and promotion of tourism, in addition to pointing out the legal inaccuracies and inconsistencies in the Law (described in Appendix E) that was passed in parliament, which would have resulted in a chaotic situation, if it was gazetted for implementation.

## 7.2 Mahinda Chinthana

The TOR emphasize specifically the fact that the government is guided by the Mahinda Chinthana, duly accepted by the voters as the way forward in moving “towards a new Sri Lanka”. Accordingly, the way forward for Sri Lanka tourism should also be guided by the strategic development framework set out in the Mahinda Chinthana. It sets out not only subject sector specific actions and anticipated achievements, but also a set of strategic development goals that provides the basis for working out the key sectoral results framework within which the specific action should be posited and achievements realized. Accordingly, the strategic development goals should guide the tourism sector development actions and achievements, while taking into account the tourism specific actions and achievements.

The strategic development goals emerging from and running through the Mahinda Chinthana are the following:

- a. Safeguard the family from economic, social, cultural and moral vulnerabilities
- b. Uplift the villages to become units of development
- c. Develop the regions to harness local economic potential
- d. Create economic growth that will pass on benefits of development to people.
- e. Strengthen people's will by empowering the citizens.

Tourism specific agenda, action and anticipated achievements incorporated in the Mahinda Chinthana are as follows:

“Tourism can provide substantial contribution to the economic development of our country. However, our natural and human resources have not been utilized scientifically to develop this industry. My intention is to generate environment friendly sustainable tourism instead of relying on leisure seeking popular tourism.

I have planned the development of the tourism industry to its maximum potential within the next five years by making use of our environmental and cultural attractions and upgrading and implementing the plans already prepared for this purpose.

I would prepare a business plan to meet the targeted number of tourist arrivals of 1,500,000 by the year 2010

In addition to traditional countries, I plan to focus on Indian, Chinese, Middle Eastern and Russian tourists as well.

I will offer the necessary financial assistance and incentives to develop the hotel industry and other infrastructure required by the tourist industry in order to accommodate the additional arrivals

Arrangements will be made to train tourist guides professionally and to register them under the Sri Lanka Tourist Board.

In my tourism development plan, I will focus on new areas such as Hambantota, Kalpitiya, and Arugambay as tourist zones

The areas surrounding the Beire Lake and the Dutch Canal will be redeveloped so that these areas can also be converted to tourist attraction Zones.

The above Mahinda Chinthana strategic development goals as well as the tourism specific agenda, actions and anticipated achievements will have implications for the sector result framework as well as the role, responsibilities and the relationships of the industry stakeholders.

### 7.3 The Core Tourism Functions

Historically speaking, tourism is an activity deliberately and consciously introduced into the country as an economic imperative, under the patronage of the Government. The private sector was virtually lured into the industry by offering various types of incentives. This is in contrast to the origin of tourism in some other developing countries, such as Singapore, Thailand, Malaysia, Hong Kong, South Korea, Japan etc., where tourism started essentially as a private sector activity and at the initiative of the private sector. Therefore, the core functions of tourism, such as development and promotion were handled by the private sector on their own initiatives, motivated by self interest and private profits. The government intervention in tourism in those countries came very much later, particularly for regulation and for acceleration of tourism development because of its obvious benefits to the national economy.

In Sri Lanka, since tourism was introduced under the patronage of the government, all the functions relating to the development and promotion of tourism, including human resources development, had to be handled by the Tourist Board, the government institution created to play the lead role. Thus the Tourist Board grew truly as a multi-functional and essentially unitary National Tourism Administration, which initiated, promoted, encouraged and facilitated all activities relating to the development and promotion of tourism in Sri Lanka. It has become unitary in character because of the fact

that although the Ministry of Tourism has always been there as the sponsoring Ministry, in practice, it has been the Tourist Board, which has been responsible for and born the brunt of the destination development, marketing, and regulatory and quality assurance efforts.

What the New Tourism Law (or Tourism Act No 38 of 2005) proposes to do is to split these functions (or activities) into four broad categories and create a separate statutory body to handle each of them. The primary objective appears to be to ensure private sector representation in each of these statutory bodies, and this has been provided for as follows.

Statutory Body	Total No of Members	Ex-officio Members	Trade Reps	Minister's Nominees
Tourism Authority	9	4	3	2
Promotion Bureau	11	4	6	1
Convention Bureau	13	4	7	2
Institute	13	4	6	3
Total	46	16	22	8

This has obviously been done to meet the increasing demand by the tourism private sector that they should play a major role in the destination development and promotion efforts, which is the current trend in the management of tourism industries in many parts of the world. This demand has gained ground, both in developed and developing countries, with the growth in size and capacity of the tourism private sector and also the increasing trends towards deregulation and liberalization of the economies and the privatization and divestment of public sector assets that have taken place during the last ten to twenty years.

However, this does not imply that the core tourism functions need to be fragmented to accommodate the demands of the tourism private sector and fall in line with the current trends in the international scene. Their demands can be met to promote a healthy partnership between the public and private sectors without splitting the core functions of tourism, which can lead to very undesirable consequences. Further there are very strong theoretical and practical arguments that can be adduced against the fragmentation of the core tourism functions.

The theoretical argument runs as follows:-

What is proposed in the New Tourism Law (Tourism Act N038 of 2005) is separation of Product Development, Research and Quality control functions from promotion. That is why the Act has made provision for a Tourism Authority, and a Promotions Bureau. However, these are inseparable functions according to the overall concept of Marketing. What Sri Lanka needs at this stage of tourism development is Marketing of tourism and not so much Promotion of tourism.

Marketing begins with research to find out the needs and characteristics of the consumer. This is presently handled by the Tourist Board. Having ascertained the consumer needs and characteristics, one needs to formulate a product which will satisfy the needs of the consumer. This is also presently being handled by the Tourist Board. Then there is the need to ensure the quality of the product that one sells in the market. This is the regulatory function coming under the purview of the Tourist Board. Then the message of the product needs to be carried to the market, which is the Communication (or promotion) function of marketing.

Therefore all these inter-related and inter-dependent functions will have to be handled in an integrated manner by one unitary institution. At the same time, in line with the modern trend of public-private sector partnership in marketing of tourism, there is the need to bring the private sector into this marketing management process.

The practical argument that can be adduced against fragmentation of the core tourism functions runs as follows

The practical argument is the need to ensure close coordination between the core functions, which constitute the different components of the overall marketing concept. This will not be possible if the core functions of tourism are divided between two independent statutory bodies for their management. By merely making of provision for the Director General of the Authority to sit in the Board of Management of the Promotion Bureau will not bring about that co-ordination adequately.

Coordination becomes furthermore difficult when two independent statutory bodies are chaired by two different persons appointed by using different criteria. Further, there is nothing to prevent the Tourist Promotion Bureau having a private sector majority and the Tourism Development Authority having a public sector majority pulling in different directions and competing for supremacy and a larger share of the Tourism Development Fund.

The above are the inconsistencies and the dangers inherent in the institutional framework created by the New Tourism Law.

#### **7.4 Proposed Institutional arrangement**

Because of the above mentioned reasons, the Committee is strongly of the view that core tourism function should be entrusted to a single statutory body with public and private sector participation in its management. There is no intrinsic advantage whether it is called a Bureau, Board, Authority, Commission or Council. However, in Sri Lanka, the institution "Ceylon (Sri Lanka) Tourist Board" has been in existence for nearly four decades and as a result it has established a name and an image both in Sri Lanka and in foreign countries, particularly among the travel trade in those countries. This is more so

because of the Sri Lanka (Ceylon) Tourist Board's participation in major travel and tourist promotional events and also in tourism meetings and conferences, over the last four decades. Therefore, it would be a very unwise move to change its name, just for the sake of change, as was done in the previous exercises mentioned in Chapter 4.

Further, the Sri Lanka (Ceylon) Tourist Board has its strengths and also weaknesses as pointed out in Chapter 2; the Strengths far exceeding the identified and perceived Weaknesses. Therefore, it is the considered view of the Committee that there is strong justification to retain both the name and the institution as it were and introduce amendments to rectify its identified weaknesses, particularly to bring the private sector inputs into the management of the core tourism functions.

The Committee therefore recommends that the Board of Management of the Tourist Board be reconstituted by expanding the membership from six to nine and making room for the tourism private sector associations to secure representation in the Board, all appointed by the Minister, as follows:

- (a) a person distinguished himself in the field of travel and tourism, who shall be the Chairman of the Board
- (b) a representative of the Ministry of Finance
- (c) a representative of the Ministry of Provincial Councils
- (d) two representatives of the Tourist Hotels Association of Sri Lanka
- (e) one representative of the of the Sri Lanka Association of the Inbound Tour Operators
- (f) One representative from the Association of Small and Medium Enterprises in Tourism, Sri Lanka
- (g) a person who has shown capacity and experience in the field of marketing
- (h) a person who has shown capacity and experience in the field of law or engineering or accountancy

It is seen that out of the nine members, four are from the tourism private sector, representing various categories according to the contributions they make to the Tourism Development Levy, as shown by the figures given in the Table below.

A representative of the Ministry of Finance is the watch-dog of public finance while the representative of the Ministry of Provincial Councils will be the coordinator of the tourism development and promotions functions exercised by the Provincial Councils under the 17<sup>th</sup> Amendment to the Constitution.

It is seen from the Table that the contributions to TDL by the Tourist Hotels have increased from 69.3 percent of the total in 2003 to 74.6 percent of the total in 2005. There was a similar increase in the contributions of SMEs from 15.2 percent to 18.9 percent during the same period. On the other hand, the contributions from the Travel Agency sector have decreased substantially during this period from 15.5 percent to 6.5 percent. This is the reason for giving one seat to the newly formed ASMET in the Board of

Management, while allocating one seat to the travel agency sector, in accordance with the principals underlying the Mahinda Chinthana.

**Table – Contributions to the Tourist Development Levy (TDL)  
2003-2005 (Rs.'000)**

Year	2003 – 4 <sup>th</sup> Quarter		2004		2005	
	Total	%	Total	%	Total	%
Tourist Hotels	63,736	69.3	206,816	71.0	135,750	74.6
Travel Agencies	14,264	15.5	40,161	13.8	11,832	6.5
SME's - Total	13,997	15.2	44,446	15.2	34,401	18.9
Guesthouses	2,149	-	8,102	-	7,784	-
B/B Units	3	-	7	-	25	-
Restaurants	6,291	-	18,480	-	18,776	-
Tourist Shops	5,403	-	17,195	-	7,486	-
Spice Gardens	105	-	535	-	259	-
Water Sports	46	-	127	-	71	-
Grand Total	91,997	100.0	29,1423	100.0	181,983	100.0

Source: Sri Lanka Tourist Board

It can also be observed that the composition of the Board of Management provided for in this amendment is not very much different from those proposed in the previous draft legislation, as seen from Chapter 4 and the Supplement A to this report.

## 7.5 Tourism Advisory Committee

The proposed amendment also provide for a high-powered Advisory Committee consisting of representatives of both private sector trade associations and the public sector, all appointed by the Minister, to advise the Board. They include the following,

- (a) three representatives from THASL
- (b) one representative from SLITO
- (c) one representative from ASMET
- (d) one representative from TAASL
- (e) one Representative from the National Carrier
- (f) one representative from BAR
- (g) three members appointed by the Minister from amongst persons who have distinguished themselves in the field of tourism

The Minister shall appoint one member from among (g) to be the Chairman of the Committee. The Committee shall meet as often as is necessary and shall be paid remuneration out of the Fund of the Board as may be determined by the Minister in consultation with the Minister of Finance.



The Committee may tender advice to the Board on its own volition or on the matters referred to it by the Board, regarding the functions assigned to the Board by the Act, for development and promotion of tourism.

## **7.6 Staff and the Departments of the Board**

The proposed amendments also provides for the appointment of a Director General of Tourism and three Additional Directors General of Tourism to be in charge respectively, of the Department of Marketing and Promotion, Department of Planning and Development and Department of Regulation and Quality Assurance, and such other staff as the Board may deem necessary.

In addition to the above mentioned Departments, the Board may set up such other Departments as the Board may deem necessary.

## **7.7 Tourist Development Fund**

In addition to the Boards own fund (set up under the existing Act), the proposed amendments provides for the setting up of a separate fund called Tourist Development Fund (TDF), to which the Embarkation Levy and the Tourist Development Levy, collected under the provisions of the Finance Act N025 of 2003, shall be credited.

The amendment makes provision for the Board to manage the TDF and disburse the totality of this fund to three institutions, namely:

1. Sri Lanka Tourist Board
2. Sirimavo Bandaranaike Institute of Tourism and Hotel Management
3. Sri Lanka Conventions Bureau

The amounts to be disbursed to these three institutions annually shall be determined by a Committee, consisting of the following:

1. Deputy Secretary to the Treasury
2. Secretary to the Ministry of Tourism
3. Chairman of the newly constituted Sri Lanka Tourist Board

The quantum of funds to be disbursed to the three institutions will be determined by the programme budget presented by each institution for development and promotion of tourism and for human resources development. The amendment expressly prohibits the use of TDF money for capital investment in tourist infrastructure projects.

The amendment also provides for the application of Article 154 of the Constitution for auditing of all moneys made available out of TDF



## **7.8 Tourism Development Areas**

In the Tourism Act No. 38 of 2005, provision has been made in Part II, Chapter IV for the Minister, on the recommendation of the Authority, to declare any area to be a Tourism Development Area, by Order published in the Gazette.

The Committee is of the view that there is no need to make such a provision in the proposed amendment as this provision is there already in the amendment to the Tourist Development Act No 14 of 1966, which can be expanded if necessary

Further, the Committee has doubts as to whether the provisions of Section 29 of the Act which allows the Authority to exercise the powers under the National Environmental Act and the Antiquities Ordinance, can ever be implemented.

## **7.9 Part IV Chapter IX of the Tourism Act No 38 2005**

Part IV Chapter IX of the Tourism Act No. 38 of 2005 has made provision for Registration of Tourist Enterprises and Tourist Services and Regulation of Prices, Fees, Rates and Charges in respect of Tourist Services by repealing certain provisions of the Tourist Development Act No.14 of 1968

It is not understood why such a provision has been made in the new Act when similar provisions already exists in Part IV of the Tourist Development Act No. 14 of 1998, which have been repealed. The Travel Trade Associations, who made representations to the Committee, when asked whether they had any objections to the existing regulations under the various Codes, answered in the negative. The present system of regulations has been in operation for over two decades and the travel trade's reactions to them so far has been positive

On the other hand, if the purpose of the new provision was to tighten the existing regulations, then it goes against the current trends of deregulation and liberalization of the travel industry. Therefore, the Committee does not consider it necessary to amend the existing regulatory framework contained in the Tourism Development Act No. 14 of 1968

## **7.10 Sri Lanka Conventions Bureau**

The Tourism Act has provision to convert the Conventions Bureau, which is currently a company limited by guarantee, to an independent statutory body. The reason for doing so has not been explained anywhere, as the existing Company has been functioning well so

far and has been successful in developing the MICE market to a great extent. This may probably have been done to bring it in line with other statutory bodies and make this institution also a beneficiary of the Tourist Development Fund.

The Convention Bureau is a specialized body set up to promote very distinct segments of the international travel market, namely those who travel to participate in international meetings, conferences and Exhibitions and also those who travel on incentive packages. Therefore their requirements are very different from those of the normal holiday and recreation travelers. Further, the methods of promotion and handling of this segment of travel are also very different. They need special facilities and specially trained personnel to handle them. Therefore, only those hoteliers and travel agents who can provide these special facilities and specialized services can benefit from this travel.

The Convention Bureau therefore is a membership organization. Only those hoteliers, travel agents and facility operators who have the required facilities and services can become members and benefit from the development of such traffic.

Because of the reasons explained above, the Committee is of the view that the Convention Bureau should be allowed to continue as it is and make necessary provision for the Bureau also to be a recipient of a share of the Tourist Development Fund.

### **7.11 Sri Lanka Institute of Tourism and Hotel Management**

Chapter 4 of this report gives a full account of the historical development of this institute and also the reasons as to why it should be managed by an independent statutory body under the purview of the Ministry of Tourism.

Therefore, the Committee recommends that a separate statutory body should be established to be managed by a Board of Governors. The draft legislation required for this purpose is given in Supplement B.

Since it is to be made one of the premier educational and training institutes in the country, it should be managed by a high-powered Board of Governors appointed by the Minister, supported by an equally high-powered Advisory Council appointed by the Minister. Accordingly, the recommended composition of the Board of Governors and the Advisory Council are as follows.

#### **Board of Governors**

1. Secretary to the Ministry of Tourism as the Chairman
2. Secretary to the Ministry of Vocational Training
3. Secretary to the Ministry of Provincial Councils
4. Secretary to the Ministry of Finance
5. Chairman of the newly constituted Sri Lanka Tourist Board
6. Chairman of the University Grants Commission

7. A member appointed by the Minister from among persons having wide experience in the field of hospitality and Tourism Management

#### The Advisory Council

1. Director General of the Tourist Board as the Chairman
2. Two representatives from the Hotel School Graduates Association.
3. Two representatives from the Tourist Hotels Association of Sri Lanka
4. One representative from the Sri Lanka Association of Inbound Tour Operators
5. One representative from the Travel Agents Association of Sri Lanka
6. One representative from the Association of the Small and Medium enterprises in Tourism Sri Lanka
7. One Representative from the National Guides Lecturers Association

It should be noted that Mahinda Chinthana specifically refer to professional training of Tourist Guides as they are required to act as the unofficial ambassadors for the country.

The management of the Institute reconstituted in the above manner is expected to emerge as the Center of Excellence in the Asian region. It has all the prerequisites to be so as it is presently housed in a unique building with an assurance of adequate financial resources to run its operations.

It is recommended that the institute be named as Sirimavo Bandaranaike Institute of Tourism and Hotel Management as a tribute to its founder.

# Appendices

# Appendix (A)

## Summary of the Work Plan

### (1) - February 1- 7 (05 Working Days)

- Setting up of the Office
- Collection of relevant Documents

### (2) – February 8 – 15 (06 Working Days)

- a. Preparation of the Work Plan
- b. Preparation of the Inception Report
- c. Submission of the Inception Report to the Hon. Minister

### (3) – February 16 – March 07 (14 Working Days)

- a. Study of Relevant Documents

List of documents (References) given in appendix (B)

### (4) - March 08 - March 23 (11 Working Days)

- b. Representation from Stakeholders

List of Stakeholders given in appendix (C)

### (5) – March 24 to April 02 (10 Days including Weekends)

- c. Study Tours - Visits to some selected Countries in Asia to study the Structure of National Tourism Organizations

The proposed countries were

- 1. Singapore
- 2. Thailand
- 3. Seychelles

**Note:-** Although the Inception Report including the Work Plan was approved by the Cabinet of Ministers, it was not possible to undertake the proposed Study Visits to Singapore, Thailand and Seychelles, as the Sri Lanka Tourist Board was not able to obtain the necessary approval for travel.

**(6) – April 03 – April 28 (18 Working Days)**

- Processing of information and preparation of the Draft Final Report
- Finalization of the Draft Final Report
- Submission of the Final Report to the Hon. Minister
- Time Duration - 12 Weeks including Weekends and Public holidays  
- 58 Working Days

**Note** - The Inception Report seeking approval for the Work Plan and also requesting the appointment of two new members to fill the vacancies created by the non-availability of Mr. Ranjith Perera and Mr. Ananda Katthuriarachchi (Attorney-at-law) was submitted to the Hon. Minister on 13<sup>th</sup> February 2006. However, there was a delay in making the appointments until 6<sup>th</sup> March 2006, and therefore the Committee could not function effectively for a period of nearly three weeks. This has caused a delay in finalising and submitting the Committee Report until the fourth week of May, 2006.

## Appendix (B)

### List of References

1. Election Manifesto - Mahinda Chinthana
2. New Tourism Law passed in Parliament in October 2005
3. Harry Selvanathan committee Report on restructuring of the Ceylon Tourist Board - 2004
4. Draft Memorandum & Articles of Association prepared by the Tourism Think Tank chaired by Mr. Asker Moosajee for the creation of a Company limited by guarantee, for Marketing and Promotion of Tourism - 2000
5. Draft Legislation prepared on the recommendation of the Tourism Think Tank chaired by M.Y.M. Thahir, for restructuring of the Tourist Board -1999
6. Report of the Presidential Task Force on Tourism -1998
7. Draft Legislation to provide for the establishment of a Sri Lanka Tourism Council
8. Modified Draft Legislation to provide for the Establishment of a Sri Lanka Tourism Council
9. Report on the Restructuring and Repositioning of the Ceylon Tourist Board prepared by the Foster & Reed (Pvt) Ltd. - 2003
10. Ceylon Tourist Board Act No. 10 of 1966
11. Tourist Development Act No. 14 of 1968
12. Ceylon Hotels Corporation Act No. 14 of 1966
13. Sri Lanka Convention Bureau - Memorandum & Articles of Association
14. The Finance Act No. 38 of 1971



15. Finance Act No. 25 of 2003, which provides for the imposition of EL and TDL
16. Supreme Court decision on PTOMS
17. Comparative legislation on National Tourism Organizations of other countries Viz Singapore, Thailand, Hong Kong and Seychelles
18. Revenue account of the SLTB for 2002, 2003, 2004 and 2005
19. Betey's Marketing Programme since their appointment
20. Sri Lanka Tourist Board - Tourism Development Levy
21. Constitutions of the Sri Lanka Association of Inbound Tour Operators and the Tourist Hotels Association of Sri Lanka
22. Constitution of the Joint Tourism Council
23. UN / WTO study on structure of National and Tourism Organization
24. National and Regional Tourism Planning – Methodologies and Case Studies
25. Regulations made under the Tourist Development Act No.14 of 1968.

(The list is not exhaustive)

## **Appendix (C)**

### **List of Stakeholders who made Representation to the Committee**

#### **A. Private Sector Trade Associations**

1. Tourist Hotels Association of Sri Lanka (THASL)
2. Sri Lanka Association of Inbound Tour Operators (SLAITO)
3. Travel Agents Association of Sri Lanka (TAASL)
4. Hotel School Graduates Association (HSGA)
5. National Guide Lecturers Association of Sri Lanka
6. Association of Small & Medium Tourism Enterprises in Sri Lanka
7. Sri Lanka PATA Chapter, Chairman.

#### **B Public Sector Agencies**

1. Ministry of Tourism - Secretary and Additional Secretary
2. Sri Lanka Convention Bureau - Chairman & General Manager
3. Sri Lanka Institute of Tourism & Hotel Management – Principal
4. Staff Welfare Association, Sri Lanka Tourist Board

### C. Individuals

1. Mr. Chandra Wickremasinghe- Chairman, Connaissance Holdings
2. Mr. Ranjith de Silva – Manager, MICE Promotion Sri Lanka Airlines
3. Mr. Walter Rupasinghe - Director of the former Ceylon Tourist Board and former Secretary to the Tourism Ministry
4. Mr. Asoka Fernando - Hotel School Graduate and former Chairman of the Ceylon Hotels Corporation
5. Prof. Chandana Jayawardena – Freelance Consultant
6. Mr. Sunimal Senanayake - former Chairman of the Association of the Group Tour Agents
7. Mr. Kumar Mallimaarachchi - former Chairman of the Ceylon Hotels Corporation and the Hotels Association.
8. Mr. Paddy Vithana - former Chairman, Sri Lanka Tourist Board.
9. Mr. Udaya Nanayakkara - Chairman, Sri Lanka Tourist Board
10. Mr. S. Kalaiselvam - Director General , Sri Lanka Tourist Board
11. Mr. Sanath Ukwatte – Chairman, Mt. Lavinia Hotel
12. Mr. Thilak Weerasinghe – Chairman, Sports Rizen
13. Mr. Sarath Seneviratne – Former Principal of the Hotel School

① Minisr Notfiati Rep dte  
ope dte  
 ② Aduty not for "com Act"  
 ③ fncu Act / gmat  
 - present / past Shtice Appendix D  
 ④ (4) = Litled

④ Cnclon and Recevrs - TA 10mmber

## Legal Opinion on the Tourism Act No. 38 of 2005

### 1. Introduction

The Tourism Act, No.38 of 2005 (the TA) was certified on 30<sup>th</sup> November 2005 but it has not yet come into operation, as the Hon. Minister, in terms of section 1 of the TA, by Order published in the *Gazette*, has yet to appoint a date for its operation. Additionally, in terms of subsection 67 (1) of the TA, although the Ceylon Tourist Board Act. No. 10 of 1966 will stand repealed when the TA will come into operation, Hon. Minister is required to appoint, by Order published in the *gazette*, a date on which such repeal shall take effect. My opinion is sought as to whether any drafting errors exist in the TA and if so how such errors could be rectified. There are several drafting errors in the TA; while some of them are so serious that they require certain urgent legislative action be taken before the Hon. Minister appoints a date for its operation., some of them are quite trivial and they could be corrected when the serious lapses are being attended to. Whether they are serious or trivial, I have ventured to mention them all, for convenience, seriatim and under several headings, while making my suggestions for their correction.

### 2. Sri Lanka tourism Development Authority.

In terms of section 4 of the TA, the (Tourist Development) Authority shall consist of several persons *appointed* by the Minister. The words '*appointed*' appearing at subsections 5 (2), 5(7), 5(8) and 5(9) are redundant and misleading.

**Suggested recommendation** – delete the word "appointed" in subsections 5(2), 5(7), 5(8), and 5(9).

### 3. Presiding at Meetings of the Authority

Subsection 7(1) of the TA states "The Chairman of the Authority shall preside at all meetings of the Authority. In the absence of the Chairman from any such meeting any member elected by the members shall preside at such meeting". This is unnecessarily repeated at subsection 11 (2).

**Suggested recommendation** – delete subsection 11(2).

#### 4. Auditing by the Auditor General – Accounts of the Authority

Subsection 20(2) of the TA makes Article 154 of the Constitution applicable to the auditing of the accounts of the authority. Even if this is not mentioned Article 154 will in any event apply because Article 154(1) states "*The Auditor-General shall audit the accounts of .....public corporations.....*" Article 170 of the Constitution says "*public corporation means any corporation, board or other body which was or is established by or under any written law other than the Companies Ordinance, with funds or capital wholly or partly provided by the Government by way of grant loan or otherwise*".

Even if subsection 20(2) is provided for, *ex abundanti cautela*, there is no justification for the provision in subsection 20(5) authorizing the Auditor-General, whenever necessary, to obtain the services of qualified auditors, because Article 154(4)(a) of the Constitution provides as follows "*The Auditor-General may for the purpose of the performance and discharge of his duties and functions engage the services of a qualified auditor or auditors who shall act under his direction and control*".

**Suggested recommendation – delete subsection 20(5).**

#### 5. Auditing Accounts of the Tourist Development Fund

Subsection 23(1) deals with the establishment of a Tourist Development Fund. Subsection 23(4) states "*The accounts of the Fund shall be audited in accordance with paragraph (8) of Article 154 of the Constitution*". This is meaningless and is an obvious error, as paragraph (8) of Article 154 refers to the definition of a "qualified auditor".

**Suggested recommendations - delete words "paragraph (8)" in subsection 23(4) ; For reasons of clarity, contents of subsection 23(4) re Auditing by AG, should be made the last subsection of section 23.**

#### 6. The Finance Act - The Constitutional Provision and the Tourism Act

Subsection 24 (1) of the TA reads "*There shall be charged, levied and collected by the Director – General, in terms of the Finance Act, No. 25 of 2003, a Tourism Development Levy, on the turnover of every institution, licensed under the Tourist Development Act, No. 14 of 1968*". The Director – General referred to in this subsection is obviously the DG of the SL Tourist Development Authority.

In order to understand the wording of Section 24 (1) and the drafting defects, reference has to be made to Article 152 of the Constitution and the Finance Act. No. 25 of 2003. Article 152 of the Constitution reads – "*No Bill or motion, authorizing.....the imposition of any tax.....shall be introduced in Parliament except by a Minister, and unless such Bill or motion has been approved either by the Cabinet of Ministers or in such manner as*

TK

X  
the Cabinet of Ministers may authorize". The word "Tax" is not defined and there is no doubt that the word "levy" includes a "Tax". The Finance Act No. 25 of 2003 makes provision for the imposition of two levies which are -

(1) *The Embarkation Levy* - this is collected by the "operator" and paid to the "Competent Authority" (CA). The CA means either the Director of Civil Aviation Authority (re Air Crafts) or Director of Merchant Shipping (re Ships). The CA shall disburse the money collected in accordance with instructions issued by the Deputy Secretary of the Treasury. (The marginal note to subsection 5(1) of the FA states "CA to credit to the Consolidated Fund", although the subsection does not say so).

(2) *The Tourism Development Levy*:- this is levied from "every institution licensed under the TDA Act No. 14 of 1968". The levy is one *per centum* on the turnover of such institution in any year. Section 13 of the Finance Act defines the word "turnover" only in relation to "a tourist hotel", "a travel agent" and "a tourist shop". In terms of the FA, this levy is collected by the Director - General of the Ceylon Tourist Board. He shall retain the money collected and submit returns to the Deputy Secretary to the Treasury.

Subsection 23(2)(a) of the TA makes provision for the payment of 1/3<sup>rd</sup> of the sum collected by way of *Embarkation Levy* to the Tourist Development Fund and that poses no difficulty. If the TA is to be implemented, as far as the *Tourist Development Levy* is concerned, the *Finance Act No. 25 of 2003* requires to be amended in two respects; firstly the mechanism through which the levy is collected; and secondly the designation of the person by whom it is collected. The levy has to be obtained not only from "every institution licensed under the TDA Act No. 14 of 1968" but also from every "institution" which will be licensed in the future by the Authority under the TA. Provision should also be made to enable the Director - General of the *Tourist Development Authority* to collect the *Tourist Development Levy*.

Under normal circumstances, the provisions of a subsequent Act of Parliament can serve to amend the provisions of an earlier Act of Parliament, even if special reference is not made by the subsequent Act to the earlier Act. But in view of the stringent provisions of Article 152 of the Constitution relating to matters of taxation, an amendment to the Finance Act No. 25 of 2003 will be necessary to give expression to the provisions of the TA which inferentially seek to amend the provisions of the Finance Act.

**Suggested recommendations - Amend the Finance Act No. 25 of 2003 as follows. (1) Section 11, after the words "every institution licensed under the TDA Act No 14 of 1968" add the following namely - "and under the Tourism Act No 38 of 2005". (2) In sections 12 and 13, substitute the words "Director - General Tourist Development Authority" for the words "Director - General of the Ceylon Tourist Board"**



## 7. Payments made out of the Tourist Development Fund

There is some redundancy and contradictions in the provisions of the TA { among subsections 23 (3), 24 (8), and 24 (9) } regarding payments to be made out of the Tourist Development Fund. The Tourist Development Fund consists of one – third of the sum collected by way of the Embarkation Levy {under subsection 23 (2) (a)} and the entire Tourist Development Levy collected in terms of subsection 24 (1) and paid to the Fund in terms of subsection 24 (8).

Subsection 23 (3) states there shall be *paid out* of the Tourist Development Fund (a) “all sums of money required to defray any expenditure incurred by any organization or any person in the promotion or development of tourism, in accordance with regulations which may be made in that behalf; and (b) “all sums of money as are required to be paid out of such Fund”.

Subsection 24 (8) thereafter goes on to say “The moneys collected by way of the levy by the Director – General, shall be paid into the Tourist Development Fund established under subsection (1) of section 23 and all moneys lying to the credit of the Fund shall be disbursed in the following manner:-

- (a) a sum amounting to seventy *per centum* (sic) (70%) to be paid to the Sri Lanka Tourism Promotion Bureau established under section 40;
- (b) a sum amounting to twelve *per centum* (sic) (12%) to be paid to the Sri Lanka Institute of Tourism and Hotel Management established under section 32;
- (c) a sum amounting to fourteen *per centum* (sic) (14%) to be paid to the Authority; and
- (d) a sum amounting to four *per centum* (sic) to be paid to the Sri Lanka Conventions Bureau established under section 42.

Subsection 24 (9) states “The moneys collected by way of the *levy* and disbursed in the manner set out in subsection (8) shall be used solely for the purpose of making payments in connection with the *promotion and marketing* of Sri Lanka as a tourist and travel destination”.

Firstly, in view of the fact that the latter part of subsection 24 (8) deals with in what proportions the whole (100%) of the Tourist Development Fund should be disbursed, the manner of dealing with the disbursement specified in subsections 23(3) and 24 (9) appears to be redundant. Secondly, if as subsection 24 (9) states, the Fund shall be used solely for the purpose of making payments in connection with the *promotion and marketing* of Sri Lanka as a tourist and travel destination, it is at least in conflict with the provision relating to the disbursement of 12% of the Fund to the SL Institute of Tourism and Hotel management as provided for in subsection 24 (8) (b). Thirdly, subsection 24 (9) refers to “*the levy*”, and “*the levy*” referred to in section 24 is only the Tourist Development Levy. Fourthly, when subsection 24 (9) states “the monies collected by way of *the levy* and disbursed in the manner set out in subsection (8), it is

factually incorrect, as what is disbursed in terms of subsection (8), are the monies collected under *two levies* constituting the *Fund*.

#### **Suggested recommendations**

- (1) Delete subsections 23 (3)
- (2) Delete subsection 24 (9)
- (3) In subsection 24 (8) it is desirable to say "*per centum*" instead of "*per centum*".

#### **8. Tourist Development Areas.**

Subsection 28 (1) deals with protection of privacy of persons enjoying facilities available within the declared Tourist Development Areas and makes contravention of rules made therefor punishable. The subsection reads "any person .....does any act which interferes with the privacy of any other person, or contravenes any regulation made under *paragraphs (a) and (b) of subsection (3) of section 27* shall be guilty of an offence.....". The regulations are in fact made under paragraphs (a) and (b) of subsection (4) of section 27.

Subsection 27 (4) makes provision for the Authority to make regulations specifying the conditions of access to a Tourist Development Area and to prohibit categories of commercial activities within the area. However, in terms of subsection 69 (1), it is the Minister who is authorized to make regulations.

Subsection 29 (3) (b) reads "Where the Authority is not in agreement with the recommendation of the Central Environmental Authority, it shall refer to (sic) matter to the Minister in charge of the subject of Environment,.....A member of the respective *Committee* shall be required to be present at all times when any such matter is being discussed". The word "*Committee*" is an obvious mistake for the word "*Commission*".

#### **Suggested Recommendations;**

- (1) Subsection 28 (1) to read as "any regulation made under paragraphs (a) and (b) of subsection (4) of section 27"
- (2) Subsection 27 (4) the word "Minister" to be substituted for the word "Authority"
- (3) In subsection 29 (3) (b), words "*respective Commission*" be substituted for the words "*respective Committee*"

## 9. Tourism Advisory Committee

Subsection 32 (1) establishes a body called the *Tourism Advisory Committee* for the purpose of advising the Minister and the Authority on any matters in relation to the travel and tourism industry. In terms of subsection 32 (2) the Chairman of the Authority, the Chairman of Sri Lanka Institute of Tourism and Hotel Management, and the Chairman of the Sri Lanka Promotions Bureau are among members of the Advisory Committee.

As far as the Chairman of the Authority is concerned, he will be both a giver and a recipient of any advice. As far as the other two chairmen referred to above, the SL Tourism Promotion Bureau and the SL Institute of Tourism and Hotel Management are two legal entities to which in terms of subsections 3 (e) and (d) the TA, the Authority shall provide guidance. Again those two Chairmen will perform the dual capacities of givers and recipients of advice. This is anomalous.

Subsection 32 (6) makes provision for the Minister to give "special or general directions in writing as to the performance of duties and the exercise of the powers of the Advisory Committee".

This looks equally anomalous.

By section 68 of the TA, the Tourist Development Act No. 14 of 1968 has been amended by introduction of a new section 1A, the effect of which is wherever reference is made in the TD Act to the "Board" it will be construed as a reference to the "*Sri Lanka Tourism Development Authority*". Subsection 96 (2) (d) of the TD Act makes provision for the "Board", i.e. to be construed as the "*TD Authority*, with the concurrence of the Minister, to make regulations in respect of *the appointment, constitution, and functions of a general advisory body for the purpose of advising the Board* (now read as TDA), *the Chairman thereof* ..... *on the exercise, discharge and performance of its or, his powers under this Act or any Code*".

There is therefore legal provision already in existence for constituting an advisory body for the Authority. There could possibly be two advisory bodies.

Subsection 32 (12) states "Where necessary, the members of the Advisory Committee and other officers and servants may be paid such remuneration out of the *fund* as may be determined by the Authority". Here the word *fund* could be confused with Tourism Development Fund, the manner of disbursement from which had been specified earlier.

### Suggested recommendations;

- (1) Reconsider whether provisions regarding constitution and working of the Advisory Body are necessary.
- (2) Amend subsection 32 (12) by the addition after the word "fund", "referred to in subsection 19 (1)".

## 10. Sri Lanka Institute of Tourism and Hotel Management

Subsection 35 (1) states "There shall be a Board of Management (hereinafter referred to as the "Board") of the Institute, appointed by the Minister who shall be charged with the management and administration of the Institute". Thereafter regarding the composition of the Board, subsection 35 (2) (a) states the Board shall comprise of "*the person appointed as Chairman of the Board of Governors of the Institute*".

As regards appointments of the Staff of the Institute, subsection 36 (1) (b) states "such academic staff as are necessary for the conduct of educational programs, who shall be appointed *by the Institute with the approval of the Board*". As the management of the Institute is with the Board, the appointing authority should be the Board.

Subsection 38 (1) states "The Hotel School *established under the provisions of the Ceylon Tourist Board Act No. 10 of 1966*, shall vest in the Institute from the date of the coming into operation of this Act." The meaning conveyed by the above italicized words are factually erroneous. The Hotel School is no legal entity and has no independent existence outside the Tourist Board.

Subsection 38 (2) is equally confusing which reads " All property movable and immovable belonging to the *Institute* on the date of vesting shall stand transferred to the *Institute*."

However, this position of "vesting" the Hotel School along with its paraphernalia in the SL Institute of Tourism and Hotel Management is accomplished by subsection 67 (2) (f) of the TA, which states that from and after the repeal of the Ceylon Tourist Board Act No. 10 of 1966, "all training schools and institutions being controlled and managed by the Ceylon Tourist Board on the date of repeal, shall, with effect from date appointed for the repeal, be deemed to vest in the Sri Lanka Institute of Tourism and Hotel Management established by section 33".


The TA has failed to make provision for the management finances and auditing by the AG of accounts of the body corporate known as the SL Institute of Tourism and Hotel Management.

### Suggested recommendations.

- (1) In subsection 35 (2) (a), delete the words "of Governors of the Institute". The expression "Chairman of the Board" is sufficient in view of subsection 35 (1).
- (2) In subsection 36 (1) (b) delete the words "the Institute with the approval of".
- (3) Delete subsections 38 (1), (2), and (4)
- (4) Make provision for the management finances of SL Institute of Tourism and Hotel Management and auditing its accounts by the AG; - - similar to provisions in section 19 and subsection 20 (2).

## 11. Sri Lanka Tourism Promotion Bureau

There is no provision for the management of finances and auditing of accounts of the Bureau by the Auditor – General.

 Suggested recommendation. – make provision for financial management of the Bureau and auditing by the AG - similar to provisions in section 19 and subsection 20 (2).

## 12. Sri Lanka Convention Bureau.

Subsection 43 (1) fails to mention who shall appoint the Board of Management of the Convention Bureau. There are two subsections numbered 43 (2) ; I shall refer to them as subsection 43 (2) No. 1 and 43 (2) No 2.

The contents of subsection 43 (1), subsection 43 (2) No. 1 and subsection 43 (2) No. 2 are contradictory. Subsection 43 (1) states "There shall be a Board of Management of the Convention Bureau *comprising not less than five and not more than thirteen members*" Subsection 43 (2) No. 1 contradicts this number as it states the following *shall* be the nominated members, and proceeds to mention 12 persons. That would mean that the Board will *comprise of not less than 12 members*. The confusion is further carried by subsection 43 (2) No.2 by stating that the Chairman will be nominated by the Minister *from among the persons who are members of the Board appointed under subsection (1)*. Subsection (1) refers to the *whole* Board.

Subsection 46 (3) speaks of alternate member nominated in terms of subsection (2) of section 44. This is an error. Such member is nominated under subsection (2) of section 46.

There is a serious error in Section 47 which states that the Convention Bureau shall receive four *per centum* (sic) (4%) of the total sum collected as *Tourist Development Levy* and any other money allocated to it by the Government for the efficient functioning of the Convention Bureau. Under subsection 24 (8) the Bureau is entitled to 4% of the *Tourist Development Fund* which consists of 1/3 the Embarkation Levy and the entirety of the *Tourist Development Levy*.

As regards the Convention bureau too provision should be made for its accounts be audited by the AG.

### Suggested recommendations.

- (1) Specify makes who appoints the Board (2) specify clearly how many members constitute the Board (3) rectify the error in numbering subsections of section 43.
- (4) In subsection 46 (3), substitute "subsection (2) of section 46" for "subsection (2) of section 44".

- (5) In section 47, substitute "four *per centum*" for "four per centum"; Substitute words "of the Tourist Development Fund" for the words "of the total sum collected as Tourist Development levy". Consider whether section 47 is necessary at all in view of subsection 24(8).
- (6) Provision be made similar to that in subsection 20 (2) to enable the AG to audit accounts of the Bureau.

### 13. Registration of Tourism Enterprises

Section 51 reads "Any person to whom the grant of a license in terms of *subsection (2) of section 43* is refused or whose Certificate has been cancelled in terms of *section 45*, may appeal to an appeals tribunal appointed by the Minister for this purpose. ...." A license is issued (or refused) under subsection (3) of section 48; and a Certificate is cancelled under subsection (3) of section 50."

There appears to be some confusion in section 53 as to the authority making Price Regulation Orders. Subsection 53(1) states that "The *Chairman* of the Authority on recommendation of the members .....may by Order regulate " prices etc by a Price Regulation Order. Subsection 53 (3) (a) refers to what the *Director – General* should consider in making a Price Regulation Order. Again subsection 53 (4) states that every Price Regulation Order shall come into operation when such Order is made and signed by the *Chairman* of the Authority.

#### Suggested recommendations.

- (1) Amend section 51 by substitution of subsection 48 (3) for subsection 43 (2) and by substitution of subsection 50 (3) for section 45.
- (2) Amend subsection 53 (3) (a) by substitution of the word "Chairman" for the word "Director – General"

### 14. Rules made under the Tourist Development Act

67 (3) states "All permits and license (sic) issued in terms of the provisions to (sic) the Ceylon Tourist Board Act No 10 of 1966 prior to the repeal of the aforesaid Act, shall continue to be valid and effectual as if issued under the provisions of this Act unless and until permits and license (sic) are issued under the provisions of this Act unless and until permits and license (sic) are issued in terms of this Act (sic).

The words underlined are redundant and put in by an error. However in spite of the fact that Sections 77, 78, 79, 80, 81 and 82 of the Tourist Development Act No. 14 of 1968 are sought to be repealed by subsection 68 (2) of the TA, no provision is made for the licenses issued under those sections to be held valid and effectual until licenses are issued under the TA.



## Suggested recommendations

- (1) Substitute the term "provisions of" for "provisions to"; Substitute the word "licenses" for "license" ; delete words underlined.
- (2) after the words "aforesaid Act" interpolate "and all permits and licenses issued under Tourist Development Act No 14 of 1968"

## 15. Are any provisions of the Act violative of Fundamental Rights?

It has been expressed in some quarters that two provisions namely Section 61 and subsection 67 (2) (d) of the TA are violative of *several fundamental rights guaranteed by the Constitution*. I have given my most anxious and serious consideration to this aspect.

Section 61, ( after correction of the silly mistakes therein), reads;-

*"61 (1) Any person who wishes to be employed in any travel or tourist service shall register himself with the Authority in accordance with regulations which may be made in that behalf, as a fit and suitable person therefore.*

*(2) Any person who engages in employment in the travel or tourist services without registering with the Authority shall be guilty of an offence".*

The contention is "that the prohibition violates the fundamental right of a person to engage in any lawful occupation or business and it does not appear to be within the restrictions permitted under the Constitution."

This matter could be cleared by instantly referring to relevant provisions of the Constitution which state;-

*"14 (1) every citizen is entitled to –*

*(g) the freedom to engage himself or in association with others in any lawful occupation, profession, trade, business or enterprise;*

*15(5) The exercise and operation of the fundamental right declared and recognized by Article 14(1)(g) shall be subject to such restrictions as may be prescribed by law in the interests of national economy or in relation to-*

*(a) the professional, technical, academic, financial and other qualifications necessary for practicing any profession or carrying on any occupation, trade, business and licensing and disciplinary control of the person entitled to the fundamental right"*  
(emphasis added)

In my opinion the contention is without any merit and I find no violation of any fundamental right. I shall now consider subsection 67 (2) (d) which reads as follows ;-

*From and after the repeal of the Ceylon Tourist Board Act. No.10 of 1966 – all persons who were members , officers and servants of the Ceylon Tourist Board on the day preceding the date of repeal, shall, with effect from the date appointed for the repeal, be deemed to be members , officers and servants of the Authority.*

The contention is that “the effect of this provision is to *compel* the officers and servants of the Ceylon Tourist Board to work in the Authority”. I am unable to observe any compulsion; certainly any officer or servant cannot continue to be in the service of the Board once it is defunct by repeal of the Tourist Board Act. Far from violation of any fundamental right, I fail to see even any shadow of a transgression of any existing labour law of the Island by enacting subsection 67 (2) (d).

*(Justice) Ranjit. N.M..Dheeraratne.*

10<sup>th</sup> April 2006.

**Report of the Special Committee**

**appointed to**

**Review the New Tourism Law**

**and make**

**Recommendations for a Way Forward**

**for**

**Sustainable Development of Tourism**

**Supplement A**

**May 2006**

## **Contents**

1. **An Act to provide for the establishment of an Authority called the Tourism Authority of Sri Lanka, for the effective development and promotion of the tourist industry in Sri Lanka, and for matters connected therewith and incidental thereto**
2. **Proposed Company Limited by Guarantee  
"Tourism Promotion Authority of Sri Lanka"**
3. **An Act to provide for the establishment of a State Council known as The Sri Lanka Tourism Development Council; for the Development of the tourism industry and to provide the Legal Infrastructure to Plan, Implement, Encourage, Facilitate, Train, Educate Personnel, Regulate, Monitor the entire Industry and its allied industries.**
4. **An Act to provide for the establishment of the Sri Lanka Tourist Development Council; to vest the said Council with such powers as are necessary for facilitating the planning and implementation of the policy relating to the tourism industry and other related industries; to provide for the establishment of Regional Tourism Committees; to provide for the Regulation and Monitoring of the Industry; to repeal the Ceylon Tourist Board Law, No.10 of 1966 and the repeal of certain provisions of the Tourist Development Act. No.14 of 1968; and to provide for matters connected therewith or incidental thereto.**

L.D.O. 1/99

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF AN AUTHORITY CALLED THE TOURISM AUTHORITY OF SRI LANKA, FOR THE EFFECTIVE DEVELOPMENT AND PROMOTION OF THE TOURIST INDUSTRY IN SRI LANKA, AND FOR MATTERS CONNECTED THEREWITH AND INCIDENTAL THERETO

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

Short title and  
date of  
operation

1. This Act may be cited as the Tourism Authority of Sri Lanka Act No. of 1999 and shall come into operation on such date of as the Minister may appoint by Order published in the Gazette (hereinafter) referred to as "the appointed date").

PART 1  
ESTABLISHMENT OF THE TOURISM AUTHORITY OF  
SRI LANKA

Tourism  
Authority of  
Sri Lanka.

2. (1) There shall be established an authority called Tourism Authority of Sri Lanka (hereinafter referred to as the Authority :-

(2) The Authority shall by the same assigned to it by Subsection (1) be a body corporate with perpetual succession and a common seal and may sue or be sued in each name.

Constitution  
Of the  
Authority

3. The Administration, management and control of the affairs of the Authority shall be vested in a Board of Management (hereinafter referred to as the Board) consisting of the following members appointed by the Minister.

- (a) a representative of the Ministry of the Minister in charge of the subject of Finance recommended by that Minister;
- (b) a representative of the Ministry of the Minister in charge of the subject of Provincial Councils and Local Government recommended by that Minister;
- © two representatives of the Tourist Hotels Association, recommended by that Association
- (d) two representatives of the Travel Agents Association, recommended by that Association;
- (e) two members appointed from amongst persons who have had proven experience in Tourism, and at least one of whom shall be a person who has had experience in the cultural and social aspects of tourism; and
- (f) the Chief Executive Officer of Air Lanka Ltd.,

(2) A person shall be disqualified for being appointed or continuing as a member of the Board if he is, or becomes, a member of Parliament, a member of a Provincial Council or member of a local authority.



(3) A member of the Board other than a member appointed under paragraph (f) of sub-section (1) may resign from office by letter in that behalf addressed to the Minister, and the resignation shall be effective from the date on which it is accepted, in writing, by the Minister.

(4) The Minister may, for reasons assigned, remove a member of the Board other than the member appointed under paragraph (f) of subsection (1), from office

Provided that the Minister shall not remove a member of the Board appointed under paragraph (a) or paragraph (b) or paragraph (c) or paragraph (d) of sub-section (1), except on the recommendation of the Minister or association recommending the appointment of such member.

(5) Subject to the provisions of subsection (3) and (4), the term of office of a member of the Board other than the member appointed under paragraph (f) of subsection (1), shall be three years.

Provided that the term of office of a member of the Board appointed in place of a member who has died, resigned or been removed from office, shall be the remainder of the term of office of the member whom he succeeds.

(6) Where a member of the Board is temporarily unable to perform the duties of his office by reason of illness, absence from Sri Lanka or other cause, the Minister may, having regard to the provisions of subsection (1) appoint another person to act in his place.

Chairman of  
Authority  
the authority

4. (1) The Minister shall appoint the Chairman of the Authority from amongst members of the Board appointed under paragraph © (d) and (e) of subsection (1) of section (3).

(2) The Minister may, for reasons assigned, remove the Chairman from the office of Chairman.

(3) The Chairman may resign from the office of Chairman by letter in that behalf addressed to the Minister and the resignation shall be effective from the date on which it is accreted, in writing, by the Minister.

(4) Subject to the provisions of subsections (2) and (3), the terms of office of the Chairman shall be his period of membership of the Board.

Remuneration  
of members

5. The members of the Board may be paid such allowance as the Minister may determine in consultation with the Minister in charge of the subject of Finance -

The Chairman  
and the conduct  
of business

6. (1) The Chairman shall preside at all meetings of the Board at which is present. In the absence of the Chairman from any meeting of the Board, the members present at such meeting shall choose from among themselves another member to preside at that meeting

(2) A member of the Board who is in any way, directly or in indirectly, interested in any contract made or proposed to be made by the authority shall disclose the nature of his interest at a meeting of the Board, and such disclosure shall be recorded in the minutes of the Board, and the member shall not take part in any deliberation or decision of the Board with regard to that contract.

(3) Subject to the preceding provisions of this section, the Board may regulate the procedure with regard to the meetings and the transaction of business at such meetings.

Acts not invalidated by reason of a vacancy      7. No act, decision or proceeding of the Board shall be deemed to be invalid by reason only of the existence of any vacancy in the Board any defect in the appointment of any member thereof

Delegation of powers to members      8. The Board may delegate to the Chairman or any member of the Board, any power, duty or function conferred or imposed on, or assigned to the Board by or under this Act, and in the exercise performance or discharge of such power, duty or function such Chairman or member shall be subject to the general or special directions of the Board.

The Head office branches of authority      9. (1) The Head office of the authority shall be Colombo.

(2) The Board may establish and maintain branches or agencies of the Authority in Sri Lanka or abroad.

Seal of the Authority      10. (1) The seal of the authority shall be determined and devised by the Board, and may be altered in such manner as may be determined by the Board.

(2) The Seal of the Authority shall be in the custody of such person as the Board may decide from time to time.

(3) The seal of the Authority shall not be affixed to any instrument or document except with the sanction of the Board and in the presence of the Chairman and one member of the Board who shall sign the instrument or document in token of their presence.

(4) The Board shall maintain a register of the instruments and documents to which the seal of the Authority has been affixed.

## PART 11

### FUNCTIONS AND POWERS OF THE AUTHORITY

The objects  
and functions  
of the authority.

11. The objects and functions of the Authority shall be :-

(a) the encouragement and promotion of foreign tourist travel into Sri Lanka;

(b) Promotion and development of efficient and attractive tourist services and facilities for both foreign and domestic tourists.

© the promotion protection and preservation of the social, cultural and natural heritage of Sri Lanka.

Powers of  
the authority

12. (1) The Board may exercise all such powers as may be necessary for the discharge of the functions of the Authority, including the power.

- (a) to acquire, hold, take or give on lease or hire, mortgage, pledge or sell or otherwise dispose of, any movable or immovable property;
- (b) to construct buildings on any land conveyed to, or acquired by the Authority;
- (c) to enter into and perform directly or through any officer or agent authorized in that behalf, all such contracts as may be necessary for the discharge of the functions of the authority.
- (d) to open and maintain current savings or deposit accounts in any bank or banks;
- (e) to borrow such sums of money as may be necessary for the purpose of discharging the functions of the Authority.
- (f) to accept and receive grants, donations and bequests both movable and immovable, from sources in Sri Lanka and abroad and apply them for the discharge of the functions of the Authority;

(g) to make rules in respect of the administration of the affairs of the Authority;

(h) to do anything to advance the skills of officers and servants of the Authority or the efficiency of the equipment of the Authority;

(i) generally, to do all such other acts and things as are necessary to facilitate the proper discharge of the functions of the Authority.

Special powers

Of the Board

13. Without prejudice to the powers conferred on it by section 12, the Board shall have the power :-

(a) to initiate various marketing strategies both in Sri Lanka and abroad with a view to promoting the tourist industry;

(b) to conduct research programmes and planning and development programmes and schemes in relation to the tourist industry.

(c) to establish, maintain and operate efficient and attractive tourist services and to make such services available to other persons engaged in the promotion or development of the tourist industry.



(d) to assist financially or otherwise any Local Authority, Provincial Council, Public corporation, Government Department and by way of loan to any person or body of persons (whether corporate or unincorporated), operating or maintaining, any tourist service for the purpose of doing any act or thing which is necessary for, or conducive to, the attainment of the objects of the Authority.

(e) to engage and to co-operate with tourist, travel and other agencies in the display and distribution of exhibits and graphic materials designed to call attention to the attractions and places of interest in Sri Lanka, and in the collection, publication and dissemination of information with respect to the places of interest, routes, transportation facilities, tourist services and such other matters as the Authority deems necessary for the attainment of the objects.

(f) to train or assist financially the training of, persons to do work connected with tourist services;

(g) to levy fees or other charges for services, facilities or equipment provided by the Authority;

(h) do all such other acts or things as may be necessary for, or conducive to, the attainment of all or any of the objects of the Authority.

Special duties

Of the

Authority

14. (1) It shall be the duty of the of the Board.

(a) either of its own motion or at the request of the Minister to advise him on all matters relating to the development of tourism;

(b) to advise tourist, travel and other agencies with regard to the development of tourism;

© to prepare and submit to the Minister for the guidance of and implementation (whether with or without modification) by statute, by the Minister of all such general or special tourist schemes as may be necessary for, or conducive to, the attainment of the objects of the Authority and in particular, but without prejudice to the generality of the preceding provisions of this paragraph, in respect of all or any of the following matters

(i) The establishment, regulation, supervision, supervision, development and control of tourist resorts,

(ii) the regulation, supervision, development and control of tourist services, and

(iii) the regulation, supervision and control of the employment of persons in or about the business of tourist services, and

- (d) to formulate for the guidance of the Minister and Tourist, travel and other agencies, a national plan or policy setting out in outline general proposals for the regulation, supervision, development and control of tourism,

(2) A tourist scheme prepared by the Board under this Act may contain all such provisions as may be necessary for, or conducive to, the attainment of the objects of the Authority in regard to the matters to which such scheme relates,

(3) Nothing in this section shall be construed as imposing on the Authority, either directly or indirectly, any form of duty or liability enforceable by proceedings before any court or tribunal to which the Authority would not otherwise be subject,

Power of Board  
to make Orders

(15) The Board may make orders in respect of all or any other following matters:-

- (a) all matters necessary for, or incidental to, or connected with, the introduction, operation, and enforcement of schemes for the regulation and control of the rates of fees or charges that may be levied and recovered in respect of tourist services generally, or tourist services of any class or description;
- (b) all matters necessary for, or incidental to, or connected with, the introduction, operation and enforcement of schemes for the registration of tourist services generally, or tourist services of any class or description, so long as such services are maintained and operated in

conformity or compliance with the minimum standards or provisions specified or contained in the Order for the purpose of ensuring that any such services are adequate, efficient and attractive, and in particular, but without prejudice to the generality of the preceding provisions of this paragraph, the circumstances in which such registration may be granted or refused, or suspended or cancelled, or

- © all matters necessary for, or incidental to, or connected with, the introduction, operation and enforcement of schemes for the registration by the Board of persons who are fit and suitable for employment in tourist services generally or tourist services of any class or description, by reason of the fact that they have had such qualifications, or are not subject to such disabilities or disqualifications, as may be specified in the Order with a view to ensuring that the persons so employed in any such services shall be fit and suitable for such employment, and in particular but without prejudice to the generality of the preceding provisions of this paragraph, the circumstances in which such registration may be granted or refused, or suspended or cancelled.

(2) An order made under this section may provide for the prohibition of the establishment, maintenance or operation of any tourist service unless such service is registered by the Board and any person aggrieved by such Order shall have a right of appeal to a tribunal appointed by the Minister.

(3) No order made under this section shall come into force until it is approved by the Minister, confirmed by Parliament and published in the Gazette.

## **PART 111**

### **Appointment of the Chief Executive Officer and Staff of the Authority**

Appointment of the Chief Executive Officer of the Authority

16. (1) The Board may appoint a person to be the Chief Executive Officer of the Authority (hereinafter referred to as the "Executive Officer") who shall be the principal administrative officer of the Authority and who shall be a fulltime officer of the Authority. The Executive Officer shall be employed on such terms and conditions as shall be determined by the Board.

(2) If any vacancy occurs in the office of the Executive Officer appointed under subsection (1) or if the Executive Officer is by reason of illness, leave or other cause temporarily unable to perform the duties of his office, the Board shall make such arrangements as it may think fit for the carrying on the duties of the office.

(3) The Executive Officer shall, subject to the direction of the Board, be charged with the administration of the affairs, and the control of the staff, of the Authority. He shall also be responsible for the execution of all decisions of the Board.

(4) The Executive Officer shall be entitled to be present, and speak, at any meeting of the Board or any committee thereof but shall not have any voting right.

(5) The Board may remove the Executive Officer from office -

(a) if he becomes permanently incapable of performing his duties; or

(b) If he has done any act or thing which in the opinion of the Board is of a fraudulent or illegal character or is prejudicial to the interests of the Authority; or

© If he acts contrary to the directions of the Board.

(6) The office of the Executive Officer shall become vacant upon the death, removal from office under subsection (5) or resignation by letter in that behalf addressed to the Board, by the holder of that office.

Officers and ,  
servants of  
the Authority

17. (1) Subject to the provisions of this Act and any rules made thereunder, the Board shall have the power to appoint the officers and servants of the Authority.

(2) Every appointment of the officers and servants of the Authority shall be made by the Board in accordance with the schemes of recruitment and procedures for appointment, prescribed by rules.

(3) Subject to the provisions of this Act and any rules made thereunder, the Board shall determine the terms and conditions of service of the officers and servants of the Authority including their wages, salaries and other remuneration;

(4) The Officers and servants of the Authority shall be subject to the disciplinary control, including power of dismissal, of the Board. The Board may make rules in regard to matters of discipline.

(5) The Board may establish and regulate provident funds and schemes for the benefit of the officers and servants of the Authority and may make contributions to any such fund or scheme.

Service to the  
Authority  
seemed to be  
service to the  
Government  
purpose of certain  
Contracts.

18. Where the authority 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 to the Authority by that person shall be regarded as service to the Government for the purpose of discharging the obligations of such contract.

Appointment of  
Public officers  
to the staff  
of the  
Authority

19. (1) At the request of the Board, any officer in the Public service serving in any institution Department coming under the Ministry of the Minister may, with the consent of the Secretary to the Ministry of the Minister given with the concurrence of the Secretary to the Ministry of the Minister in charge of the subject of Public Administration, and of that officer temporarily appointed to the staff of the Authority for such period as may be determined by the Board with like consent or with like consent be permanently appointed to the staff of the Authority.

(2) At the request of the Board, any Officer in the public service other than an officer referred to in subsection (1) may, with the consent of that officer and of the Secretary to the Ministry of the Minister in charge of the subject of Public Administration, be temporarily appointed to the staff of the Authority for such period as may be determined by the Board with like consent or with like consent be permanently appointed to the staff of the Authority.



(3) Where any officer in the public service is temporarily appointed to the staff of the Authority, the provisions of the section 14(2) of the National Transport Commission Act, No.37 of 1991 shall mutatis mutandis, apply to, and in relation to him.

(4) Where any officer in the public service is permanently appointed the staff of the Authority, the provisions of section 14(3) of the National Transport Commission Act No.37 of 1991 shall, mutatis mutandis, apply to, and in relation to, him.

#### PART IV FINANCE

20. (1) There shall be charged and levied on every person operating a tourist service registered, or deemed to be registered under this Act, for every year, a contributory levy calculated on the turnover arising to that person for that year from the operation of such tourist service, at such rate as may be fixed by the Minister, by Order published in the Gazette. Different rates may be fixed in respect of different classes or descriptions of tourist services.

contributory  
levy in annual  
turnover of  
tourist service  
Operators

(2) Every person liable to pay a contributory levy for any year under subsection (1) shall pay such levy to the Authority on or before the thirtieth day of March of the Succeeding year.

(3) Where a contributory levy payable by any person for any year is not paid by him on or before the thirtieth day of March of the succeeding year, the levy shall be deemed to be in default and such person shall be deemed to be a defaulter.

(4) Where a contributory levy is deemed to be in default by reason of the operation of subsection (3), the defaulter shall, in addition to the contributory levy, be liable to pay a penalty of an amount equal to ten per centum of the contributory levy.

(5) Where a contributory levy payable under this section is in default, the Authority shall before proceeding to recover such levy as provided for in section 21 require the defaulter by notice in writing, to pay the levy in default and any penalty payable thereon within the period specified in the notice.

(6) A notice given under subsection (5) shall be deemed to have been duly served on the defaulter if it is served on him personally or was sent by registered post addressed to him at the address furnished by him to the Authority for the purpose of registration of the tourist service operated by him, in the case of a notice sent by registered post. The notice shall be deemed to have been received by the defaulter on the date on which it would have ordinarily been delivered to him in the course of post.

Recovery

of

contributory

levy

21. Where the amount of the contributory levy has not been paid before the expiry of the date referred to in a notice sent under subsection (5) of section 21, the Executive officer may issue a certificate containing the amount of the contributory levy and the name and last known place of residence or business of the person who has defaulted in paying such levy, to a Magistrate having jurisdiction in the division in which such place is situated. The Magistrate shall thereupon summon the defaulter before him to show cause why further proceedings for the recovery of the contributory levy shall not be taken against him, and in default of sufficient cause being shown, the levy in default shall be deemed to be a fine imposed by a sentence of the Magistrate on such defaulter for an offence punishable with fine only and not punishable with

imprisonment, and the provisions of subsection (1) of section 291 (except paragraph (a), (d) and (i) thereof) of the Code of Criminal Procedure Act, No.15 of 1979, relating to default of payment of a fine imposed for an offence shall thereupon apply and the Magistrate may make any direction which, by the provisions of that subsection, he could have made at the time of imposing such sentence.

(2) In every proceeding under subsection (1), the certificate signed by the Executive Officer shall be admissible in evidence without proof of signature, and shall be sufficient evidence that the sum specified in the certificate is due from the person specified therein as contributory levy and that such sum is in default.

(3) The Magistrate shall cause the sums recovered in a proceeding under subsection (1) to be transmitted to the Authority.

22. (1) The Authority shall have its own fund \ (hereafter referred to as the fund ).

(2) There shall be paid into the fund of the authority –

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

(b) all such sums of money as may be received by the Authority as contributory levy.

© all such sums of money as may be received by the Authority as rents on land and buildings, registration and licensing fees, processing fees, sale of any movable

or immovable property of the Authority and the sale of publications;

- (d) all such sums of money as may be received as donations from local and foreign sources.

(3) There shall be paid out of the Fund: -

(a) all such sums of money as are required to defray any expenditure incurred by the Authority in the exercise, performance and discharge of its powers, duties and functions under this Act;

(b) all such sums of money as are required to be paid out of the Fund, by or under this act;-

Power to  
borrow

23

(1) It shall be lawful for the Board subject to the approval the Minister, to borrow from the Government or any person or persons such sum or sums of money as may be necessary for any of the purposes of the Authority;

(2) For the purpose of securing the repayment of any sum or sums borrowed by the Board and interest accruing thereon, the Board may mortgage or assign, to the lender or lenders by or on whose behalf such sum or sums or any part thereof may be lent, any property belonging to the Authority or any other sums of money accruing to the Authority.

Audit and  
accounts

24.

(1) The Board shall cause proper accounts to be kept the income and expenditure, assets and liabilities and all other transactions of the Authority.

(2) The Financial Year of the Authority shall be the calendar year.

(3) The provisions of Article 154 of the Constitution shall apply to the audit of the accounts of the Authority.

(4) For the avoidance of doubt, it is hereby declared that the provisions of the Finance Act, No.38 of 1971 shall apply to, and in relation to, the Authority.

Investment of  
moneys of the  
Authority

25. Any sum of money belonging to the Authority may be invested by the Board in such manner as the Board may determine.

## **PART V**

### **GENERAL**

Power of the  
Minister  
make Orders

26. (1) The Minister may by Order published Gazette declare that any service of any class or description specified in the Order, being a service providing or intended to, or capable of, providing tourist travel or accommodation or refreshment or amusements or sports or other facilities or attractions to tourists, shall be a tourist service for the purpose of this Act.

(2) The Minister may, by Order publish in the Gazette, transfer the control of any rest house to and vest such control in, such person as may be specified in the Order.

(3) Every Order made 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.

(4) An order made under subsection (2) shall have effect notwithstanding anything to the contrary in any other law.

Power of

Minister to give  
directions

27. (1) In the exercise, discharge and performance of its powers functions and duties, the Board shall be subject to, and act in accordance with, such general or special directions as the Minister may from time to time, Issue.

Regulations

28. (1) The Minister may make regulations in respect of any matter required by this Act to be prescribed or in respect of which regulations are required or authorized by this Act to be made.

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

(3) Every regulation made by the Minister, shall as soon as convenient after its publication in the Gazette, be brought before Parliament for approval. Every 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.

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

(5) The Minister shall, in issuing directions under sub-section (1) with regard to any matter affecting the functions of any other Minister, act in consultation with that Minister.

Power of  
Authority to  
make rules

29. (1) The Board may make such rules as it may consider necessary in relation to any matter affecting or connected with, or incidental to, the exercise discharge and performance of its powers, functions and duties, of any matter in respect of which rules are required or authorized by this Act to be made.

(2) Every rule made by the Board shall be approved by the Minister and Notification of such approval in the Gazette.

Exemption from  
Customs duty

30. Notwithstanding anything in any other written law, the Director General Customs may, with the approval of the Secretary to the Ministry of the Minister in charge of the subject of Finance waive the customs duty articles imported by the Authority for any of its purposes.

Exemption from  
income tax

31. Notwithstanding anything in any other written law, the Authority shall be exempt from the payment of income tax upon the profits and income of the Authority

Powers of  
Authority to  
Inspect and  
Search

32. Any officer authorized by the Board (hereinafter referred to "an authorized officer") may,

- (a) enter and inspect any premises used for, or in connection with, the provision of any tourist service;
- (b) examine any book, register or record maintained on such premises in connection with such services and make extracts or copies therefrom;
- © interrogate any person found in such premises for the purpose of ascertaining whether the provisions of the



Act or any regulation made thereunder are being complied with,

Authority deemed

to be a

scheduled

Institution

Within the meaning  
of the Bribery

Act.

33. The Authority shall be deemed to be a scheduled institution

with the meaning of the Bribery Act, and the provisions of that Act shall be construed accordingly.

Protection of

of member of

the Board and

Officers of the

Authority for

action taken under

this Act or on the

direction of the Board

34. (1) No suit or precaution shall lie against any member of

the Board or any officer or servant of the Authority for any act which in good

faith is done by him under this Act or on the direction of the Board.

(2) Any expense incurred by the Authority in any suit or

prosecution brought by or against the Authority before any court shall be paid out

of the Fund and any costs paid to, or recovered by the Authority in any such suit

or prosecution shall be credited to the Fund.

(3) expense incurred by any such person as is referred to in

subsection (1) in any suit or prosecution brought against him before any court,

in respect of any Act which is done or purported to be done by him under this

Act or on the direction of the Board, shall, if the court holds that the act was

done in good faith, be paid by the Authority, unless such expense is recovered

by him in such suit or prosecution.

Member of Board

and and &c.

Being to be

Public Officers

35 Every member of the Board and every officer and servant of

the Authority shall be deemed to be public-servants within the meaning, and for

the purposes, of the Penal Code..

Returns

36. The Board may for the purpose of discharging the functions of the Authority under this Act, require any person to furnish to the Board, such returns or information in respect of such matters and in such form as may be determined by the Board.

Offences

37. Any person who :-

- (a) fails to furnish any return or information in compliance with any requirement imposed on him under this Act:-
- (b) knowingly makes any false statement in any return or information furnished by him under this Act,
- © willfully omits any matter in any return or information furnished him under this Act;-
- (d) resists or obstructs any authorized officer in the exercise by such officer of any power conferred on him by or under this Act.
- (e) contravenes the provision of this Act, or any regulation or rule made thereunder,

shall be guilty of an offence under this Act and shall on conviction after summary trial before a Magistrate be liable to a fine not exceeding fifty thousand rupees or to imprisonment for a term not exceeding one year or to both such fine and imprisonment.

Offence by  
bodies of  
persons

38. In the case of any offence under this Act committed by a body of persons, then -

(a) where such body of persons is a body corporate, every director, secretary and officer of that body corporate shall each be deemed to be guilty of that offence,

(b) where that body of persons is a firm, every partner of that firm shall be deemed to be guilty of that offence..

Provided that, no such person shall be deemed to be guilty of an offence under this Act. If he proves that the offence was committed without his knowledge or that he exercised all diligence to prevent the commission of the offence.

Repeal and  
savings

39. (1) The Ceylon Tourist Board Act No.10 of 1966 is hereby repealed.

(2) All property, movable and immovable vested on the day preceding the appointed date, in the Ceylon Tourist Board shall vest in the Authority, with effect from the appointed date.

(3) All contracts and agreements entered into, by or with the Ceylon Tourist Board and which are subsisting on the day preceding the appointed date, shall be deemed with effect from the appointed date, to be contracts and agreements entered into, by or with the Authority.

(4) All actions and proceedings instituted by or against the Ceylon Tourist Board and which are pending on the day preceding the appointed date shall, be deemed with effect from the appointed date, to be actions and proceedings instituted by, or against, the Authority, as the case may be, and may be continued accordingly.

(5) All decrees and awards entered or made by any court or tribunal in any action or proceeding instituted by, or against the Ceylon Tourist Board, and which remain unsatisfied on the day preceding the appointed date shall be deemed with effect from the appointed date to be decrees or awards entered or made for or against the Authority as the case may be and may be enforced accordingly.

(6) All liabilities of the Ceylon Tourist Board which are subsisting on the day preceding the appointed date shall, be deemed with effect from the appointed date, to be the liabilities of the Authority.

(7) All officers and servants of the Ceylon Tourist Board on the day preceding the appointed date, shall be offered employment with the Authority within one month of the appointed date on terms and conditions not less favourable than the terms and conditions on which they were employed on the day preceding the appointed date, by the Ceylon Tourist Board, and any such officer or servant who does not accept such offer within a period of two months of the appointed date, shall be entitled to the payment of such compensation as may be determined by the Cabinet of Ministers.

(8) Notwithstanding the repeal of Ceylon Tourist Board Act. No.10 of 1966, every rule, regulation or Order made under that Act and is in force on the day preceding the appointed shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to be a rule, regulation or Order, as the case may be, made under this Act and may be amended or rescinded by rule, regulation or order, as the case may be, made under this Act.

Sinhala 40. In the event of any inconsistency between the Sinhala and  
text to Tamil texts of this Act the Sinhala text shall prevail  
Prevail in  
Case of  
inconsistency.

41. In this Act, unless the context otherwise requires:-

**"Ceylon Tourist Board"** means the Ceylon Tourist Board established by the by the Ceylon Tourist Board Act, No.10 of 1966.

**"Local authority"** means any Municipal Council, Urban Council or Pradeshiya Sabha and includes any authority created or established by or under any law to exercise, perform and discharge, powers, duties and functions corresponding or similar to, the powers, duties and functions exercised, performed and discharged by any such Council or Sabha.

**"Provincial Council"** means a Provincial Council established by Chapter XV11 A of the Constitution:-

**"turnover"** in relation to a tourist service and any year means the total amount received or receivable from transactions entered into in respect of that service in that year.

**Proposed Company Limited by Guarantee  
Tourism Promotion Authority of Sri Lanka**

**October 2000**

ASKER S. MOOSAJEE

1st Floor, Parkway Building,  
No.48, Park Street, Colombo -2. Sri Lanka.  
Direct: 074-721778  
Tel: + 94-1-305959/60/61 Fax: +94-1-305962  
Telex: 23332 Serend CE E-Mail: gulliver@slt.lk  
SITA: CMBTOZB

October 13, 2000

Mr. H.M.S. Samaranayake  
Chairman  
CEYLON TOURIST BOARD  
80, Galle Road  
COLOMBO - 03

Dear Sir,

PROPOSED COMPANY LIMITED BY GUARANTEE - "TOURISM PROMOTION  
AUTHORITY OF SRI LANKA"

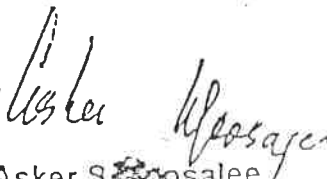
I am pleased to forward a draft of the proposed Company Limited by Guarantee which would take over the promotional activities of the Ceylon Tourist Board and also raise funds through the tourism oriented business in international and local promotion.

The Tourism Think Tank after considerable discussions has now finalised the framework of the company and on their behalf, I forward this to you.

I would suggest that we prepare a memorandum to be placed before the new Minister to be appointed in charge of Tourism and explain to him the objectives and obtain his support to prepare a cabinet paper to get the Government's approval.

Assuring you of my continued co-operation.

Yours faithfully,

  
Asker S. Moosajee

Enclosed as stated above.



# MEMORANDUM

OF

## ASSOCIATION

OF

### TOURISM PROMOTION AUTHORITY OF SRI LANKA

1. The name of the Company shall be " Tourism Promotion Authority of Sri Lanka ". ("hereinafter referred to as the "Authority")
2. The registered office of the Authority will be situated in the District of Colombo
3. The objects for which the Authority is established are:

#### Primary object:

- (a) the promotion of Sri Lanka as a destination for tourists:

#### Other Objects

- (a) to promote the development of tourist attractions and efficient services
- (b) to promote the protection and preservation of the social, cultural and natural heritage of Sri Lanka
- (c) To train or assist financially, the training of persons to do work connected with tourist services

#### B. ANCILLARY POWERS

- (a) to procure the Authority to be registered, incorporated or otherwise empowered or represented in any country or place outside the Democratic Socialist Republic of Sri Lanka.
- (b) to receive or collect fees, grants, gifts, donations, subsidies, endowments and subscriptions whether in cash or in material from members or donors in Sri Lanka or elsewhere
- (c) to collaborate with, assist and receive assistance from and promote other organization engaged in similar activities, whether in Sri Lanka or elsewhere
- (d) to enter into any contract, agreement or arrangement with any person, government, company or institution whether in Sri Lanka or elsewhere and to obtain from any such government or authority all rights, concessions and privileges that may seem conducive to the Authority's objects or any of them
- (e) to open and maintain current, saving and deposit accounts with any bank or other similar institution.

- (f) to borrow any monies for the purpose of the Authority on such terms and conditions upon such securities as may be determined
- (g) to make, repeal, alter or amend Rules and Regulations defining the Constitution and manner of management of the Authority and all necessary by-laws or ordinances for the smooth regulations and conduct of its affairs
- (h) In general to undertake such other lawful things from time to time as are incidental or conducive, and shall be deemed necessary for the promotion of the ideas and object of the Authority
- (i) To invest the moneys of the Authority not immediately required for its purpose or upon such investments, securities or property as may be thought fit subject nevertheless to such conditions as may for the time being be imposed or required by law -

Provided that:

- i) in case the Authority takes or hold any property which may be subject to any trusts, the Authority shall only deal with or invest the same in such manner as allowed by law, having regard to such trusts
- ii) the Authority shall not support with its funds any object, or endeavour to impose on or procure to be observed by its members or others, any regulation, restriction or condition which if an object of the Authority would make it a Trade Union

In case the Authority shall take or hold any property, the Authority shall not sell, mortgage charge or lease the same without the prior written authority, approval or consent of the Registrar of Companies and without such authority, approval or consent as may otherwise be required by law, and as regards such property the Board of Directors of the Authority shall be chargeable for any such property that may come into their hands and shall be answerable and accountable for their own acts, receipts, neglects, and defaults, and for the due administration of such property in the same manner and to the same extent as they would as such the Board of Directors or governing body have been if no incorporation had been affected.

- (j) To make, draw, accept, discount, negotiate, buy, sell and issue bills of exchange, cheque, promissory notes and other negotiable or transferable instruments or securities
- (k) Subject to restrictions either now existing or as may from time to time be imposed by Law, to purchase, take on lease or in exchange, hire or otherwise acquire and to sell and otherwise dispose of or deal with any movable or immovable property and any rights or privileges which the Authority may think necessary or convenient for the carrying out of the objects

- (l) To appoint, engage, employ, maintain, provide for and dismiss executive staff, attorneys, agents, Managers, Technicians, clerks, labourers, servants and other employees and to remunerate any such at a rate in such manner as shall be thought fit.
- (m) to establish and maintain an Endowment Fund, to accept donations and contributions thereto and to honour the directions or wishes of the donors as far as practicable, to make such rules and regulations dealing with the management and administration of the fund.
- (n) To grant pensions, allowances, gratuities, bonuses, and other benefits to officers, employees and ex-employees or the dependents or connections of any such persons, to establish, contribute to, and maintain funds or schemes (whether contributory or non- contributory) with a view to providing pensions, provident fund benefits, sickness or compassionate allowances, life assurance or other benefits for any such persons as aforesaid, their dependents or connections, and to support or subscribe to any charitable funds or institutions, the support of which may, be calculated directly or indirectly to benefit the Authority or its officers or employees.
- (o) to promote freedom of contract, and to resist, insure against counteract and discourage interference therewith and to subscribe to any association or fund for any such purposes.
- (p) To levy fees or other charges for services, facilities or equipment provided by the Authority.
- (q) to initiate various marketing strategies both in Sri Lanka and abroad with a view to promoting the tourist industry;
- (r) to conduct research programmes and planning and development programmes and schemes in relation to the tourist industry;
- (s) To assist financially or otherwise, any local authority, Provincial Council, public corporation, government Department, and by way of loan to any person or body of persons (whether corporate or unincorporated) operating or maintaining any tourist services for the purpose of doing any act or thing which is necessary for, or conducive to, the attainment of the objects of the Authority.
- (t) To engage, and to co-operate with tourist, travel and other agencies, in the display and distribution of exhibits and graphic materials designed to call attention to the attractions and places of interest in Sri Lanka, and in the collection, publication, and dissemination of information with respect to the places of interest routes, transportation facilities, tourist services and such other matters as the authority deems necessary for the attainment of its objects.
- (u) To do in Sri Lanka or elsewhere all such acts and things incidental or conducive to the attainment of the objects of the Authority
- (v) To do all or any of the matters and things mentioned in the preceding sub-paragraphs in any part of the world, and either as principals, agents, trustees, contractors or otherwise, and either alone or in conjunction with others and either by or through agents, subcontractors, trustees or otherwise.

4. The profits, income and property of the Authority whatsoever derived, shall be applied solely towards the promotion of the objects of the Authority as set forth in the Memorandum of Association, and no portion thereof shall be paid to or transferred directly or indirectly, by way of dividend, bonus or otherwise howsoever by way of profit, to the members of the Authority

Provided, that nothing herein shall prevent the payment in good faith, of reasonable and proper remuneration to any officer or servant of the Authority, or to any member of the Authority, in return for any services actually rendered to the Authority, or prevent the payment of interest at a rate not exceeding the rate authorized by the Central Bank for the time being, on money lent or reasonable and proper rent for premises demised or let by any member to the Authority; but so that no member of the Board of Directors or governing body of the Authority shall be appointed to any salaried office of the Authority or any office of the Authority paid by fees, and that no remuneration or other benefits in money or money's worth shall be given by the Authority to any member of such Board of Directors or Governing Body, except repayment of out of pocket expenses and interest at the rate aforesaid on money lent or reasonable and proper rent for premises demised or let to the Authority, provided that the provisions aforesaid shall not apply to any payment to any Company of which a member of the Board of Directors or governing body may be a member, and in which such member shall not hold more than one hundredth part of the capital, and such member shall not be bound to account for any share of profits he may receive in respect of any such payment.

5. Additions, alteration or amendment may be made to or in the provisions of the Memorandum or Articles of Association for the time being in force, provided the same shall have previously been submitted to and approved by the Registrar of Companies.

Further any such resolution for any addition, alteration or amendment to the Memorandum or Articles of Association of the Authority shall not be presented to a general meeting of the Authority unless the same shall have been previously approved by the Board of Directors.

6. The fourth and fifth paragraphs of this Memorandum contain conditions to which a license granted by the Registrar of Companies in pursuance of section 21(1) of the Companies Act No. 17 of 1982, is subject.
7. The liability of the members is limited.
8. Every member of the Board of Directors of the Authority undertakes to contribute to the assets of the Authority in the event of its being wound up while he is a member or within one year afterwards, for payment of the debts and liabilities of the Authority contracted before he ceases to be a member and the costs, charges and expenses of winding up and for the adjustment of the rights of the contributors among themselves such amount as may be required not exceeding (Rs 100/-) Rupees Hundred only.

9. If upon winding up or dissolution of the Authority there remains after the satisfaction of all its debts and liabilities and property whatsoever the same shall not be paid to or distributed among the members of the Authority but shall be given or transferred to some other Government institution or institutions having objects similar to the object of the Authority and which shall prohibit the distribution of its or their income and property amongst its or other members to an extent at least as great as is imposed on the Authority under or by virtue of Clause 4 hereof such institution or institutions to be determined by the members of the Authority at or before the time of dissolution or in default thereof by a judge having jurisdiction in regard to charitable funds and if and so far as effect cannot be given to the aforesaid provision than to some charitable object.
10. True accounts shall be kept of the sums of money received and expended by the Authority, and the manner in respect of which such receipt and expenditure takes place, and the property, credits and liabilities of the Authority and shall be open to the inspection of the Board of Directors. Once at least in every year, the accounts of the Authority shall be examined, by one or more properly qualified Auditor or Auditors.

We, the several persons whose names and addresses are subscribed hereto are desirous of being formed into a Company in pursuance of this Memorandum of Association

Names, addresses and Descriptions of the Subscribers

Signatures

Mr. Hewa. Malwattage Sugathapala Samaranayake  
Chairman,  
Ceylon Tourist Board  
No.80, Galle Road,  
Colombo 3.

Ministry of Tourism & Civil Aviation  
64, Galle Road,  
Colombo 3.

Dated this            Day of            in the Year Two Thousand.

Witnesses to the above signatures

NOTARY PUBLIC

Messrs. D. L & F De Saram  
Attorneys -At- Law  
47 Alexandra Place

**ARTICLES  
OF  
ASSOCIATION**

**TOURISM PROMOTION AUTHORITY OF SRI LANKA**

1. The rules contained in Table C of the First Schedule to the Companies Act No.17 of 1982 shall not apply to the Company which shall be governed by the regulations herein contained.

**INTERPRETATION**

In these Articles.

"the Act" means the Companies Act, No. 17 of 1982;

"the Authority" means the "Tourism Promotion Authority of Sri Lanka" established under these presents

"the Board" means the Board of Directors of the Authority;

"the Ceylon Tourist Board" means the Ceylon Tourist Board established under the Ceylon Tourist Board Act, No. 10 of 1966;

"the office" means the registered office of the Authority

"the Registrar" means the Registrar of Companies under the Companies Act, No. 17 of 1982

"the seal" means the common seal of the Authority

Expression referring to writing shall, unless the contrary intention appears, be construed as including references to printing lithography photography, and modes of representing or reproducing words in a visible form.

Unless the context otherwise requires, words or expressions contained in these articles shall bear the same meaning as in the Act or any statutory modification thereof in force at the date at which these articles become binding on the Authority.

Words importing the singular number shall include the plural and vice versa: and the words including the masculine gender shall include the feminine gender and the neuter gender and the words importing persons shall include corporations and Companies.

Marginal notes are inserted for convenience and shall not affect the construction or interpretation of these articles.

## MEMBERS

2. The number of persons which the Authority proposes to be registered is unlimited but the Board of Directors may from time to time register vary or amend the number of members.

- 1 (a) Any incorporated or unincorporated body of persons or natural persons providing tourist services or allied services and registered with the Ceylon Tourist Board may at the sole discretion of the Board of Management be admitted to membership of the Authority subject to the payment of a joining fee and an annual subscription fee calculated on the basis of the turnover of the person admitted as a member. The joining fee and the annual subscription fee is to be fixed and determined by the Board.
- (b) Any member whose subscription fees or any other dues are in arrears for more than three months shall be debarred from voting at any meeting of the Authority and all privileges of such member shall be suspended until full payment of all areas. The name of the member is liable to be removed by the Board from the register of members after one month's notice served at the registered office of the member in default unless complete payment of all arrears due has been made.
- (c) Membership shall ipso facto cease upon the occurrence of one of the following events
- (i) On receipt by the Board of a communication in writing by any member desiring to resign from membership.
  - (ii) If the member is adjudged by a competent authority as bankrupt or insolvent, suspends payment or compounds with his/its creditors or if a winding up order in the case of a body corporate is entered against it.
  - (iii) If the member is found guilty of infringement of the objects of the Authority or misconduct detrimental to the good name, reputation and interest of the Association by a disciplinary committee appointed by the Board.
  - (iv) If the membership is removed in terms of Article 3(b) above.



- (d) The Authority is established for the purposes expressed in the Memorandum of Association. The Board shall from time to time lay down rules pertaining to the criteria for membership so as to comply with any policy requirements of the Government of Sri Lanka.

#### GENERAL MEETINGS

4. The Authority shall in each year hold a general meeting as its annual general meeting in addition to the general meeting called the "General Meeting of Programme Review" held in terms of Article 4A, and shall specify the meeting as such in the notices calling it; and not more than fifteen months shall elapse between the date of one annual general meeting of the Authority and that of the next:

Provided that so long as the Authority holds its first annual general meeting within eighteen months of its incorporation, it need not hold it in the year of its incorporation or in the following year. The annual general meeting shall be held at such and place, as the Directors shall appoint.

- 4A. Prior to the commencement of each financial year a programme of activities together with budgetary estimates copies of which have been previously circulated to the members along with the requisite notice convening the meeting, shall be tabled at a general meeting called the General Meeting of Programme Review " of the members for the information of, and discussion by the general membership, the purpose of the meeting being to obtain the views of the membership in relation to the matters tabled before them for consideration by the Board.
5. All general meetings other than annual general meetings shall be called extraordinary general meetings.
6. The Directors may, whenever they think fit, convene an extra ordinary general meeting, and extraordinary general meetings shall also be convened on such requisition, or in default, may be convened by such requisitionists, as provided by section 128 of the Act. Where at any time there are not within Sri Lanka sufficient Directors capable of acting to form a quorum any Director or any two members of the Authority may convene an extraordinary general meeting in the same manner as nearly as possible as that in which meetings may be convened by the Directors.

#### NOTICE OF GENERAL MEETINGS

7. An annual general meeting and a meeting called for the passing of a special resolution shall be called by 21 days notice in writing at the least. A meeting other than an annual general meeting or a meeting for the passing of a special resolution shall also be called by Twenty one days in writing at least. The notice shall be exclusive of the day on which it is served or deemed to be served and of the day for which it is given, and shall specify the place, the day and the hour of meeting and, in case of special business, the general nature of that business shall be given in manner hereinafter mentioned or in such other manner if any, as may be prescribed by the Authority in general meeting to such persons as are, under the articles of the Authority entitled to receive such notices from the Authority.

Provided that a meeting at the Authority shall notwithstanding that it is called by shorter notice than that specified in this article be deemed to be valid.

- (a) in the case of a meeting called as the annual general meeting, by all the members entitled to attend and vote thereat; and
  - (b) in the case of any other meeting by a majority in number of the members having a right to attend and vote at the meeting, being a majority together representing not less than ninety-five percent of the total voting rights at that meeting of all the members.
8. The accidental omission to give notice of a meeting to or the non receipt of notice of a meeting by, any person entitled to receive notice shall not invalidate the proceedings at that meeting.

### PROCEEDINGS AT GENERAL MEETINGS

- 9. All business shall be deemed special that it transacted at an extraordinary general meeting, and also all that is transacted at an annual general meeting, with the exception of the consideration of the accounts and balance sheets, and the reports of the Directors and auditors, the appointment of and the fixing of the remuneration of, the auditors, and a Report of the activities that have been carried out by the Authority in the preceding financial year.
- 10. No business shall be transacted at any general meeting unless a quorum of members is present at the time when the meeting proceeds to business; save as herein otherwise provided, that seven members present in person or by Proxy shall be quorum.
- 11. If within half an hour from the time appointed for the meeting a quorum is not present, the meeting if convened upon the requisition of members, shall be dissolved; in any other case it shall stand adjourned to the same day in the next weeks, as the same time and place, or to such other day and at such other time and place as the Directors may determine, and if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting the members present shall be a quorum.
- 12. The Chairman, if any, of the Board of Directors shall preside as Chairman at every general meeting of the Authority or where there is no such Chairman, or if he shall not be present within fifteen minutes after the time appointed for the holding of the meeting or is unwilling to act, the Directors present shall elect one of their number to be Chairman of the meeting.
- 13. Where at any meeting no Director is willing to act as Chairman or where no Director is present within fifteen minutes after the time appointed for holding the meeting, the members present shall choose one of their number to be Chairman of the meeting.
- 14. The Chairman may, with the consent of any meeting at which a quorum is present (and shall if so directed by the meeting) adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjournment meeting other than the business left unfinished at the meeting from which the adjournment took place. When a meeting is adjourned for thirty days or more, notice of the adjourned meeting shall be given as in the case of an original meeting. Save as aforesaid it shall not be necessary to give any notice of an adjournment or of the business to be transacted at any adjourned meeting.

- 15 At any general meeting a resolution put to the vote of the meeting shall be decided on a show of hands.

A declaration by the Chairman that a resolution has on a show of hands been carried or carried unanimously, or by a particular majority, or lost and an entry to that effect in the book containing the minutes of proceedings of the Authority shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against such resolution.

16. In the case of an equality of votes, on a show of hands, the Chairman of the meeting at which the show of hands takes place or at which the poll is demanded, shall be entitled to a second or casting vote.
17. Subject to the provisions of the Act, a resolution in writing signed by all the members for the time being entitled to receive notice of and to attend and vote at general meetings, (or being corporations by their duly authorised representatives) shall be as valid and effective as if the same had been passed at a general meeting of the Authority duly convened and held.

#### VOTES OF MEMBERS

- 18 Every member shall have one vote.
- 19 A member of unsound mind or mentally deficient or in respect of whom an order has been made by any Court having jurisdiction in cases relating to persons of unsound mind or mentally deficient may vote by his manager or curator or other person in the nature of this manager or curator appointed by that Court.
- 20 No member shall be entitled to vote at any general meeting unless all moneys presently payable by him to the Authority have been paid.
- 21 The instrument appointing a proxy shall be in writing under the hand of the appointer or of his attorney duly authorised in writing or if the appointer is a corporation, either under seal or under the hand of an officer or Attorney duly authorised. A proxy need not be a member of the Authority.
- 22 The instrument appointing a proxy and the power of attorney or other authority, if any, under which it is signed or notarially certified copy of that power or authority shall be deposited at the registered office of the Authority or at such other place within Sri Lanka as is specified for that purpose in the notice convening the meeting, not less than forty eight hours before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote.
- 23 An instrument appointing a proxy shall be in the following form or a form as near thereto as circumstances admit:-
- .....Authority
- I/We.....of
- .....being a member/members of the above-named
- Authority, hereby appoint.....of
- .....or
- him.....of.....failing
- to vote for me/us on my/our behalf at the (annual or extraordinary, as the case may
- be) meeting of the Authority to be held on the.....day

and at any adjournment thereof.

Signed this                      day of                      2000

- 24 Where it is desired to afford members an opportunity of voting for or against a resolution and/or to speak at the meeting the instrument appointing a proxy shall be in the following form or a form as near thereto as circumstances admit-

".....Authority,

I/We.....of.....being a member/members of the above-named Authority hereby appoint.....of.....or failing him.....of.....as my/our proxy to vote for me/us on my/our behalf for/or against the resolution and/or to speak at the (annual or extraordinary, as the case may be) general meeting of the Authority, to be held on the                      day of.....2000... and at any adjournment thereof.

Signed this                      day of                      2000

25. A vote given in accordance with the terms of an instrument of proxy shall be valid notwithstanding the previous death or insanity of the principal or revocation of the proxy or of the authority under which the proxy was executed provided that no intimation in writing of such death, insanity or revocation as aforesaid shall have been received by the Authority at the office before the commencement of the meeting or adjourned meeting at which the proxy is used.

26.

#### **CORPORATIONS ACTING BY REPRESENTATIVES AT MEETING**

Any corporation or other entity which is a member of the Authority may, by resolution of its Directors or other governing body, authorize such person as it think fit to act as its representative at any meeting of the Authority and the person so authorised shall be entitled to exercise the same powers on behalf of the corporation which he represents as that corporation could exercise if it were individual members of the Authority.

#### **DIRECTORS**

- 27A The maximum number of Directors is Ten. (10). The names of the first directors shall be determined by the subscribers to the Memorandum in writing without prejudice to Article 27B.

#### **27B COMPOSITION OF THE BOARD OF DIRECTORS**

The Board of Directors of the Authority shall be constituted and composed in the following manner.

- (i) (a) The Chairman of the Ceylon Tourist Board or its successor, and
- (b) the Secretary to the Ministry of Tourism who is in charge of the subject of tourism.

- c. Representative of the Treasury, Ministry of Finance of the Government of Sri Lanka.
- ii. President of the Sri Lanka Tourist Hotels Association
- iii. President of the Travel Agents Association
- iv. President of the Sri Lanka Association of Inbound Tour Operators
- v. 3 persons from the private sector having experience and knowledge of, and contributed to the Tourist Industry
- vi. A Representative of the National Carrier – Sri Lanka Air Lines Limited

## 27C DIRECTORSHIP

- (i) In terms of sub clause (i) (a)(b) , (ii), (iii), (iv) of Article 27B the respective persons appointed as directors shall be exofficio directors.
- (ii) With regard to (i) (c) and (vi) of Article 27E. Treasury, Ministry of Finance Government of Sri Lanka and Sri Lanka Air Lines will respectively nominate their representatives to the Board of Directors. A director so nominated by any appointing authority may be removed from the Board and another appointed in his place by the appointing authority by a written notice served at the registered office of the Authority.
- (iii) the directors appointed in terms of sub clause (i) (a)(b) (c), (ii), (iii), (iv), and (vi) of Article 27B will appoint the 3 persons from the private sector having experience and knowledge of, and contributed to the Tourist Industry envisaged in Article 27(B)(v). The directors so appointed will hold office for a period of two years and at the end being eligible, can offer themselves for re-appointment by the Board of Directors.

## 27D ALTERNATE DIRECTORS

- (i) A director may with the consent of the Board of Directors appoint an alternate director in his place to represent and act for, the director first mentioned where he himself cannot be personally present and vote at any Board meeting.
- (ii) An alternate Director shall on giving an address for such notices to be served on him , be entitled to receive notices of all meetings of the board and to attend and vote as director at any such meeting at which the director for which he is an alternate is not personally present and generally to perform all the functions of his appointor as a director in the absence of such appointor.
- (iii) An alternate director may be appointed for a specified period or until the happening of a specified event . but he shall ipso facto cease to be an alternate director in any of the following events.
  - (a) Upon the return to Sri Lanka of his appointor

- (b) If the appointor ceases for any reason to be a director:
  - (c) If the alternate director shall have a receiving order made against him or compounds with his creditors or is adjudicated an insolvent.
  - (d) If the alternate director be declared a lunatic or becomes of unsound mind
  - (e) If the appointment of an alternate director is revoked by his appointor by a notice in writing left at the registered office of the Authority.
- 28 The Directors will not be entitled to any remuneration. The Directors however are entitled to reimbursement of out of pocket expenses properly incurred and may be paid all travelling, hotel and other expenses properly incurred by them in attending and returning from meetings of the Directors or any committee of the Directors or general meetings of the Authority or in connection with the business of the Authority.

#### **BORROWING POWERS**

- 29 The Directors may exercise all the powers of the Authority to borrow money and to mortgage or charge its undertaking and property, or any part thereof, and to issue debentures, debenture stock and other securities, whether outright or as security for any debt, liability or obligation of the Authority or of any third party

#### **POWERS AND DUTIES OF DIRECTORS**

30. The business of the Authority shall be managed by the Directors who may pay all expenses incurred in promoting and registering the Authority, and may exercise all such powers of the Authority as are not, by the Act or by these articles required to be exercised by the Authority in general meeting, subject nevertheless to the provisions of the Act or these articles and to such rule being not inconsistent with the aforesaid provisions as may be prescribed by the Authority in general meeting, but no regulation made by the Authority in general meeting shall invalidate any prior act of the Directors which would have been valid if that regulation had not been made.
31. The Directors may from time to time and at any time by power of attorney appoint any Authority, firm or person or body of persons whether nominated directly or indirectly by the Directors to be attorney or attorneys of the Authority for such purposes and with such powers, authorities and directions (not exceeding those vested in or exercisable by the Directors under these articles) and for such period and subject to such conditions as they may think fit, and any such power of attorney may contain such provisions for the protection and convenience of persons dealing with any such attorney as the Directors may think fit, and may also authorize any such attorney to delegate all or any of the powers authorities

and directions vested in him.

32. All cheques, promissory notes, drafts, bills of exchange and other negotiable instruments and all receipts for moneys paid to the Authority, shall be signed drawn accept endorsed or otherwise executed as the case may be in such manner as the Directors shall from time to time by resolution determine.
33. The Directors shall cause minutes to be made in books provided for the purpose -
- (a) of All appointments of officers made by the Directors;
  - (b) of the names of the Directors present at each meeting of the Directors and of any committee of the Directors;
  - (c) of all resolution and proceedings at all meetings of the Authority and of the Directors and of Committees of Directors

and every Director present at any meeting of the Directors or Committee of Directors shall sign his name in a book to be kept for that purpose

34. The Board shall be ultimately accountable and responsible to the Minister in charge of Tourism. Accordingly the Board shall
- (a) Within 6 months of the end of each financial year submit to the Minister a report of activities carried out by the Authority along with audited financial statements of the affairs of the Authority including its Fund, which the Minister pay table before the Parliament of the Democratic Socialist Republic of Sri Lanka, and
  - (b) Prior to the commencement of each financial year, submit to the Minister a programme of activities together with budgetary estimates for his consideration and comments.

#### DISQUALIFICATIONS OF DIRECTORS

35. The Office of Directors shall be vacated if the Director:-
- (a) without the consent of the Authority in general meeting holds any other office of profit under the Authority; or
  - (b) becomes bankrupt or insolvent or makes any arrangement or composition with his creditors generally; or
  - (c) becomes prohibited from being a Director by reason of any order made under the provisions of section 186(1) of the Act; or
  - (d) becomes of unsound mind; or
  - (e) resigns his office by notice in writing to the Authority; or
  - (f) ceases to be a Director by virtue of the provisions of section 181 of the Act; or
  - (g) is directly or indirectly interested in any contract with the Authority and fails to declare the nature of his interest in manner required by the provisions of section 203 of the Act

A Director shall not vote in respect of any contract in which he is interested or any matter arising thereout, and if he does so his vote shall not be counted

#### PROCEEDINGS OF DIRECTORS

36. The Directors may meet together for the despatch of business adjourn, and otherwise regulate their meetings, as they think fit. Questions arising at any meeting shall be decided by a majority of votes. In the case of an

equality of votes the Chairman shall have a second or casting vote. A Director may, and the Secretary on the requisition of a Director shall, at any time summon a meeting of the Directors. It shall not be necessary to give notice of a meeting of Directors to any Director for the time being absent from Sri Lanka

37 The quorum necessary for the transaction of the business of the Directors is four.

38 The continuing Directors may act notwithstanding any vacancy in their body, but if and so long as their number is reduced below the number fixed by or pursuant to the articles of the Authority as the necessary quorum of Directors, subject to Article 27B the continuing Directors or Director may act for the purpose of increasing the number of Directors to that number, or of summoning a general meeting of the Authority, but for no other purpose.

#### 39 ELECTION OF CHAIRMAN

The Directors may elect from amongst them, a Chairman of their meetings.

The Chairman shall hold office for a period of 3 years subject always to earlier termination of the office of chairmanship in the event he is no longer eligible to continue as a director in terms of these presents. If no such Chairman is elected, or if at any meeting the Chairman is not present within five minutes after the time appointed for holding the same, the Directors present may choose one of their number to be Chairman of the meeting.

#### 40 COMMITTEES OF DIRECTORS

The Directors may delegate any of their power to committees consisting of such member or members of their body as they think fit; any committee so formed shall in the exercise of the powers so delegated conform to any regulations that may be imposed on it by the Directors.

41 A committee may elect a Chairman of its meetings; where no such Chairman is elected, or if at any meeting the Chairman is not present within five minutes after the time appointed for holding the same, the members present may choose one of their number to be Chairman of the meeting.

42 A committee may meet and adjourn, as it thinks proper. Questions arising at any meeting shall be determined by a majority of votes of the members present, and in the case of an equality of votes of the Chairman shall have a second or casting vote.

43 All acts done by any meeting of the Directors or of a committee of Directors, or by any person acting as a Director, shall notwithstanding that it be afterwards discovered that there was some defect in the appointment of any such Director or person acting as aforesaid or that they or any of them were disqualified be as valid as if every such person had been duly appointed and was qualified to be a Director

#### RESOLUTIONS IN WRITING

44 A resolution in writing, signed by all the Directors for the time being shall be as valid and effectual as if it has been passed at a meeting of the Directors duly convened and held.

45 Directors meetings may be held by contemporaneously linking by telephone or other means of visual or oral communication of all the directors.



## SECRETARY

- 46 The Secretary shall be appointed by the Directors for such term, at such remuneration and upon such conditions as they may think fit; and any Secretary so appointed may be removed by them
- 47 A provision of the Act or these articles requiring or authorizing a thing to be done by or to a Director and the Secretary shall not be satisfied by its being done by or to the same person acting both as Director and as, or in place of the Secretary.

## THE SEAL

- 48 The Directors shall provide for the safe custody of the seal, which shall only be used by the authority of the Directors or of a committee of the Directors authorised by the Directors in that behalf and every instrument to which the seal shall be affixed shall be signed by a Director and shall be countersigned by the Secretary or by a second Director or by some other person appointed by the Directors for the purpose.

## ACCOUNTS

- 49 The Directors shall cause proper books of account to be kept with respect to the Fund of the Authority and -
- (a) all sums of money received and expended by the Authority and the matters in respect of which the receipt and expenditure takes place;
  - (b) all sales and purchases of goods by the Authority; and
  - (c) the assets and liabilities of the Authority

Proper books shall not be deemed to be kept if there are not kept such books of account as are necessary to give a true and fair view of the state of the Authority's affairs and to explain its transactions.

- 50 the books of account shall be kept at the registered office of the Authority, or subject to the provisions of subsection (3) of section 143 of the Act at such other place or places as the Directors think fit and shall always be open to the inspection of Directors
- 51 The Directors shall from time to time determine whether and to what extent and at what times and places and under what conditions or rules the accounts and books or the documents or any of them shall be open to the inspection of members not being Directors, and no members (not being a Director) shall have any right of inspecting any account or book or document of the Authority to except as conferred by statute or authorize by the Directors or by the Authority at a general meeting.
- 52 The Directors shall from time to time in accordance with the provisions of sections 144, 146 and 152 of the Act cause to be prepared and to be laid before the Authority at a general meeting such profit and loss accounts, balance sheets, group accounts (if any) and reports as are referred to in these sections.

- 53 A copy of every balance sheet (including every document required by law to be annexed thereto) which is to be laid before the Authority, in general meeting together with a copy of the auditor's report, shall not less than twenty-one days before the date of the meeting be sent to every member of, and every holder of debentures of, the Authority.

Provided that this article shall not require a copy of such documents to be sent to any person of whose address the Authority is not aware or to more than one of the joint holders of any debentures.

- 54 Auditors shall be appointed and their duties regulated in accordance with the provisions of sections 156 to 159 of the Act.

### NOTICES

- 55 A notice may be given by the Authority to any member either personally or by sending it by post to him or to his registered address, of (if he has no registered address within Sri Lanka) to the address, if any within Sri Lanka supplied by him to the Authority for the giving of notice to him. Where a notice is sent by post, service of the notice shall be deemed to be effected by properly addressing, preparing and posting a letter containing the notice, and to have been effected in the case of a notice of a meeting, at the expiration of twenty-four hours after the letter containing the same is posted, and in any other case at the time at which the letter would be delivered in the ordinary course of post.

- 56 Notice of every general meeting shall be given in any manner hereinbefore authorised to-

- (a) every member except those members who (having no registered address within Sri Lanka) have not supplied to the Authority an address within Sri Lanka for the giving of notice to them;
- (b) Every person being a legal personal representative or a trustee in bankruptcy or a member where the member but for his death or bankruptcy would be entitled to receive notice of the meeting.
- (c) The auditor for the time being of the Authority; and
- (d) The Registrar

No other person shall be entitled to receive notice of general meetings

### 57 FUND OF THE AUTHORITY

- (a) There shall be a Fund of the Authority
- (b) There shall be paid into the Fund
  - (i) all subscription and membership fees received from members,
  - (ii) all sums of monies received by the Authority whether by way of grants, gifts, donations, subsidies, endowments from donors in Sri Lanka or elsewhere, or in any other manner, in the carrying on of the business of the Authority or in the exercise of the powers, functions, and duties under these presents or any law that is applicable for the time being

- (c) There shall be paid out of the Fund all sums of money required to defray any expenditure incurred by the Authority in the carrying on of its business or in the exercise, discharge and performance of its powers functions and duties under these presents or any law that is applicable for the time being.
- (d) The Fund shall be subject to the administration and control of the Chief Executive Officer.

#### CHIEF EXECUTIVE OFFICER

- 58 (a) The Directors may appoint a person to be the Chief Executive Officer of the Authority who shall be the principal administrative officer of the Authority and who shall be a full-time officer of the Authority. The Chief Executive Officer shall be employed on such terms and conditions as shall be determined by the Board
- (b) If any vacancy occurs in the office of the Chief Executive Officer appointed under the preceding paragraph or if the Chief Executive Officer is by reason of illness, leave or other cause temporarily unable to perform the duties of his office, the Board shall make such arrangements as it may think fit for the carrying on the duties of this office.
- (c) The Chief Executive Officer shall, subject to the direction of the Board, be charged with the administration of the affairs, and the control of the staff, of the Authority. He shall also be responsible for the execution of all decisions of the Board,
- (d) The Chief Executive Officers may be permitted by the Directors to be present and speak, at any meeting of the Board or any committee thereof but shall not have any voting right
- (e) The Board may remove the Chief Executive Officer from office-
  - (i) if he becomes permanently incapable of performing his duties; or
  - (ii) if he has done any act or thing which in the opinion of the Board is of a fraudulent or illegal character or is prejudicial to the interests of the Authority; or
  - (iii) if he acts contrary to the directions of the Board
- 59. The office of the Chief Executive Officer shall become vacant upon the death, removal from office under Article 58 subsection (e) or resignation by letter in that behalf addressed to the Board, by the holder of that office.
- 60 The Directors may formulate its own Administrative and Disciplinary rules for the management of the staff and the affairs of the Authority
- 61 Subject to the provisions of the Memorandum of Association and these presents, the Directors may also formulate rules and regulations for the administration of the Fund of the Authority, receipt of fees and any other matter. The rules and regulations so formulated shall be circulated to the

62. If upon winding up or dissolution of the Authority there remains after the satisfaction of all its debts and liabilities and property whatsoever the same shall not be paid to or distributed among the members of the Authority but shall be given or transferred to some other Government institution or institutions having objects similar to the object of the Authority and which shall prohibit the distribution of its or their income and property amongst its or other members to an extent at least as great as is imposed on the Authority under or by virtue of Clause 4 of the Memorandum of Association hereof such institution or institutions to be determined by the members of the Authority at or before the time of dissolution or in default thereof by a judge having jurisdiction in regarded to charitable funds and if and so far as effect cannot be given to the aforesaid provision than to some charitable object.

63.

### AMENDMENT OF ARTICLES

Subject to the provisions of the Act the Articles of Association for the time being in force, may be amended by a special resolution passed by the members at a general meeting provided the amendments shall have previously been submitted to and approved by the Registrar of Companies and the Board of Directors.

IN WITNESS WHEREOF, the subscribers to the Memorandum of Association do hereby agree to the foregoing Articles of Association and have hereunto set and subscribed their names at the place and on the date hereinafter written.

Name, addresses and Descriptions  
of the Subscribers

Signature

Mr. Hewa. Malwattage. Sugathapala. Samaranayake  
Chairman,  
Ceylon Tourist Board  
No.80, Galle Road,  
Colombo 3.

Additional Secretary  
Ministry of Tourism & Civil Aviation  
64, Galle Road,  
Colombo 3.

Dated this                      day of                      in the Year Two Thousand

Witnesses to the above signatures

NOTARY PUBLIC  
Messrs. D. L & F De Saram  
Attorneys -At- Law  
47, Alexandra Place,  
Colombo 07

**An Act to provide for the establishment of a  
State Council known as The Sri Lanka  
Tourism Development Council  
for the development of the tourism industry;**

**and to provide the Legal Infrastructure  
to plan, implement, encourage, facilitate,  
train, educate personnel, regulate, monitor  
the entire industry and its allied industries.**

**September 2002**

AN ACT TO PROVIDE FOR THE  
ESTABLISHMENT OF A STATE COUNCIL  
KNOWN AS THE **SRI LANKA TOURISM  
DEVELOPMENT COUNCIL**; FOR THE  
DEVELOPMENT OF THE TOURISM INDUSTRY  
AND TO PROVIDE THE LEGAL  
INFRASTRUCTURE TO PLAN, IMPLEMENT,  
ENCOURAGE, FACILITATE, TRAIN, EDUCATE  
PERSONEL, REGULATE, MONITOR THE  
ENTIRE INDUSTRY AND ITS ALLIED  
INDUSTRIES.

**D R A F T    A C T**

**9<sup>TH</sup> September 2002**

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF A STATE COUNCIL KNOWN AS THE SRI LANKA TOURISM DEVELOPMENT COUNCIL; FOR THE DEVELOPMENT OF THE TOURISM INDUSTRY AND TO PROVIDE THE LEGAL INFRASTRUCTURE TO PLAN, IMPLEMENT, ENCOURAGE, FACILITATE, TRAIN, EDUCATE PERSONAL, REGULATE, MONITOR THE ENTIRE INDUSTRY AND IT'S ALLIED INDUSTRIES.

1. This Act may be called as Sri Lanka Tourism Development Act No..... of 2002, and shall come into operation on such date as the Minister may appoint by order published in the Gazette, as referred to in this Act as the "appointed date".

Short Title and date  
of operation

## PART I

### SRI LANKA TOURISM DEVELOPMENT COUNCIL

2. There shall be established a public Council which shall be known as Sri Lanka Tourism, Development Council which shall consist of persons who are for the time being members of that Council under section 6 (1) of this Act.

Sri Lanka Tourism  
Development  
Council

3. The Council shall, by the name assigned to it by section 2 , be a body corporate and shall have a common seal and may sue and be sued in that name.

The Council to be a  
body corporate

4. The objects of the Council shall be:-

- a. carrying out research programs and surveys in order to obtain current statistical data relating to tourism industry and to find out ways and means to develop the industry in Sri Lanka.
- b. To advise the Government on policy matters relating to short, medium and long term strategies to be adopted for the of promoting and developing the tourism industry.
- c. Encouragement and promotion of private sector participation in the tourism industry and it's promotional and training work.

- d. Development of suitable themes upon which Sri Lanka can be positioned in the global tourism market.
- e. Setting up standards to be maintained by all service providing enterprises and training institutes, and effective monitoring of strict adherence to such standards.
- f. Liaising and interacting with Government Institutions, Non Government Organizations, International Organizations concerning matters related to the Tourism Industry.
- g. To develop Sri Lanka as a tourist and travel destination.
- h. To enhance the contribution to the national economy from the tourism and travel sector.
- i. To do all such acts or things as may be necessary for, or conducive to, the attainment of the objects specified in paragraphs (a) to (h) of this section.

5.(1) The Council shall have power to do all such acts and things as may be necessary for, or conducive to, the attainment of its objects.

Powers of the  
Council

5(2) without prejudice to the generality of sub section (1) of this section the Council shall have all or any of the following powers:-

- a. to establish maintain and operate any services connected to the tourism industry and to make such services available to other persons engaged in the tourism industry or any allied industries,
- b. to assist financially or otherwise any person for the purpose of doing any act or thing which is necessary for or conducive to the attainment of the objects of the Council,



- c. to own, operate and maintain web portal on the internet and to levy charges from service providers in the tourism industry who subscribe to the promotional services provided by it
- d. to participate in the collection, publication and dissemination of information with respect to the places of interest, routes, transportation facilities, tourist services, and such other matters as the Council deems necessary for the attainment of its objects,
- e. to acquire, hold, take on lease, give on lease, hire, pledge and sell or otherwise dispose of any moveable or immovable property; however no such immovable property shall be so disposed of without the prior written approval of the Minister,
- f. advise and liaise with the Provincial Councils with in the geographical area of each Regional Council on matters pertaining to tourism incidental thereto;
- g. to do anything for the purpose of improving the efficiency and the quality of the services and facilities in the tourism industry and advancing the skills of persons employed to provide such services and facilities, including the provision by the Council and assistance of the provision by others of facilities for training persons required for carrying out various functions relating to the industry
- h. to make rules and prescribe procedures in respect of the administration of the affairs of the Council
- i. to delegate to any member or to any officer of the Council any such functions as the Council may consider necessary to delegate for the efficient transaction of business
- j. to enter into and perform directly or through any officer or agent authorized in that behalf by the Council, all such contracts as may be necessary for the performances of the functions and the exercise of the powers of the Council
- k. to arrange for insurance of moveable and

immoveable property belong to the Council

- l. subject to this Act to borrow money from any person organization or institution within or outside Sri Lanka or from the government of Sri Lanka
- m. to establish a provident fund and insurance scheme, welfare fund, recreational and accommodation facilities for persons employed by the Council and for persons in the employment of the government, provincial councils, or local authorities who may have to engage in work with the Council
- ✓ n. to make rules in relation to the officers and servants of the Council including their appointments, transfers, promotions, remunerations, disciplinary control, conduct, leave, working times, holidays and the grant of loans and advances of salary to them,
- o. to regulate the functions of providers of services in the tourism industry, issuances of licenses and other permits, functioning as the accreditation Council of the tourism industry and effective monitoring and control of the standards and quality of such services.
- p. subject to this act to levy such dues, fees, surcharges and other charges from persons obtaining services from the tourism industry and persons providing services in the tourism industry
- q. to establish a tourism development fund and the effective management of such fund
- r. to do anything necessary for or conducive or incidental to, carrying out the objectives of the Council
- s. to do all other things which in the opinion of the Council are necessary for carrying out its functions

6 (1) The Council shall consist of Fourteen members appointed by the Minister:-

Composition of the Council

- a. five (5) members nominated by Sri Lanka Hotel Association and the Sri Lanka Association of Travel and Tourism
- b. the person for the time being holding the post of Director General of the Council
- c. another Three (3) members who are identified as professionals contributors to the travel industry by the Minister

(2) The persons who are holding the post of Chairmen in the Regional Tourism Councils established under Part III of the Act shall be ex-officio members of the Council.

(3) a. The Minister shall appoint one of the members of the Council as referred to in paragraph 6.1 and 6.2(c) of sub section (1) of this section to be the Chairman of the Council

b. The Minister may appoint a person from the post of office of the Secretary to the Ministry of Tourism as an observer

(4) A person shall be disqualified for being appointed or for continuing as a member of the Council;

- a. If he becomes a Member of Parliament
- b. If he is convicted of any offence other than an offence in terms of the Motor Traffic Act
- c. If he has become bankrupt or had made an arrangement with his creditors
- d. If he is incapacitated by physical or mental illness

(5) Member of Council may resign from his office at any time by a letter addressed to the Minister

(6) Every member of the Council shall unless he earlier vacates office by death or resignation shall hold office for a period of three(3) years. Any member of the

Council who vacates office shall be eligible for reappointment.

- (7) No act or proceeding of the Council shall be deemed to be invalid by reason only of the existence of any vacancy amongst its members or any defect in the appointment of a member thereof

7. (1) Any member of the Council who is in anyway directly or indirectly interested in any contract made or proposed to be made by the Council shall disclose the nature of his interest at a meeting of the Council and such disclosure shall be recorded in the minutes of that meeting of the Council.

Disclosure of  
Members interest

- (2) Subject to the mandatory requirement of the disclosure the member who has an interest in the said contract the said member may take part in the deliberations and shall refrain from voting at the time of taking a decision in respect of the said contract.

8. The members of the Council may remunerated in such manner at such rates as the Minister may, in consultation with the Minister in charge of the subject of Finance determine.

Remuneration of  
Members

9. (1) The Chairman of the Council shall preside at every meeting of the Council at which he is present. In the absence of the Chairman at any meeting of the Council any member elected by the members present shall take the chair.

Proceedings of the  
Council

- (2) The person presiding at meetings of the Council in addition to his own vote shall have a casting vote.

- (3) The quorum for any meeting of the Council shall be five members unless otherwise agreed to by the members of the Council

- (4) The Council may make rules not inconsistent with the provisions of this Act for the regulation of procedure and the transaction of business at meetings.

## PART II

### STAFF AND DEPARTMENTS OF THE COUNCIL

10 (1) The staff of the Council shall consist of the following Staff of the Council

- a. a Director General of Tourism who shall be the Chief Executive Officer of the Council; and
- b. such other officers and servants as the Council may deem necessary for the proper and efficient conduct of the business of the Council.

(2) The Minister shall appoint the Director General of the Council in consultation with the Council.

(3) Subject to the other provisions of this Act, the Council,

- a. may appoint, remove and exercise disciplinary control over the staff of the Council
- b. may determine the salaries, wages and other remunerations taking into consideration the current market rates
- c. may determine terms and conditions of the service of such staff.

11. (1) The Council may establish and maintain such number of departments as may be necessary for the proper and efficient conduct of its business.

Departments of the  
Council

(2) The Council may determine the duties, functions and powers of the head of each department and other members of such departments.

12. (1) The Council may with the concurrence of the Minister appoint, from among its members or

Appointment of  
Committees

other persons who are not members, for the purpose which in the opinion of the Council would be necessary to set up such Committees.

(2). Such Committees shall be headed by a member of the Council.

✱ (3). The Council may subject to such conditions and restrictions as it may impose delegate to such Committee any functions, duties or powers vested in the Council in terms of this Act or any other law and any such functions, duties or powers shall be exercised by the Committee on behalf of the Council.

### PART III

#### ESTABLISHMENT OF REGIONAL COUNCILS

13. There shall be established five Regional Tourism Councils in respect of each region to be specified by the Minister in consultation with the Council.

Regional Tourism  
Councils

14. (1) The Regional Tourism Councils shall consist of;

Composition of  
Regional Councils

- a. Chairman and up to four members appointed by the Minister on the recommendation of the Council
- b. The Director of Tourism for each region appointed by the Minister on the recommendation of the Council
- c. One representative of the Provincial Ministries of Tourism of the Provinces coming within the region.

15. Each Regional Tourism Council shall

Functions of the  
Regional Tourism  
Councils

- a. advise the Council on the development of Tourism in the region;
- b. carry out tourism development activities as determined and assigned by the Council;

- c. advise the Council and other tourism promotion bodies on specific matters relating to the development of tourism industry in each region;
- d. provide or cause to provide any assistance for tourist enterprises in the region;
- e. develop and manage Tourist Development Zones, Tourist Resorts, Tourist Parks and other such facilities catering to tourists;
- f. advise and liaise with the Provincial Councils within the geographical area of each Regional Council on matters pertaining to tourism and incidental thereto;
- g. advise the Council and the Minister to declare certain areas as Tourist Development Zones, Tourist Parks, and Tourist Resorts and carry out the geographical demarcation of such areas once the declaration is so made;
- h. carry out any other functions specifically delegated by the Council.

16 (1) The staff of each Regional council shall consist of the following;

- a. The Regional Director of Tourism who shall be the Chief Executive Officer
- b. Such other officers and servants as the Regional Director may in consultation with the Council may appoint;

(2) All appointments shall be made by the Council and the officers and the servants of the Regional Councils shall be under the direct control of the Regional Director.

#### PART IV

#### NATIONAL INSTITUTE OF TOURISM

- 17. There shall be established a body corporate for the sole purpose of training personnel in all spheres of the tourism industry and shall consist of persons who are for the time being members of the Board of Governors of the

National Institute of  
Tourism

Institute in terms of section 21.

18. The National Institute of Tourism shall, by the name assigned to it by section 17, be a body corporate and shall have perpetual succession and a common seal and may sue and be sued in that name.

The Institute to be a body Corporate

19. The Objects of the Institute shall be:-

The Objects of the Institute

- a. Identification of areas connected to the Tourism Industry where training of personnel is needed;
- b. Development of curriculum in such areas of study so identified;
- c. Obtaining the services of the best academic and professional trainers;
- d. Co-operate with persons or bodies training persons to do work wholly or mainly connected with tourism;
- e. To award in recognition of the course followed by each individual certificates indicating the type of qualification obtained from the institute;
- f. To own, manage and participate in ownership and management of schools and training centers wholly or mainly connected with tourism;

20. For the purpose of attainment of its objects the Institute may exercise, discharge and perform the powers and functions conferred or imposed on the Institute by or under this Act or any other law in force for the time being.

The manner in which the objects are to be achieved

21. The Board of Governors of the Institute shall comprise of;

Board of Governors of the Institute

- a. Chairman of the Council
- b. The Chief Executive Officer of the Council;
- c. Two persons appointed by the Minister on the recommendation of the Council;
- d. Chief Executive Officer of the Sri Lanka Tourism Marketing Bureau;



- e. Eight persons appointed by the Minister out of Five nominees each submitted by Tourist Hotels Association, Sri Lanka Association of Travels and Tourism and Hotel School Graduates Association.;
- i. three representatives from the Tourist Hotels Association.
- ii. three persons nominated by Sri Lanka Association of Travel and Tourism.
- iii. two nominees from the Hotel School Graduates Association .
- f. two members who are professionals in travel and tourism appointed by the Minister
- g. minister shall appoint one of the above members as chairman of the institute.
- h. The Director of the Institute appointed in terms of section 22 (1) a

22.(1) The staff of the Institute shall consist of the following:-

Staff and  
Management of the  
Institute

- a. The Director of the Institute appointed by the Minister on the recommendation of the Board of Governors of the Institute;
  - b. Academic staff necessary for the conducting of educational programs who shall be appointed by the Institute with the approval of the Board of Governors ;
  - c. Such other officers and servants as the Board of Governors of the Institute shall deem necessary for effectively carrying out functions of the institute
- (2) The Director of the Institute shall be the chief executive officer of the Institute.
- (3) Subject to the other provisions of this Act the Board of Governors of the Institute;
- a. may appoint, terminate employment and exercise disciplinary control over the staff of

the Institute;

- b. may fix wages and salaries or other remuneration of such staff giving due consideration to current market rates;
- c. may determine the terms and conditions of such staff;
- d. may establish and regulate provident funds and such schemes for the benefit of such staff;

23.(1) The Institute may establish and maintain such number of departments as it may deem necessary for the proper and efficient conduct of its business.

Departments of the  
Institute

(2) Each department of the Institute shall be responsible for the administration and conduct of business such part of the Institute as may be determined by the Board of Governors of the Institute.

(3) The Head of each department of the Institute and the other members of the staff of the Institute attached to that department, shall exercise, discharge and perform such powers, functions and duties as may be determined by the Board of Governors of the Institute.

## PART V

### APPOINTMENT OF AN AGENT TO BE IN CHARGE OF THE TOURISM PROMOTIONAL ACTIVITIES

24.(1) The Minister may, by order published in the Gazette, appoint as an agent of the Council a company registered under the Companies Act No.17 of 1982 for the following purposes:-

Establishment of an  
Agency with  
Tourism  
Promotional Bureau

- a. the promotion of Sri Lanka as a quality tourist destination;
- b. the promotion of Sri Lanka as a gateway to

South Asian Region and the preferred transit point for the travelers visiting the South and South Asian regions.

- c. Making Sri Lanka known as a center of excellence in Tourism Management and development in the region.

(2) The Memorandum and the Articles of Association of such Agent shall not be amended without the written consent of the Council.

(3) The Minister may for the purposes of enabling the Agent to discharge his functions, make available to such Agent on such terms and conditions as may be determined by him in consultation with the Council, the use and control of any such moveable and immoveable property as is vested in the Council.

(4) The Agent shall maintain in good order all immoveable and moveable property made available to it under sub section(5) and shall not alter or change any such property or dispose of any interest therein without the prior written approval of the Minister.

25. The Council shall make an annual allocation of funds for the use of the Agent and the Agent shall make the optimum use of the funds allocated to it in the most effective manner.

Finances of the  
Tourism  
Promotional Bureau

26. The Agent shall at the end of each calendar year submit to the Council;

Compulsory  
Documents to be  
tendered to the  
Council by the  
Agent

- a. a report of it's work during that year
- b. a copy of it's audited annual accounts for the previous financial year.
- c. as prescribed by the Council a statement containing such particulars as an estimate of it's income and expenditure for the succeeding financial year.
- d. a projected forward plan for a period of Three future years.
- e. A statement containing achievements and performance relating to the forward plan presented by the Agent for the previous years.

## PART VI

### TOURISM ADVISORY COMMISSION

Tourism Advisory  
Commission

27.(1) For the purpose of advising the Minister and the Council on any matters in relation to the tourism industry, the Minister may,

a. constitute a Commission (hereinafter referred to as the Advisory Commission) consisting of not less than five and not more than eleven persons who possess a wide experience and qualifications in the tourism industry and allied industries; and

b. appoint one of such persons to be the Chairman of the said Advisory Commission

(2) It shall be the duty of the Advisory commission

a. to inquire into and report to the Minister on any matter as may be referred to it by referred to it by the Minister from time to time,

b. to ~~review the law and the regulatory framework~~ relating to the tourism industry from time to time and proposals for alterations

c. in attending to matters referred to in paragraph (a) and/or ( ) the Advisory Commission may take into consideration the views of the governmental authorities, local authorities, provincial councils, industry chambers and the general public where the Advisory Commission deems necessary.

(3) The Chief Executive Officer of the Council shall be an ex-officio member of the Advisory Commission

(4) The Minister may give special or general directions in writing as to the performance of the duties and the exercise of the powers of the Advisory Commission, and the Advisory Commission shall give effect to such directions.

(5) The Council may forward any matter directly or through the Minister for advise to the Advisory Commission and the Advisory Commission shall forward it's advise either directly or through the

**An Act to provide for the establishment  
of an authority called the Tourism Authority  
of Sri Lanka,**

**for the effective development and promotion  
of the tourist industry in Sri Lanka,**

**and for matters connected therewith and incidental thereto**

**February 1999**



සංචාරක කටයුතු සහ සිවිල් ගුවන් සේවා අමාත්‍යාංශය  
கற்புலாத் துறை. சிவில் விமான சேவைகள் அமைச்சு  
Ministry of Tourism and Civil Aviation

මගේ අංකය  
எனது இல.  
My No.

51-316-500(1)

ඔබේ අංකය  
உமது இல.  
Your No.

දිනය  
திகதி  
Date

සමාජික සාමාජිකයාගේ  
සාමාජික සාමාජිකයාගේ  
27.04.99

Very Urgent

Mr.H.M.S.Samaranayake,  
Chairman,  
Ceylon Tourist Board,  
Colombo-03.

**TOURISM AUTHORITY OF SRI LANKA BILL .**

I send herewith a copy of a draft received from the Legal Draftsmen's Department on above.

Please examine this draft and report to this Ministry immediately.

K. Marimuthu  
Addl. Secretary (Tourism),  
for Secretary.

27.04.99 ck/-

64, ගාලු පාර, කොළඹ 03.  
64, காலி வீதி, கොழும்பு இ.  
64, Galle Road, Colombo 03.



සාමාන්‍ය  
அதிகாரம்  
Gen. Office

441477  
441478  
441479  
441480

නරේ ඇමතිතුමා  
கேள்வல் அமைச்சர்  
Hon. Minister

Tel : 441464  
Fax : 441501

ලේකම්  
கேள்வல்  
Secretary

Tel : 441461  
Fax : 441500

Minister, as the case may be, within the shortest possible period.

- (6) The term of office of the members of the Advisory Commission shall be three years. Provided that a member appointed in place of a member who resigns or otherwise vacates office, shall hold office for the unexpired part of the term of office of the member who he succeeds.
- (7) Any member who vacates office by affliction of time shall be eligible for reappointment.
- (8)
  - a. Any member of the Advisory Commission may resign from office by letter addressed to the Minister.
  - b. where a member is temporarily unable to discharge his duties of his office on account of ill health, absence from Sri Lanka or any other cause, the Minister may appoint some other person to act as a member in his place for the period of his absence.
- (9) The Advisory Commission may with the approval of the Minister, appoint such officers or servants to assist the Advisory Commission in carrying out its duties under this Part.
- (10) The Members of the Advisory Commission and other officers and servants may be paid such remuneration out of the fund as may be determined by the Council.

## PART VII

## FINANCE AND ACCOUNTS

28.(1) For the purposes of this Act there shall be established a fund which shall be maintained in such manner by the Council in consultation with the Minister.

The Fund of the Council

(2) There shall be paid into the fund of the Council

- a. all such monies as may be voted by the Parliament for the use of the Council
- b. all sums of money received under different categories to the cess fund of the Council as established under section 29 of this Act.
- c. All sums of money received by the Council in the carrying on of it's business or in the exercise, discharge and performance of it's powers, functions and duties under this Act or any other written law;
- d. All such sums of money received by way of donations grants or in a similar manner;
- e. All such sums of money as are required to be paid into such fund by or under this Act.

(3) The Council is empowered to

- a. accept gifts and donations and undertake and execute any trusts which may lawfully be undertaken by the Council and may be conducive to its functions.
- b. Make charges for services provided by the Council or on behalf of the Council by an authorized agent, and for any certificate, license or approval granted by it for the purposes stated in this Act.

(4) There shall be paid out of the fund referred to in sub section(1) all sums of money required to defray any expenditure incurred by the Council in the discharge, exercise, performance of it's functions powers and duties under this Act and all sums of money as are required to be paid out of such fund by or under this



Act or any regulation made there under.

(5) An Auditor appointed by the Council at its initial General Meeting shall audit all accounts in the first year of the operations of the Council and an Auditor shall be appointed for this purpose at each Annual General Meeting of the Council.

(6) The Audited Accounts in terms of sub section (5) of this section and where any other books or documents are required to be forwarded, such audited accounts and or books and documents shall be forwarded to the Auditor General.

29. (1) The Council shall levy a cess on the following services:-

a. A prescribed amount on Air Ticket issued to and from Sri Lanka having an agreed stoppage in Sri Lanka;

b. A prescribed amount on passengers on passenger cruise, cruise vessels sailing to and sailing from Sri Lanka a journey by sea which has an agreed stoppage in Sri Lanka;

c. A prescribed amount on licensed tourist services operated by a licensed provider of tourist services;

d. Distribution of cess collection shall be in the proportion of following;

i. - 80% for Sri Lanka Tourism Marketing Bureau .

ii. 15% for National Institute of Tourism.

iii. 5% for the Council.

(3) The cess levied on each of the services mentioned above shall be properly accounted for and maintained by the providers of such services.

(4) The cess component shall be separately shown and accounted for by such service providers in all their receipts and accounts.

(5) A monthly statement in the prescribed manner

containing the details of the amounts collected as cess shall be forwarded to the Council by each such service providers prior to the 15<sup>th</sup> day of the succeeding month.

- (6) All monies collected on account of the cess charged by the Council shall be paid to the Council within 15 days of the submission of the monthly statement as stated in sub section (4) of this Section.
- (7) Every person who contravenes or fails to comply with sub section (4) and/or (5) of this section shall be guilty of an offence under this Act.

## PART VIII

### COMPULSORY ACQUISITION OF LAND, VESTING OF FRESHORE AND RESTHOUSES IN THE COUNCIL AND ALIENATION OF LAND,

30. (1) Where the acquisition of any land is necessary so as to make it available to the Council for the purpose of any tourist development project, whether such project is to be carried out by the Council or by any other person under the general direction and control of the Council, and the Minister by Order published in the Gazette approves the proposed acquisition so as to make such land so available :

Compulsory  
acquisition  
of land.

a. the purpose of that project shall be deemed to be a public purpose, and such land may be acquired under the Land Acquisition Act for the purpose of that project, and may be subsequently vested in the Council in the manner provided by subsection (2); and

b accordingly, no such Order, acquisition and subsequent vesting

shall be deemed to have been, and to be, invalid by reason only of the fact that such land is subsequently alienated by the Council to any other person for the purpose of carrying out that project under and in accordance with the provisions of this Act.

- (2) Where any land is, in pursuance of subsection (1), acquired under the Land Acquisition Act so as to be made available to the Council for the purpose of any tourist development project, the acquiring officer of the district in which that land is situated shall, after possession of that land has been taken for and on behalf of the State, by a certificate issued under his hand, vest that land in the Council, subject to such conditions or restrictions, if any, as may be specified in the certificate.
- (3) The expression "public corporation" in section 49A of the Land Acquisition Act shall be deemed to include the Council and that expression shall, for the purposes of that Act, be construed accordingly.
- (4) Where any land in any area is, in pursuance of the provisions of this part, acquired under the Land Acquisition Act for the purpose of being made available to the Council for any tourist development project, then, notwithstanding anything to the contrary in the Land Acquisition Act, in ascertaining the market value of the land for the purpose of determining the compensation payable in respect of that land, no account shall be taken of any benefit or increase in value which has accrued or of any expectation of any benefit or increase in value likely to accrue, directly or indirectly, from any work of development or any other operation carried out by the

Council, the Government or any other person for a tourism development purpose in pursuance of the provisions of this Act.

31. Where the Minister certifies that any State land is required to be made available to the Council for the purpose of any tourist development project, whether such project is to be carried out by the Council or by any other person under the general direction and purview of the Council :

Special grant or lease of  
State land to the Council

- (a) the purpose of that project shall be deemed to be a purpose for which a special grant or a lease of such land may be made to the Council under Section 6 of the State Lands Ordinance, and accordingly, the provisions of that ordinance shall apply to a special grant or lease of such land to the Council for the purpose of that project; and
- (b) accordingly, no such special grant or lease shall be deemed to have been, and to be, invalid, by reason only of the fact that such land is subsequently alienated to any other person for the purpose of that project under and in accordance with the provisions of this Act.

32. (1) Notwithstanding anything in the State Lands Ordinance or in any other written law, where the Minister certifies that any State land is required to be made available to the Council for the purpose of any tourist development project, whether such project is to be carried out by the Council or by any other person under the general direction and control of the Council, the Minister may, with the concurrence of the Minister to whom the subject or function of State Lands has been assigned by the President under the Constitution, by Order (hereafter in this Act referred to as a "vesting Order") published in the Gazette, vest such land in the Council, with effect from such date as shall be specified in the order, subject to such restrictions or conditions, if any, as may be so specified.

(2) A vesting Order shall have the effect of giving the Council absolute title to any land specified in the Order with effect from the date specified therein and free from all encumbrances.

(3) The vesting of any State land in the Council shall not be deemed to convey any right to any mineral, mineral product or mineral oil in, upon or under that land, unless otherwise expressly provided in the instrument of alienation and save as otherwise so expressly provided, any such mineral, mineral product and oil shall, notwithstanding any such vesting, be deemed to remain and shall remain the absolute property of the State.

33. Where any State land is, in pursuance of Section 3 or section 4 to be vested in the Council, the Chief Executive Officer of the Council may, if there is no plan of that land made by the Surveyor-General's Department, cause a survey and plan of that land to be made by a licensed surveyor approved by the Surveyor-General.

The Chief Executive Officer may cause a survey and plan to be made of any State land.

Where any land is, in pursuance of Section 29, compulsorily acquired under the Land Acquisition Act so as to be made available to the Council for the purpose of a tourist development project and is subsequently vested in the Council under this Act, no compensation or damages shall be payable by the Council to any other person for any loss incurred by him, whether directly or indirectly, or by way of business or otherwise, by reason only of the fact of such compulsory acquisition and subsequent vesting and, accordingly, such other person shall not be entitled to demand or receive such compensation or damages from the Council:

No compensation payable by the Council in respect of certain lands.

Provided, however, that nothing in the preceding provisions of this section shall be deemed or construed to prejudice or affect the right to compensation, to which any person interested in that land within the meaning of that Act is or was entitled, from the State or any other person under the provisions of that Act in respect of such compulsory acquisition, of that land.

## THE FORESHORE

35. (1) The Minister may, with the concurrence of the Minister to whom the subject or function of State Lands has been assigned by the President under the Constitution, by Order published in the Gazette, vest in the Council the administration, control, custody and management of any such part of the foreshore as shall be specified in the Order. Such Order shall come into force on the date of its publication in the gazette, or on such later date as may be specified therein.

Power to vest administration & c. of any part of the foreshore in the Council

- (2) For so long, and so long only, as any Order under subsection (1) is for the time being in force in respect of any part of the foreshore, the administration, control, custody and management of that part of the foreshore shall vest in the Council instead of the State, and accordingly section 58 of the State Lands Ordinance shall have effect in that part of the foreshore subject to the following modification, namely, as though the reference therein to the State were a reference to the Council.

36. (1) For so long, and so long only, as any Order under Section 35 is for the time being in force in respect of any part of the foreshore, any other enactment shall have effect in that part of the foreshore, subject to the modification that it shall be lawful for the Council :

(a) to make or issue for that part of the foreshore any subsidiary written law under any such other enactment; and

(b) to exercise, discharge or perform in that part of the foreshore all or any of the powers, functions or duties conferred or imposed on any Council or officer or person by any such other enactment,

in like manner as though references in any such other enactment to the Council, officer or person empowered to make or issue such subsidiary written law, or to exercise or discharge or perform such powers, functions or duties, include references to the Council.

- (2) For so long, and so long only, as any Order under Section 35 is for the time being in force in respect of any part of the foreshore, no Council or officer or person in whom any powers, functions or duties are conferred or imposed by any other enactment shall, within that part of the foreshore, exercise or discharge or perform any such powers, functions or duties except with the concurrence of the Council.

- (3) Regulations may be made under this Act, with the concurrence of the Ministers to whom the subjects or functions of Fisheries and Local Government have been assigned by the President under the Constitution, for the protection of the rights of fishermen using any part of the foreshore in respect of which an Order under Section 35 (1) is for the time being in force.

## PART IX

### ALIENATION OF LAND BY THE COUNCIL

37. (1) Without prejudice to the generality of the powers conferred on the Council by the Act, the Council may, with the approval of the Minister, alienate, for the purpose of any tourism development project, any land held by the Council, subject to :

Right of alienation of land held by the Council

- (a) such conditions as are specified in the succeeding provisions of this Chapter; and
- (b) such further conditions as the Council may, in its absolute discretion, deem necessary to specify in the instrument of alienation, and in particular, but without prejudice to the generality of the foregoing provisions of this paragraph, a condition to the effect that the alienation effected by such instrument may be cancelled or determined in the event of a failure to comply with any other condition specified in such instrument, or in the event of any money due to the Council under such instrument remaining unpaid for any such period as may be specified therein.

(2). Nothing in the State Lands Ordinance shall affect, or be deemed or construed to affect the alienation of any State land held by the Council for the purpose of any tourism development project.

(3) No land vested in the Council under the provisions of this Act or any other written law shall be alienated by the Council by way of gift.

38.(1) It shall be a condition of every alienation, by way of sale, of any land by the Council under this Chapter-

Conditions of alienation of land by the Council



- (a) that the vendee shall, at his own expense, carry out the provisions of any tourism development project for the time being in operation in respect of such land, and do all the necessary work and take all the necessary measures in, upon or in relation to such land or any structure thereon within the period specified by the Council in the instrument of alienation, or such further period as the Council may thereafter specify, from time to time
- (b) that, in the event of the vendee failing to do so within the period or further period so specified, the sale effected by such instrument may be cancelled or determined by the Council; and
- (c) that no loan or any other facility shall be granted by any approved credit agency on the mortgage of land alienated by the Council as security without the prior written consent of the Council and every such mortgage shall be substantially in such form as may be approved by the Council.
- (d) That in the event of the land being re-vested in the Council under Section 41 of this Act, any approved credit agency which may have granted any facility subject to a mortgage or such encumbrance in favour of such approved credit agency any payment to such approved credit agency would only be made in terms of Section 38 of this Act;
- (e) that the vendee shall have no right to any timber in or upon such land, and accordingly, that such timber shall, notwithstanding such alienation by way of sale, be deemed to remain the property of the Council

(2) It shall be a condition of every alienation, otherwise than by way of sale, of and land by the Council under this Chapter -

- a. that the alienee shall, at his own expense, carry out the provisions of any tourism development project for the time being in operation in respect of such land, and do all the necessary work and take all the necessary measures in, upon or in relation to such land or any structure thereon, within the period specified by the Council in the instrument of alienation, or such further period as the Council may thereafter specify, from time to time;
- b. that, in the event of the alienee failing to do so within the period or further period so specified, the alienation effected by such instrument may be cancelled or determined by the Council; and
- c. that no loan or any other facility shall be granted by any approved credit agency on the mortgage of land alienated by the Council as security without the prior written consent of the Council and every such mortgage shall be substantially in such form as may be approved by the Council.
- d. that in the event of the land being re-vested in the Council under Section 41 of this Act, any approved credit agency which may have granted any facility subject to a mortgage or such encumbrance in favour of such approved credit agency any payment to such approved credit agency would only be made in terms of Section 40 of this Act;
- e. that the alienee shall have no right to any timber in or upon such land, and accordingly, that such timber shall, notwithstanding such alienation remain the property of the Council.

39.(1)

Where any land alienated by the Council by way of sale under this Chapter re-vests in the Council under Section 41, the Council shall not be liable to pay to the vendee, and the vendee shall not be entitled to demand from, or to be paid by, the Council -

No compensation payable to alienee on re-vesting of land in the Council

- a the price at which the land was sold by the Council; or
- b the value of the land at the time of such re-vesting; or
- c the value of any improvements effected thereon by the vendee, whether or not for the purpose of the tourist development project for the time being in operation in respect of that land; or
- d the value of the goodwill of any industry, business or undertaking carried on in or upon such land; or
- e the value, as a going concern, of any such industry, or business or undertaking

(2) Where any right, interest or benefit under any alienation of land, otherwise than by way of sale by the Council under this Chapter, re-vests in the Council under section 41, the Council shall not be liable to pay to such alienee, and such alienee shall not be entitled to demand from, or to be paid by the Council -

- a the value of such right, interest or benefit; or
- b the value of any improvements effected on such and by the alienee, whether or not for the purpose of carrying out the provisions of the tourist development project for the time being in operation in respect of that land; or
- c the value of the goodwill of any industry, business or undertaking carried on in or upon such land; or
- d the value, as a going concern, of any such industry or business or undertaking

40.(1) Where any land alienated by the Council, by way of sale, under this Chapter which is subject to a mortgage or encumbrance in favour of an approved credit agency entitled to notice under the second proviso to Section 40, reverts in the Council under Section 41, the Council shall pay to such approved credit agency, either -

Payments by the Council  
to approved credit agency  
on reversion of land

- a. the price at which the land was sold by the Council, or the value of the land at the time of such reversion, whichever is less, together with the value of any improvements effected thereon by the vendee for the purposes of the tourist development project for the time being in operation in respect of land; or
- b. the amount due on the mortgage or encumbrance in favour of such approved credit agency;  
whichever is less.

(2) Where any right, interest or benefit under any alienation of land, otherwise than by way of sale, by the Council under this Chapter is subject to any mortgage or encumbrance in favour of any approved credit agency entitled to notice under the second proviso to Section 17 reverts in the Council under Section 41, the Council shall pay to such approved credit agency the value of such right, interest or benefit together with the value of any improvements effected on such land by the alienee for the purpose of carrying out the provisions of the tourist development project for the time being in operation in respect of such land, or the amount due at the time of the cancellation or determination of such alienation, whichever is less.

(3) "Value" in relation to any land or improvements on such land, means, for the purposes of the proceeding subsections, the value as assessed by the Chief Valuer of the Government.

In the assessment of such value none of the following facts shall be taken into account by such Chief Valuer

- a. the goodwill of any industry, business or undertaking carried on in or upon such land;  
and

b. the fact that any such industry, business or undertaking was a going concern.

(4) No payment in respect of any improvements shall be made by the Council under Subsection (1) or subsection (2), unless such improvements have been in conformity with the provisions of the tourist development project then in operation in respect of the land.

(5) No payment shall be made by the Council to any approved credit agency in respect of any land subject to any mortgage or encumbrance in favour of such agency, unless such agency discharges the mortgagor or encumbrance, as the case may be, from the obligation arising on such mortgage or encumbrance to the extent of such payment.

41. It shall be lawful for the Council or any member thereof or any person acting under the Council or the Chief Executive Officer of the Council to enter into or upon any land alienated by the Council under this Chapter for the purpose of ascertaining whether the provisions of any tourism development project for the time being in operation in respect of such land are being or have been carried out on such land, and to inspect such land or any structure thereon or any measures taken for that purpose;

Power of the Council to enter and inspect certain lands.

Provided, however, that no person shall enter or inspect such land in pursuance of the power conferred by the preceding provisions of this section except with the consent of the alienee of such land or the occupier, or after giving such alienee or occupier not less than seven days' notice of the intention to do so.

42. Where the alienation of any land by the Council under this Chapter becomes liable to cancellation or determination by virtue of the operation of -

Cancellation of instruments of alienation of land

(a) the provisions of Section 36, or

(a) any condition specified in the instrument of alienation to the effect that such alienation is liable to cancellation or determination in the event of a failure to comply with any other condition specified in such instrument, or in the event of any money due to the Council

under such instrument remaining unpaid for any period specified in such instrument the Council may, by endorsement on such instrument, cancel such alienation, and thereupon such alienation shall be determined accordingly:

Provided, however, that no such endorsement shall be made on such instrument until the alienee of such land has been afforded an opportunity of showing cause against the proposed cancellation or determination;

And provided, further, that where such land is subject to any mortgage or encumbrance in favour of any approved credit agency, no such endorsement shall be made on such instrument until such agency has been given written notice of the proposed cancellation if, but only if, such agency had notified in writing to the Council the existence of such mortgage or encumbrance, and had also furnished the Council the name and address of such agency to which such notice may be given

43. Where the instrument of alienation of any land is cancelled or determined by the Council under this Chapter, such land shall re vest in the Council, and the provisions of Sections 43 and 44 read with provisions of the State Lands (Recovery of Possession) Act shall apply to the ejectment of the occupants of such land.

Cancellation or determination of instrument of alienation of land and ejectment of occupants.

44. No alienee of any land or other person shall be entitled to any compensation or damages for any loss incurred by him, whether directly or indirectly, or by way of business or otherwise, by reason only of the cancellation or determination of the instrument of alienation of such land by the Council under this Chapter,

No compensation or damages for loss incurred by reason of the cancellation or determination of any instrument of alienation of any land.

45. (1) Where any land is vested in the Council under Section 2 or Section 9, or is made over to the

Procedure in ejectment of occupant, &c, of land held by the Council.

Council by way of a special grant or lease under the State Lands Ordinance, read with Section 3 of this Act, or reverts in the Council under Section 18, the Chief Executive Officer of the Council may in writing order any person in possession or occupation of that land to vacate the land within the time specified in such order.

- (2) Where any land is vested in the Council under any of the provisions of this Act and the Minister has reason to believe that as the result of any action taken or proposed to be taken by the Council or the Chairman of the Council any person or persons will be de-housed in such manner as to cause hardship to such person or persons the Minister may take such steps as he deems necessary to provide alternative accommodation to such person or persons or to direct the Council to pay any sum or sums by way of adequate compensation to such person or persons out of moneys specially provided by parliament to the Council for that purpose.

46. Where any person on whom any order under section 47 is served fails to vacate the land to which that order relates within the time specified in that order, he may be ejected from the land under the provisions of the State Lands (Recovery of Possession) Act..

Section 120 to 127 of the  
Land Development  
Ordinance made  
applicable to ejectment of  
occupants, & c.

## PART X

### PROTECTION OF HIGHWAYS AND PLACES OF SCENIC BEAUTY AND ENVIRONMENT

- 47 (1) Regulations may be made by the Minister under this Act, prescribing a code comprising such provisions as may appear to the Council competent to make such regulations necessary and proper for the purposes of the promotion of the safety and recreational value of public travel, and of the preservation of natural and scenic beauty.

- (2) Without prejudice to the generality of the powers conferred by subsection (1), the Minister may make regulations under this Act, in respect of all or any of the matters for the time being specified under this

Code for the protection of  
highways, & c.

Part of this Act, and for all other matters connected therewith or incidental thereto.

- (3) Without prejudice to the generality of the powers conferred by sub section (1), the minister may, with the concurrence of the minister to whom the subject or function of Environment has been assigned by the president under the Constitution, make regulation under this Act in respect of matters relating to the environment protection and prevention of pollution of the environment in any manner which would have an adverse impact on the tourism industry.

- 48.(1) No State land situated within any area declared to be a scenic reserve under the Regulations referred to in Section 45 (1) shall be alienated under the provisions of any written law, except with the prior approval given in writing by the Minister.

State land within any area declared to be a scenic reserve not to be alienated without the prior approval of the Minister

- (2) Any such alienation of State land in breach of the provisions of Subsection (1) shall, for all purposes, be null and void.

49. Neither the provisions of the Prescription Ordinance nor those of any other law relating to the acquisition of rights by virtue of ownership, possession or user, shall apply in respect of advertisements, buildings, structures, alterations or junk yards erected, displayed or maintained in contravention of the provisions of the Code referred to in Section 45 (1), and no person shall be entitled to any exclusive rights of ownership, possession or user in respect of any advertisement, building, structure, alteration or junk yard erected, displayed, or maintained on any road or reserve or other place in contravention of such provisions, either before or on or after the appointed date.

Provisions regarding prescription not to apply in certain cases



REGULATION OF PRICES, FEES, RATES AND  
CHARGES IN RESPECT OF TOURIST SERVICES AND  
REGISTRATION OF TOURIST ENTERPRICES

Order by Chairman fixing  
maximum prices, & c., in  
respect of tourist services.

50 (1) The Chairman of the Council may, where it appears to him to be expedient so to do, after consultation with any other price regulation Council constituted under any other written law, by order regulate the prices, rates, fees or charges that may be imposed, levied, demanded or recovered by any tourist service. Such order is in this Act referred to as a "Price Regulation Order".

(2) Any price Regulation Order-

- a. may be made operative to all tourist services throughout Sri Lanka, or may be limited in its operation to tourist services in any such place or area in Sri Lanka as may be specified in the order;
- b. may be limited in its application to any such description of tourist services as may be so specified;
- c. may regulate prices, rates, fees or charges in respect of tourist services of different descriptions or different classes of tourist services of the same description; and
- d. may prescribe the conditions subject to which such prices, rates, fees or charges may be imposed, levied, demanded or recovered by any such services, including conditions as to quality and standards of the amenities or facilities afforded by any such services.

- (3) a Without prejudice to the generality of the powers conferred by the preceding provision of this section, the Chief Executive Officer of the Council shall, in making any price Regulation Order, primarily have regard to the necessity of ensuring that any description of tourist services of any one class shall be entitled to impose, levy, demand or recover higher maximum prices, rates, fees or charges than any other lower class of tourist services of the same description.

- b. For the purposes of this Chapter, the term "class", in relation to any tourist service of any description, means the classification allotted or given to that tourist service in the register maintained for the purposes under the provisions for the time being of any Code applicable in the case of such tourist service.

(4) Every price Regulation Order shall come into operation when such Order is made and signed by the Chairman of the Council.

(5) After any price regulation Order has been signed by the Chairman of the Council, public notice thereof shall forthwith be given -

a. by publication of such Order in the Gazette

b. in such manner as may be prescribed by regulations made for the purpose under this Act.

(6) Every price contr. Regulation Order shall, as soon as may be after the date on which it comes into operation, be placed before the Minister for his consideration, and the Minister may thereupon approve or rescind the Order.

(7) Where any price Regulation Order is rescinded by the Minister under Subsection (6), notice of such rescission shall be published in the Gazette, and the order shall be deemed to be rescinded with effect from the date of such publication, but without prejudice to anything done or suffered thereunder or any right, obligation or liability acquired, accrued or incurred thereunder.

(8) Where any price Regulation Order has been approved by the Minister, notification of such approval shall be published in the Gazette.

51 (1) Notwithstanding that a price regulation Order in respect of any tourist service has been approved by the Minister, that order may at any time be revoked by the Chairman of the Council -

Revocation of price  
Regulation order

- a. by a new price Regulation Order in respect of that tourist service; or
- b. by an order published in the Gazette

Every Order under paragraph (b) of this subsection shall take effect on the date of the publication thereof in the Gazette or on such later date as may be specified therein; and nothing in subsections (6), (7) and (8) of Section 48 shall apply in the case of any such Order

- (2) The rescission by the Minister or the revocation by the Chairman of the Council of any price regulation Order in respect of any tourist service shall not be deemed to prejudice or affect the power of the Chairman to make a new price control Order in respect of that tourist service.

52. (1) Where any price regulation Order is for the time being in operation, the proprietor or manager of every tourist service to which that Order relates shall -

Duty of proprietor or manager of tourist services to maintain register of prices.

- a. maintain, or cause to be maintained, a register of prices, rates, fees or charges levied in respect of each of the services provided by such proprietor or manager and referred to in the Order;
- b. make, or cause to be made, such register available for inspection by the Chief Executive Officer of the Council or any person authorized in writing in that behalf by the Chief Executive Officer; and
- c. exhibit, in a conspicuous place and in such manner as may be directed by the Chief Executive Officer, a list of the prices, rates, fees or charges referred to in that Order.

53. A (1) The Minister may, on the recommendation of the Council by order published in the Gazette declare certain businesses as Tourist Enterprises and certain services provided in connection with the tourism industry as Tourist Services.

Registration and Licencing of Tourist Enterprises and specified Tourist Services

(2) Such Tourist Enterprises and Tourist Services shall be Licensed and registered by the Council under different classifications.

(3) Fees payable for such licensing and/or registration shall be specified in the order published in the gazette.

(4) The Council shall establish rules of procedure relating to classification, maintenance of minimum standards, inspection of the capabilities of maintaining such standards by the tourist enterprise or specified tourist service prior to issuance of License and/or registration.

(5) No tourist enterprise or specified tourist service shall carry on business unless licensed and/or registered with the Council.

(6) The License so issued and/or the registration of Tourist Enterprises and specified tourist services shall be valid for a period of one year and the renewal of such registration and licensing shall be done according to the rules established under (4) of this act.

(7) No business enterprise or person shall use any name title or addition that the business enterprise or such person has been registered and/or to provide such service under such business enterprise or the person as the case may be, has been registered and/or classified and/or licensed.

B (1) The symbol of the Council shall be the water Lillie which is the national flower depicted in the manner set out in the schedule to this Act.

(2) No person shall without the sanction of the Council use the symbol of the Council.

(3) Any person who without the permission of the Council uses the symbol of the Council or a symbol or representation so nearly representing the symbol of the Council enabling a third party to be misled or confused, such person shall be guilty of an offence under this Act.

PART XI

GENERAL

Protection in respect of action  
done on behalf of the Council  
in good faith

54.. (1) No suit or prosecution shall lie

- a. against the Council for any act which in good faith is done or purports to be done by the Council under this Act. Or any Order made thereunder;
- b. against any member , officer, servant or agent of the Council for any act which in good faith is done or purports to be done by him under this Act or any Order made thereunder , or on the direction of the Council.

(2) Any expense incurred by the Council in any suit or h-prosecution brought by or against the Council before any Court shall be paid out of the Fund of the Council , and any cost paid to , or recovered by, the Council, in any such suit or prosecution shall be credited to the Fund of the Council.

55. No writ against person or property shall issue against a member of the Council in any action brought against the Council.

56. Every instrument purporting to be an instrument issued by the Council and to be sealed as required by this Act. Or to be signed by or on behalf of the Council shall be received in evidence and be deemed to be such an instrument without further proof until the contrary is shown.

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

58. The Council or any person authorized in that behalf by the Council may by notice require any person to furnish to the Council or the person so authorized , within such period as shall be specified in the notice, all such returns or information relating to all such

matters as may be necessary to enable the Council (to prepare tourist or other schemes under this Act. And as are with in the knowledge of that person .

59. The Council or any person authorised in that behalf by the Council may, for the purpose of the exercise or performance of the powers or duties conferred or imposed on the Council under this Act, enter upon or into any land or structure situated in the area and may make such inspections, surveys, examinations or inquiries as may be necessary for any such purpose.

60. (1) Any notice, order, instrument, Service of or other document required under this or any Order made thereunder to be served on any person may be served ;

- a. by delivering it to that person ; or
- b. by leaving it at the usual or last known place of abode of that person, or in the case of a body corporate, at the Registered office of that body ; or
- c. to a person at his usual or last known place of abode or in the case of a body corporate, to the Registered office of that body ;

(2). Any document which is served in accordance with the provisions of subsection (1) shall be deemed to have been duly served on the person to whom it is addressed.

61. Any local Council or other body of persons (whether corporate or unincorporated) , Notwithstanding anything to the contrary in any written law or instrument relating to its functions enter in to and perform all such contracts with the Council may be necessary for the exercise, discharge or performance of the powers, functions or duties of the Council.

Power of bodies of persons to enter in to

62. (1) Contracts on behalf of the Council may be made as follows.

- a. A contract if made between a private person would be by law required to be in writing, may be made on behalf of the Council in writing;

Contracts by or on behalf of the Council

b. a contract which if made between private persons would be by law required to be in writing, signed by the parties to be charged therewith, may be made on behalf of the Council in writing signed by any person or persons duly authorized thereto as hereinafter provided and

(2) A contract made according to this section may be waived or discharged in the same manner in which it is authorized by this section to be made

63. (1) No person who is not registered by the Council under this Act as fit and suitable for employment in any tourist service,

Prohibition of the use of certain words or doing of certain acts

a. shall use any name, title, addition or description; or

b. shall do any act or thing, implying or calculated to imply, or giving or calculated to give the impression, that such service is registered or approved by the Council, unless such service is so registered or approved, as the case may be

implying or calculated to imply, or giving or calculated to give the impression, that he is so registered

(2) No person shall in or in connection with the operation of any tourist services,

a. use any name, title, addition or description; or

b. do any act or thing, imply or giving or calculated to give the impression, that such service is registered or approved by the Council, unless such service is so registered or approved as the case may be.

(1) the Minister in consultation with the Council may from time to time make by Order publish in the Gazette make

Power to make Regulations

Regulations relating to any matter in the Act.

(2) The Council may make Rules in respect of all or any matters for which rules are authorized or required by this Act or by any Regulation made thereunder, to be made

(3). No Rule made by the Council under this Act shall have effect until it has been approved by the Minister

64 (1). The Council may make Rules in respect of all or any matter for which Rules are authorized or required by this Act to be made

Power to make Rules

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

65. (1) The Minister may from time to time, by Order published in the Gazette, declare that any service of any class or description specified in the Order, being a service providing, or intended to or capable of providing, tourist travel, or accommodation or refreshment or amusements or sports or other facilities or attractions of any kind whatsoever, to tourists, shall be a tourist service for the purposes of this Act.

Power of Minister to make Regulations

(2). The Minister may from time to time, by Order published in the Gazette, transfer the control of any resthouse to, and vest such control in, such person as may be specified in the Order.

(3). Every Order made under the preceding provisions of this Section shall come in to force upon the date of its publication in the Gazette or on such later date as may be specified therein.

(4). Every Order made under the preceding provisions of this Section shall, upon its coming into force as herein before provided, be as valid and effectual as if it were herein enacted.



- (5). Any Order made under sub section (2) shall have effect notwithstanding anything in the Resthouses Act or any Order made thereunder.

66. (1) Every person who -

a. knowingly makes any false or incorrect statement in any application, return or other document made or furnished under or for the purposes of this Act or any Order made thereunder ; or

Offences

b. false or refuses to furnish any information or return required by this Act , or any Order made thereunder , to be furnished by him; or

c. resists or obstructs any person in the exercise , discharge or performance of any power , function or duty conferred or imposed upon that person by or under this Act or any Order made thereunder,

shall be guilty of an offence

(2) Every person who contravenes any provision of any Order made under this Act , other than any such provision relating to any matter or thing referred to in subsection (1) , shall be guilty of an offence

Penalties for offences

67. Every person who commits an offence , offences under this Act shall, on conviction after summary trial before a Magistrate be liable to a sentence of up to two years imprisonment or a fine of not more than Two Hundred Thousand Rupees or both. Such fine and imprisonment.

68 No prosecution for an offence under this Act shall be instituted in any Court except with the written sanction of the Council.

No prosecution without  
sanction of Council

69. Where an offence under this Act is committed by a body of persons , then, -

Offences by bodies of persons

a. if that body of persons is a body corporate , every director and officer of that body corporate; or

b. if that body of persons is a firm , every partner of that firm,

shall be deemed to be guilty of that offence ;

Provided however , that a director or an officer of such body corporate , or a partner of such firm , shall not be deemed to be guilty of such offence if he proves that such offence as committed without his knowledge or that he exercise al, due diligence to prevent the commission of such offence.

70.(1) Any offence under this Act may , if no prosecution for such offence is pending be compounded by the Chief Excecutive Officer of the Council on the payment by the accused of such sum of money as may be determine by the Director General of the Council or if a prosecution for such offence is actually pending, be so compounded by the Director General of the Council with the concurrence of the Magistrate up on recording reasons for such compounding of the offence.

(8) Compounding of an offence under this section shall have the effect of an aquital.

(3) Monies paid by the accused person for the purpose of compounding an offence shall be credited to the fund of the Council .

71.The Ceylon Tourist Board Act No 10 of 1966 & amended and the Tourist Development Act No 14 of 1968 as amended are hereby repealed with effect from such date as the Minister may appoint by Order published in the Gazette.

72.(1) Until specific Regulations are made in terms of the provisions of the Act, the provisions of Third Schedule, Forth Schedule, Fifth Schedule, Sixth Schedule and the Seventh Schedule of the Tourist Development Act No: 14 of 1968 as amended, and the provisions of any codes made thereunder , shall be effective as those provisions are made under this Act.

Transition Prvisions

(2) The permits and the licensee issued in terms of the provisions of the Tourist Board Act No 10 of 1966 as amended and the Tourist Development

Act No 14 of 1968 as amended shall be effective subject to conditions, restrictions and limitations stated therein until new license are issued in terms of this Act.

73. In this Act, unless the context Interpretation, otherwise requires ;

Interpretation

"Fund" means the Fund of the Council .

"local Council" includes any Municipal Councils , Urban Council or Pradeshiya Sabhas ;

"Minister" means the Minister to whom the subject or function of tourism has been assigned by the President;

"the Council" means the Sri Lanka Tourism Development Council established under this Act;

"resthouse" means a public resthouse, and includes any premises appertaining to any resthouse , and any ambalama , maddum or otherc public buildings for the shelter of travelers;

"tourist" means a person traveling to, from or in Sri Lanka , whether or not such person is a resident of Sri Lanka;

"tourist scheme" means a tourist scheme prepared by the Board under this Act;

"tourist service" means a service of any class or description declared to be a tourist service for the purpose of this Act by any Order made by the Minister under this Act, and the expression ' tourist services' shall be construed accordingly;

"tourist" travel means tourist travel to , in from Sri Lanka;

"the institute "means the Training Institute established in terms of this Act;

" the Regional Council" means a Regional Council established in terms of Section 12 of this Act;

" alienation" with its grammatical variation and cognate expressions, means any transaction of whatever nature affecting land or the title thereto, and includes any conveyance, transfer, grant, surrender, exchange, lease or mortgage of lands;

" State land" means all land in Sri Lanka to which the State is lawfully entitled or which may be disposed of by the State and includes all rights and privileges attached or appertaining to such land;

" foreshore" means the shore of the Island of Sri Lanka between the high water mark and the low water mark;

" instrument of alienation" means any instrument or document whereby any alienation of land is effected and includes a grant, lease, permit or license relating to land;

" Schedule" means Schedule to this Act;

"Approved credit agency" means any Commercial Bank within the meaning of the provision of Monetary Law Act

**An Act to provide for the establishment of  
the Sri Lanka Tourist Development Council;  
to vest the said Council with such powers as are  
necessary for facilitating the planning  
and implementation of the policy  
relating to the tourism industry  
and other related industries;  
to provide for the establishment of  
Regional Tourism Committees:  
to provide for the Regulation and  
Monitoring of the Industry:  
to repeal the Ceylon Tourist Board Law,  
No.10 of 1966 and the repeal of  
certain provisions of the  
Tourist Development Act. No.14 of 1968: and  
to provide for matters connected  
therewith or incidental thereto.**

**December 2004**

L.D. O 77/2002

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF THE SRI LANKA TOURISM DEVELOPMENT COUNCIL; TO VEST THE SAID COUNCIL WITH SUCH POWERS AS ARE NECESSARY FOR FACILITATING THE PLANNING AND IMPLEMENTATION OF THE POLICY RELATING TO THE TOURISM INDUSTRY AND OTHER RELATED INDUSTRIES; TO PROVIDE FOR THE ESTABLISHMENT OF REGIONAL TOURISM COMMITTEES; TO PROVIDE FOR THE REGULATION AND MONITORING OF THE INDUSTRY; TO REPEAL THE CEYLON TOURIST BOARD LAW, NO. 10 OF 1966 AND THE REPEAL OF CERTAIN PROVISIONS OF THE TOURIST DEVELOPMENT ACT, NO. 14 OF 1968; 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  
and date of  
operation.

1. This Act may be cited as the Tourism Act, No. of 2003 and shall come into operation on such date as the Minister may appoint by Order published in the Gazette (hereinafter referred to as "the appointed date").

## PART I

### CHAPTER 1

#### SRI LANKA TOURISM DEVELOPMENT COUNCIL

Establishment of  
the Sri Lanka  
Tourism  
Development  
Council.

2. (1) There shall be established for the purposes of this Act, a Council called the Sri Lanka Tourism Development Council (hereinafter referred to as "the Council").

(2) The Council shall by the name assigned to it by subsection (1) be a body corporate with perpetual succession and a common seal and may sue and be sued in such name.

(3) The seal of the Council shall be kept in the custody of the Council and may be altered in such manner as may be determined by the Council.

(4) The seal of the Council shall be affixed to all instruments signed by or on behalf of the Council, in the presence of the Chairman and two members of the Council who shall sign such document in token thereof.

Objectives of the  
Council.

3. The objectives of the Council shall be-

- (a) to develop Sri Lanka, as a tourist and travel destination;
- (b) to advise the Government on matters relating to travel and the tourism industry;
- (c) to enhance the tourism and travel sectors in order to secure a contribution for the social development and sustainable use of the natural and cultural heritage of Sri Lanka and for the expansion and development of Sri Lanka's economy;
- (d) to promote the development of adequate, attractive and efficient tourist services, inclusive of the hospitality industry;
- (e) to supervise and co-ordinate plans to promote Sri Lanka as a tourist and travel destination;
- (f) to license and accredit tourist enterprises in order to develop, enforce and maintain standards in relation to the tourism industry and other related industries.

Composition of the  
Council.

4. The Council shall consist of the following persons appointed  
by the Minister-

- (a) the Chairman of the Council;
- (b) the Managing - Director of the Council appointed  
under section 10, (hereinafter referred to as "the  
Managing Director"). ;
- (c) the Chairmen of the Regional Tourism Committees  
(hereinafter referred to as "the Committees")  
established under section 23;
- (d) two members nominated on the recommendation of  
the Association representing Tourist Hotels;
- (e) two members nominated on the recommendation of  
the association representing the travel and tourism  
sectors; and
- (f) three members from among persons who have gained  
recognition in connection with the travel and tourism  
industry.

Disqualification  
from membership  
of the Council  
&c.,.

5. (1) A person shall be disqualified from being appointed or  
from continuing, as a member of the Council, if he is or becomes-

- (a) the owner, partner, director, majority shareholder or  
an employee of, or in any business which operates or  
provides tourist services of any class or description;
- (b) a member of Parliament or a member of a Provincial  
Council or of a local authority;



- (c) is convicted of an offence involving moral turpitude;
- (d) of unsound mind or physically incapacitated;
- (e) an undischarged bankrupt or an insolvent; or
- (f) is absent without prior notice from three consecutive meetings of the Council:

Provided however that the provisions of paragraph (a) shall not apply in respect of a member appointed in terms of paragraphs (d), (e) and (f) of section 4.

(2) Every appointed member of the Council shall unless he earlier vacates office by death or resignation, hold office for a period of three years from the date of his appointment to such office and shall be eligible for re-appointment.

(3) A member of the Council may resign from office, at any time by letter addressed in that behalf to the Minister.

(4) Every appointed member of the Council shall unless he earlier vacates office by death or resignation, hold office for a period of three years from the date of his appointment to such office and shall be eligible for re-appointment:

Provided however that a member appointed in terms of paragraphs (c) and (d) of section 4, shall not be eligible for reappointment.

(5) A member appointed under paragraphs (d) and (e) of section 4, shall disclose his interest in the event of his becoming an owner, partner, director, majority shareholder or employee of any business which operates or provides tourist services of any class or description. Such member shall not participate in any deliberation or decision of the Council in respect of any

matter connected with such interest:

Provided that it shall be lawful for the Minister at any time, require any member appointed by him to the Council, to furnish him with any information in respect of the matters set out in this section.

(6) A member of the Council, who is in any way, directly or indirectly interested in any contract entered into, or proposed to be entered into by the Council, shall disclose the nature of his interest at any meeting of the Council and such disclosure shall be recorded in the minutes of the Council. Such member shall not participate in any deliberation or decision of the Council in respect of any matter connected with such interest.

(7) No act or proceeding of the Council shall be deemed to be invalid only by reason of the existence of a vacancy in its membership or any defect in the appointment of a member thereof.

(8) The Minister may, if it is expedient to do so, remove from office any member of the Council other than the Managing Director, without assigning reasons therefor.

(9) The Chairman, Managing - Director or an appointed member may resign from his office, by letter addressed to the Minister. Such resignation shall be effective from the date of its acceptance by the Minister.

(10) In the event of the death, resignation or removal of the Chairman or any appointed member, the Minister may appoint another person to succeed such Chairman or member as the case may be. The person so appointed shall hold office for the unexpired portion of the term of office of the member whom he succeeds.

(11) Where the Chairman or any appointed member is temporarily unable to perform the duties of his office on account of ill-health, absence from Sri Lanka or for any other cause, the Minister may appoint any person

to act in the place of the Chairman or such member.

Preparation and approval of the long terms goals, and the four year plan.

6. The Council shall formulate and present to the Minister –

- (a) the proposed long terms goals for tourist development in Sri Lanka;
- (b) the proposed four year plan for the development of tourism within Sri Lanka.

(2) The Minister shall on receipt of the long term goals and the four year plan under subsection (1), submit the same to the Cabinet of Minister for approval. The Cabinet of Ministers may approve the long term goals and the four year plan with or without amendments. Upon the long term goals and the four year plan being approved by the Cabinet of Ministers, the Minister shall cause the same to be placed before Parliament.

Meetings of the Council &c.,

7. (1) The Chairman of the Council shall preside at all meetings of the Council. In the absence of the Chairman from any such meeting any member elected by the members present shall preside at such meeting.

(2) The Chairman or the person presiding at any meeting, shall in addition to his vote, have a casting vote.

(3) The quorum for any meeting of the Council, shall be five members, unless otherwise agreed upon by the Council.

(4) The Council may make rules for the regulation of the procedure to be followed at the meetings of the Council and for the transaction of business at such meetings.

Head office of the Council.

8. The principal office of the Council shall be situated in Colombo, in Sri Lanka. The Board may however establish and maintain branch office within or outside Sri Lanka.

Delegation of  
powers of the  
Council.

9. (1) The Council may delegate all or any of the powers, duties or functions conferred on it or assigned to it, by this Act or any other written law, to the Chairman. Notwithstanding such delegation, the Council may continue to exercise, perform and discharge any power, duty or function, so delegated.

(2) In the exercise, discharge and performance, of the powers, duties and functions conferred on or assigned to him in terms of section (1), the Chairman shall be subject to the general or special directions of the Council.

The Managing -  
Director-to be  
the Chief  
Executive  
Officer.

10. (1) There shall be appointed by the Minister on the advice of the Council a person to be the Managing - Director, who shall be the Chief Executive Officer of the Council. The procedure to be followed in the appointment of the Managing Director shall be as prescribed.

(2) The Minister may, on a request made in writing by the Council for reasons stated, and after such inquiry as is necessary, remove the Managing - Director from office for reasons assigned. The Managing - Director shall thereupon be deemed to have vacated office.

(3) The Council may on a proposal of the Chairman delegate to the Managing - Director such power or function as is deemed necessary. The Managing - Director shall act in accordance with rules of the Council as may be made in that behalf.

(4) The Managing - Director shall hold office for a period of five years from the date of his appointment as the Managing - Director to such office.

Powers &c. of the  
Chairman.

11.(1) The Chairman shall be responsible for ensuring co-ordination of the activities of the Regional Tourism Committees.

(2) The Chairman shall preside at all meetings of the Council and in his absence any member elected by the members present shall preside at such meeting.

Powers and  
functions of the  
Council.

12. The Council may exercise, perform and discharge all or any of the following powers, duties and functions:-

- (a) to act with the approval of the Minister, as an agent of the government for the transaction of business connected with the tourism or travel industry;
- (b) to engage in, assist in or promote the improvement of facilities being provided for tourists to Sri Lanka and to develop Sri Lanka as a tourist destination;
- (c) to co-ordinate the activities of the enterprises providing such services for tourists;
- (d) to prescribe, regulate, maintain and enforce the standards to be maintained by the different enterprises of the tourism and travel industry;
- (e) to license the different enterprises, on criteria to be determined by the Council and to prescribe the terms and conditions applicable to the same;
- (f) to acquire, hold, take on lease, hire, pledge or otherwise dispose of any movable or immovable property; however immovable property may be disposed of only with the prior written consent of the Minister ;

- (g) to engage consultants both local and foreign, whenever the need to do so arises for the efficient discharge of its functions;
- (h) to promote and assist in the development of support industries and services;
- (i) to establish companies or other bodies in order to facilitate the achievement of the objectives of the Act;
- (j) to make rules in respect of matters specified in the Act;
- (k) with the approval of the Minister to borrow money, whether by way of overdraft, loan or otherwise for the purposes of the Board;
- (l) to levy fees or other charges for services, facilities or equipment provided by the Council;
- (m) to exercise, perform and discharge all such powers, duties and functions as are by or under this Act vested in or assigned or delegated to the Council; and
- (n) to do all such other acts and things as may be necessary or conducive to the exercise, performance and discharge of its powers, duties and functions under this Act.

Special duties of  
the Council.

13. It shall be the duty of the Council –

- (a) to advise the Minister on all matters relating to the tourism and travel industry on a request of the Minister or on its own motion;
- (b) to advise the tourism and travel industry and other related enterprises with regard to the developments in the field;
- (c) to prepare and submit to the Minister schemes in respect of the establishment, regulation and supervision, development and control of tourists resorts and tourist services and the persons employed in or about the same;
- (d) to formulate proposals in respect of the above for the guidance of the Minister.

Remuneration and terms and conditions of service of members.

14. The members of the Council shall be remunerated at such rates and in such manner and be subject to such terms and conditions of service, as may from time to time, be determined by the Minister in consultation with the Minister of Finance.

Staff of the Council.

15. (1) There may be appointed to the staff of the Council and the Committees established under section 23, such officers and servants as the Council may deem necessary for the efficient discharge of the powers, function and duties assigned to the Council and the Committees under the Act.

(2) The Council may, subject to the general directions of the Minister as to policy-

- (a) appoint, dismiss and exercise disciplinary control over the staff of the Council;

- (b) determine the salary, wages or other remuneration of such staff;
- (c) determine the terms and conditions of service of such staff;
- (d) establish and regulate a provident fund or a scheme for the benefit of such staff and may make contributions towards such fund or scheme.

(3) The Council may, appoint to the staff of the Committees, on a recommendation made to it by the Committees, such officers and servants as the Council deems necessary.

Office, and  
departments and  
Committees of the  
Council.

16. (1) The Council may establish and maintain such departments as it may consider necessary for the proper and efficient conduct of the affairs of the Council and the Committees.

(2) The Council may determine the duties and functions to be assigned to each of the departments established under subsection (1).

(3) The Council may with the concurrence of the Minister appoint such number of Committees comprising of its members or any other persons, to assist the Council in the discharge of its functions. Such Committees shall at all times be headed by a member of the Council.

(4) The Council may make rules setting out the functions of such Committees.

Power of Council to  
make rules.

17. (1) The Council may make rules relating to the exercise, performance and discharge of the powers, duties and functions vested in, or assigned to, the Council, in respect of any matter for which rules are authorized to be made.



(2) Every rule made under subsection (1) shall come into operation upon publication in the Gazette.

Council to comply with  
Directions issued by the  
Minister.

18. (1) The Minister may, in consultation with the Council, issue general policy directions to the Council, not inconsistent with the provisions of the Act, in relation to the exercise, performance and discharge by the Council of its powers, duties and functions.

(2) The Council shall give effect to any such directions issued by the Minister.

(3) The Council shall also furnish to the Minister such information as the Minister may from time to time require in relation to the activities and property of the Council.

Fund of the Council.

19. (1) There shall be a Fund established for the general financial purposes of the Council. There shall be paid into the Fund -

- (a) any grants made by the Government of Sri Lanka for the management and administration of the affairs of the Council;
- (b) all rates, taxes, duties, fees, charges and penalties levied by the Council under the by-laws or rules made or deemed to be made under the provisions of this Act or in the exercise of any powers conferred on the Council by or under this Act;
- (c) all revenue derived by the Council from any property vested in or administered by the Council;
- (d) all revenue derived by the Council from services provided by the Council and the Committees; and

(e) all money received by way of charges for services provided by the Council or on behalf of the Council by an authorized agent, and for any certificate, license or approval granted by it for the purposes stated in the Act;

(f) all other sums otherwise accruing to the credit of the Council.

(2) The Council shall make rules, with the concurrence of the Minister, for the withdrawal of any moneys from the Fund and no sum shall be withdrawn from the Fund except in accordance with such rules.

Audit of accounts.

20. (1) The Council shall cause proper accounts to be kept of its assets and liabilities, income and expenditure and all other transactions of the Institute.

(2) The provisions of Article 154 of the Constitution shall apply to the audit of the accounts of the Institute.

(3) (a) The Council shall on receipt of the Auditor-General's report in respect of any year, cause the report of the Director-General on the administration of the affairs of the Institutel which shall contain a detailed report of the steps taken for the furtherance of the objectives of the Act, to be transmitted to the Minister along with the following documents :-

(i) the Auditor-Generals' report;

(ii) the Balance Sheet; and

(iii) the Profit and Loss Account.

(b) The Minister shall cause copies of the report and documents transmitted to him under paragraph (a) to be laid before Parliament.

(4) The financial year of the Council shall be the calendar year.

(5) The Council shall have the power, where the Auditor - General considers it to be necessary, to engage the services of qualified accountants to assist in the preparation of the reports and accounts required by this section.

For the purposes of this section "qualified accountant" shall have the same meaning as in Article 170 of the Constitution.

Members, officers and servants of the Council deemed to be public servants.

21. Every member, officer or servant of the Council shall be deemed to be a public servant within the meaning of and for the purposes of the Penal Code.

Council deemed to be a Scheduled Institution within the meaning of the Bribery Act.

22. The Council shall be deemed to be a Scheduled Institution within the meaning of the Bribery Act, and the provisions of that Act shall be construed accordingly.

## CHAPTER II

### ESTABLISHMENT OF THE REGIONAL TOURISM COMMITTEES

Establishment of the Regional Tourism Committees.

23. There shall be established for the purpose of promoting tourism and generating economic growth, a Regional Tourism Committee (hereinafter referred to as "the Committee) in respect of each of the Regions established by section 27 of the Board of Investment Act, No. of 2003.

Constitution of the Committees.

24. (1) Each Committee shall consist of the following members to be appointed by the Minister --

(a) a Chairman;

(b) a Director of Tourism for the Region (hereinafter referred to as the "Director");

(c) a representative of each Provincial Ministers in charge of the subject of Tourism from the Provincial Councils coming within a Region;

(d) two members from amongst entrepreneurs within the region or who are engaged in activities connected with the tourist or travel industry within the Region; and

(e) two members from among persons who have gained recognition in connection with the travel and tourist industry in the Region.

(2) A member appointed under paragraphs (d) and (e) of subsection (1), shall disclose his interest in the event of his becoming an owner, partner, director, majority shareholder or employee of any business which operates or provides tourist services of any class or description. Such member shall not participate in any deliberation or decision of the Committee in respect of any matter connected with such interest:

Provided that it shall be lawful for the Minister at any time, require any member appointed by him to the Committee, to furnish him with any information in respect of the matters set out in this section.

(3) A member of the Committee, who is in any way, directly or indirectly interested in any contract entered into, or proposed to be entered into by the Committee, shall disclose the nature of his interest at any meeting of the Committee and such disclosure shall be recorded in the minutes of the

Committee. Such member shall not participate in any deliberation or decision of the Committee in respect of any matter connected with such interest.

(4) The Director and the staff of the office of the Director shall be appointed by the Council under section 15.

(5) The Director of each Committee shall be the Chief Executive Officer of that Committee. He shall carry out his duties subject to the direction and control of the Committee.

(6) The Council may delegate to the Committee such of its powers and functions as are necessary for the effective implementation of the provisions of the Act. Notwithstanding such delegation, the Council may exercise, perform and discharge any such power, duty or function.

(7) Each Director shall exercise such powers as are delegated to such Director by the Committee. Notwithstanding such delegation the Committee may continue to exercise, perform and discharge the power, duty or function so delegated.

(8) The Regional Economic Development Commission established under section 27 of the Board of Investment Act, No.        of 2003 shall consult and co-ordinate with the Committee in the discharge of its functions in relation to the promotion of the travel and tourism industry.

(9) The Commission shall act in accordance with the four year plan for tourist development and the relevant schemes for tourist development within the Region. The Chairman of the Committee for the respective region shall have the right to attend meetings of the Commissions when matters relating to tourist development are discussed. The Chairman may express his views but shall however have no right to vote.

(10) The Minister to whom the function of Board of Investment has been assigned, shall with the approval of the Minister make rules to provide

for the co-ordination between the Commission and the Committees, with respect to development to tourism within the Region.

Functions of the  
Committees.

25. The functions of the Committees shall be-

- (a) to promote the development of tourism within their respective regions in accordance with plans for tourist development;
- (b) to advise the Tourist Promotion and Marketing Agency with regard to the promotion and marketing of the Region for the promotion of tourism;
- (c) to develop and manage Tourist Development Zones, National Holiday Resorts, Tourist Sites, Parks and other areas for tourism; and
- (d) to assist Provincial Councils, local authority, government department or other bodies who are engaged in promoting, tourism or operating or maintaining any tourist service in accordance with the provisions of the Act.

Committees to  
exercise powers in  
consultation with  
Provincial  
councils.

26. Every Committee shall in the exercise and performance of the powers and duties conferred on, or assigned to it in terms of this Act, within the region, act in consultation with the Board of Ministers of the Provincial Councils within whose limits the respective Committees are situated. Every such consultation in terms of this section shall be concluded within a period of three months of the date of the commencement of such consultation.

Term of office  
&c., of the  
Committee.

27. (1) Members of the Committee other than the Director shall be appointed for a period of three years. The Chairman shall hold office for a period of three years from the date of his appointment to such office.

(2) The Minister —

- (a) may for reasons assigned, remove by order published in the Gazette any member of the Committee (other member appointed under paragraph (c) of subsection (1) of section 25) and such removal shall not be called in question in any court; and
- (b) shall on the request of the Provincial Minister in charge of the subject of tourism remove such member appointed under paragraph (c) of subsection (1) of section 25.

(3) A member of the Committee in respect of whom an order under subsection (2) is made by the Minister shall vacate his office on the date of the publication of such order in the Gazette.

(4) Any member of the Committee may at any time resign from his office by letter to that effect addressed to the Minister and such resignation shall take effect upon it being accepted by the Minister.

(5) A person shall be disqualified from being an appointed member of a Committee, if he is or becomes a Member of Parliament or a Member of a Provincial Council or of a local authority.

(6) Where any member of any Committee dies, resigns or is removed from office by the Minister having regard to the provisions of this Act, the Minister may appoint any other person as a member in place of the member who dies, resigns removed from office. Any person so appointed in place of such member, shall hold office during the unexpired part of the term of office of such member whom he succeeds.

Act not  
invalidated by  
reason of a  
vacancy.

28. No act or proceeding of any Committee shall be deemed to be invalid by reason only of the existence of any vacancy amongst its members, or a defect in the appointment of any member thereof.

Meetings of the  
Committee.

29. (1) The meetings of the Committee shall be held at least once in every two months.

(2) The quorum for any meeting of any Committee shall be three members.

(3) All questions for decision at any meeting of the Committee shall be decided by the vote of the majority of the members present. In case of an equality of votes, the member presiding shall in the event of an equality of votes, have a casting vote.

(4) Subject to the preceding provisions of this section, rules may be made by the Council providing for the transaction of business at the meetings of the Committee and the procedure to be followed at such meetings.

Remuneration  
of the members  
of the  
Committees.

30. The Minister shall, with the approval of the Minister in charge of the subject of Finance, determine the remuneration payable to the members of the Committees.

### CHAPTER III

#### INTERNATIONAL ADVISORY COMMITTEE ON TOURISM

Establishment of  
the International  
Advisory  
Committee on  
Tourism

31. (1) There shall be established a body to be called the International Advisory Committee on Tourism (hereinafter referred to as the "Advisory Committee") for the purpose of advising the Minister and the Council on any matters in relation to the tourism and travel industry.



(2) The Advisory Committee shall consist of not less than five and not more than eleven persons who possess international standing and have wide experience in relation to the global travel, tourism and other related industries, who shall be appointed by the Minister.

(3) One of such persons shall be appointed as the Chairman of the Advisory Committee.

(4) It shall be the duty of the Advisory Committee to tender advice on the future direction and strategy of the tourist and travel industry and make its recommendations thereon and on any matter referred to it by the Minister.

(5) The term of office of the members of the Advisory Committee shall be three years. Provided that a member appointed in place of a member who resigns or otherwise vacates office, shall hold office for the unexpired part of the term of office of the member who he succeeds.

(6) Any member of the Advisory Committee may resign from office by letter addressed to the Minister.

## PART II

### CHAPTER IV

#### TOURIST DEVELOPMENT AREAS

Council to have jurisdiction over a declared area.

32. The Council shall have jurisdiction in and over any Tourist Development Area declared in terms of section 33.

Declaration of Tourist Development Areas.

33. (1) The Ministers may on the recommendation of the Council from time to time, declare by Order published in the Gazette, any area to be a Tourist Development Area (hereinafter referred to as "an Area").

Orders relating to  
Tourist Development  
Areas.

(2) Regulations may be made prescribing the tourist services, commercial and other activities which may be carried out within any Tourist Development Area declared in terms of subsection (1). Such regulations may also include lists of facilities and places of historical or environmental interest which amount to tourist attractions, within such Zone.

34. (1) Every Order published in terms of section 33 shall specify the boundaries of the area or areas so declared. A Tourist Development Area may include any National Holiday Resort or any other area administered by the Council under any written law.

(2) Every Order in terms of section 33 shall be valid for a period of ten years.

(3) The Council may by regulation specify-

- (a) the conditions applicable to access to any area which falls within any such Area declared in terms of section 33. Such regulations shall not however apply in respect of public roads, public monuments, places of worship, public parks, public offices, schools, dispensaries and other public places and facilities provided by either the government, a Provincial Council or a local authority, which were in existence at the time of the promulgation of such regulation;
- (b) the categories of commercial activities prohibited within any such Zone or Resort;
- (c) the facilities and sites available within an Area for use by tourists, including sites of interest and places of recreation.

(4) Each Committee shall be responsible for the management and administration of an Area declared in terms of section 33 and falling within its Region.

Protection of privacy  
within any area declared  
under section 33.

35. (1) Any person who within an Area declared in terms of section 33, prevents or acts in such a manner as to prevent any other person from enjoying the facilities available within such Area or does any act which interferes with the privacy of any other person, or contravenes any regulation made under paragraphs (a) and (b) of subsection (3) of section 34 shall be guilty of an offence and shall on conviction after trial be liable to a fine not exceeding rupees twenty five thousand.

(2) For the purposes of this Part "privacy" shall include the right of any person to be left alone in his enjoyment of the environment, facilities and services available within any area declared as a Tourist Development Area in terms of section 33, without any intrusion into his private life, which intrusion could be considered offensive to a reasonable person.

(3) Upon the declaration of an area in terms of section 33 it shall be lawful for the Council in consultation with the Committee, to exercise the powers set out in sections 2, 4, 4B, 5A and 5B of the Town and Country Planning Ordinance (Chapter 269) and which are presently vested in the National Physical Planning Council and the Ministerial Co-ordinating Committee on National Physical Planning established under section 3 and 4A respectively of the aforesaid Ordinance. The Cabinet of Ministers shall approve any decision taken by the Council in terms of this section prior to the exercise of any power in terms of the aforesaid sections.

Council to be vested  
with powers under the  
Urban Development  
Authority Law, the  
National Environmental  
Act and the Antiquities  
Ordinance.

36. (1) Upon the declaration of an area in terms of section 33, the Council shall for a period of ten years, be vested with all the powers necessary for the environmental planning and preservation of archaeology under the Environmental Act, No. 47 of 1981 and the Antiquities Ordinance (Chapter 188), shall in so far as is necessary for the implementation of the development plan within the declared area.

(2) The Central Environmental authority shall, in respect of any matter where the Council is vested with the power in terms of subsection (1), be required to submit its recommendation to the Council within the prescribed period.

(3) (a) Upon the declaration of any area in terms of section 33, it shall be lawful for the Minister, notwithstanding anything to the contrary in the National Environmental Act, No. 37 of 1981 to make regulations in consultation with the Minister in charge of the subject of Environment to prescribe the criteria to be following in respect of environmental planning within such area. The procedure to be followed by the Central Environmental Authority in this respect and the time within which such recommendations have to be made shall be as prescribed.

(b) If the Council is not in agreement with a recommendation of the Central Environmental Authority, it shall refer to matter to the Minister in charge of the subject of Environment, whose decision thereon shall be final. A member of the respective Committee shall be required to be present at times when any such matter is being considered.

(c) The Minister, with the concurrence of the Minister in charge of the subject of Environment, shall make such regulations as may be necessary prescribing the procedure to be followed in the making of recommendations and the time within any such recommendation should be made.

(d) The Minister in charge of the subject of Environment shall make regulations prescribing the criteria to be followed in environmental planning within any such Tourist Development Area as is declared.

(4) (a) Upon the declaration of any area in terms of section 33, it shall be lawful for the Council to exercise powers in respect making available facilities to visitors at the sites of such antiquities, in terms of the

Antiquities Ordinance (Chapter 188) within such area. In the exercise of these powers the Council shall obtain the consent of the Commissioner of Archaeology. The procedure to be followed in obtaining such consent shall be as prescribed.

(b) The Minister shall, with the concurrence of the Minister in charge of the subject of Antiquities, make such regulations as may be necessary prescribing the procedure to be followed in the preservation of antiquities within any such Tourist Development Area as is declared.

(5) Regulations may be made specifying the extent to which and the manner in which and the persons by whom the provisions of any other written law shall be applied, in relation to. Any such regulation shall be made in consultation with the Ministry of the Minister in charge of the relevant subject.

Declaration of trekking  
areas nature and nature  
trails

37. Within any area declared in terms of section 33, trekking areas and nature trails shall be declared and identified for such use. Fees as prescribed regulation shall be charged by persons using the trekking areas or nature trails. The manner in which such areas should be used shall also be prescribed. Minister shall make regulations in concurrence with the Minister in charge of the relevant subject.

Declaration of  
fishing rights

38. Within any area declared in terms of section 33 the Minister may in consultation with the Minister in charge of the subject of Fisheries, declare the existence and practice of any traditional fishing rights which could be continued within any such area.

Council to exercise  
powers &c.

39. (1) The Council shall, *mutatis mutandis*, exercise all powers under the Tourist Development Act. No.18 of 1964 in respect of any declared Area

(2) The Committee shall in respect of any declared Area:

(a) *Mutatis mutandis*, exercise the powers and functions

specified in sections 54, 55, 57, 59 and 60 of the aforesaid Act;

- (b) prepare on the directions of the Council the draft resort development plan in terms of section 65 of the Tourist Development Act, No. 18 of 1964.

## PART V

### FINANCE AND ACCOUNTS

Establishment of a Fund.

40. (1) There shall be established for the purposes of this Act a Fund to be called the Tourist Development Fund which shall be managed by the Governing Council for the development and promotion of tourism in accordance with regulations which may be made in that behalf.

(2) There shall be paid into the Fund established by subsection (1)-

- (a) all such monies as may be voted by Parliament for the development and promotion of tourism;
- (b) all sums of money received by way of cess in terms of section 41;
- (c) all such sums of money received by way of gifts, donations, grants or trusts or in any other similar manner, for the development and promotion of tourism;

- (e) all such sums of money as are required to be paid into such fund by or under this Act.

(3) There shall be paid out of the Fund -

- (a) all sums of money required to defray any expenditure incurred by any organization or any person in the promotion or development of tourism, in accordance with regulations which may be made in that behalf; and
- (b) all sums of money as are required to be paid out of such Fund in terms of subsection (3) of section 39.

(4) The accounts of the Fund shall be audited in accordance with Article 154 of the Constitution.

(5) The report of the Auditor - General on the Accounts of the Council shall be placed before Parliament by the Minister.

Levy of a Tourism  
Development  
Levy.

41. (1) There shall be charged, levied and collected by the Director - General, in terms of section 11 of the Finance Act, No. 25 of 2003, a Tourism Development Levy, on the turnover of every institution, licensed under the Tourist Development Act, No. 14 of 1969.

(2) The provisions of Part II of the Finance Act, No. 25 of 2003 shall apply in relation to the imposition of the levy, the method of payment of the levy and the manner of furnishing returns relating to the collection of such levy to the Deputy Secretary to the Treasury.

(3) The moneys collected by way of the Levy by the Director - General, shall be paid into the Tourist Development Fund established under section 40 and shall be disbursed in the following manner:-

- (a) fifteen percentum (15%) to be paid to the National Institute of Travel and Tourism established under subsection (1) of section 42;
- (b) eighty percentum to be paid to the to the Sri Lanka Tourism Promotion Agency for the purposes of making payments in connection with the promotion and marketing of Sri Lanka as a tourist and travel destination and for the training of persons in industries connected with the travel and tourism industry; and
- (c) five percentum to the Council for development purposes.

#### PART IV

#### CHAPTER VI

#### NATIONAL INSTITUTE OF TOURISM AND TRAVEL

National Institute  
of Tourism and  
Travel.

42. (1) The public company incorporated in accordance with the provisions of the Companies Act, No.17 of 1982 by the name "National Institute of Tourism and Travel" (hereinafter referred to as "the Institute"), shall be the Agency of the Council vested with the responsibility for providing for human resources development for the tourism and travel industry by providing Tertiary and Vocational Education in the in respect of



the different branches of the tourism and travel industry in Sri Lanka, in accordance with the Tourist Development Plan prepared in accordance with the provisions of this Act. The Institute shall at all times work in consultation with the Council.

(2) In addition to the powers set out in the Memorandum and Articles of the incorporated company, the Institute shall have the power to enter into agreements with Universities and other degree awarding Institutes for the conduct of courses and programmes connected to the different branches of the industry.

(3) The Institute shall be deemed to be a Degree Awarding Institute in terms of section 25A of the Universities Act, No. 16 of 1978 in respect of the different areas of the tourism and travel trade and the provisions of such Act shall apply to the courses of studies conducted by the Institute. The Secretary to the Ministry of the Minister in charge of the subject of Education shall be the Competent Authority in respect of any matter arising in this regard.

## CHAPTER VII

### SRI LANKA TOURISM PROMOTION AND MARKETING AGENCY

Sri Lanka Tourism  
Promotion and  
Marketing Agency.

43. (1) The public company incorporated in accordance with the provisions of the Companies Act, No.17 of 1982 by the name "Sri Lanka Tourism Promotion and Marketing Agency" (hereinafter referred to as "the Agency"), shall be the Executive Agency of the Council vested with the responsibility of marketing Sri Lanka as a tourist and travel destination, in accordance with the Tourist Development Plan prepared in accordance with

the provisions of this Act. The Agency shall at all times work in consultation with the Council.

(2) In addition to the objectives set out in the Memorandum and Articles of the incorporated company, the Agency shall have the following objectives:-

- (a) marketing and promoting of Sri Lanka as a tourist and travel destination of quality, in accordance with the Tourist Development Plan in consultation with the Council;
- (b) promoting Sri Lanka as a gateway to the South Asian Region.

(3) For the purpose of carrying out efficiently its duties connected with the promotion and marketing of Sri Lanka abroad, the Agency shall maintain offices, both within Sri Lanka and abroad.

(4) The Agency shall submit to the Council; before the expiry of a period of three months from the end of each calendar year-

- (a) a report of its' work during that year;
- (b) a copy of its' audited annual accounts for the previous calendar year within three months of the current year; and half year accounts before the end of the seventh month of the calendar year.
- (c) a statement containing such particulars as prescribed by the Council and an estimate of its' income and

expenditure for the succeeding calendar year;

- (d) a plan for a period of three years, projecting the work to be achieved by the Agency;
- (e) a statement containing achievements and performance relating to the plan presented for the previous year.

## **PART V**

### **CHAPTER VIII**

#### **REGISTRATION OF TOURIST ENTERPRISES AND REGULATION OF PRICES, FEES, RATES AND CHARGES IN RESPECT OF TOURIST SERVICES**

Declaration and  
registration of  
Tourist  
Enterprises.

44. (1) The Minister may, on the recommendation of the Council by Order published in the Gazette classify certain businesses and services being operated within the tourist and travel industry, as Tourist Enterprises and Tourist Services, respectively.

(2) Every Tourist Enterprises and Tourist Services declared in terms of subsection (1) shall be registered with the Council and a license issued in the name of such Enterprise or Service by the Council, according to the different classifications. A Register of licensed Tourist Enterprises and Tourist Services should be maintained by the Council. The procedures to be followed and the manner of issuing licenses shall be as prescribed.

(3) Fees payable for such licensing and registration shall from time to time be specified by Order published in the Gazette.

(4) A license issued in terms of subsection (2) shall be valid for such period as prescribed by regulations and shall be issued in accordance with the procedure prescribed for the renewal of licenses.

(5) A license issued under this section shall be subject to requirement to maintain the minimum standards of the services being provided by any licensed Tourist Enterprise or Tourist Service in terms of section 46.

(6) The Council shall make rules relating to -

- (a) the presentation of a Report prior to the issue of a License by the Tourist Enterprise or Tourist Service setting out its capacity and ability to provide the service for which the licence is being sought; and
- (b) the manner of carrying out inspections of the service being provided by the licensed Tourist Enterprise or Tourist Service under the license issued to it and the monitoring of the same..

(7) No tourist enterprise or tourist service shall unless registered with the Council and having a license issued to it carry on business in terms of this section. Any tourist enterprise or tourist service carrying on business without being registered or have not been issued a license shall be guilty of

an offence under this Act and shall be liable to have such registration and license cancelled.

(8) Every Tourist Enterprise and Tourist Service licensed in terms of this section, shall in every advertisement, communication or other notification relating to the services being provided by it, include a statement to the effect that it is a registered Tourist Enterprise or Tourist Service to which a license has been issued in terms of this section.

(9) It shall be an offence for any Tourist Enterprise and Tourist Service which has not been registered to hold out that it is a registered Tourist Enterprise and Tourist Service.

45. (1) The Minister on the advice of the Council shall make regulations prescribing Codes in respect of all or any of the following :-

- (a) Tourist Hotels;
- (b) Travel Agents;
- (c) Tourist Guide Lecturers';
- (d) Specified Tourist Services (not being a tourist service consisting of tourist hotels, travel agents or tourist guide lecturers').

(2) The Codes referred to in subsection (1) shall include the matters set out in the First, Second, Third and Fourth Schedules to this Act.

(2) The Minister may on the advice of the Council present to Parliament a Resolution to amend, add or delete the matters set out in the First, Second, Third and Fourth Schedules to this Act.

Issue of a  
Certificate of  
Standards.

46. (1) The Minister on the advice of the Council, may categorize classes of Tourist Enterprises and Tourist Services and from time to time prescribe the standards to be maintained by any such enterprise or service.

(2) Where the Minister has categorized the classes of Tourist Enterprises and Tourist Services, the Council may issue a Certificate of Standards to any class of Tourist Enterprises or Tourist Services categorised under subsection (1).

(3) Any Tourist Enterprise or Tourist Service which is found to be providing any service under a forged Certificate of Standards shall be guilty of an offence under this Act.

(4) Where any service being provided by any Tourist Enterprise or Tourist Service is found to be below the standard specified in the Certificate of Standards issued to it, the Council may identify steps which the enterprise or service is required to take to improve its standards and achieve the standard specified in the Certificate. Where any enterprise or service fails to comply with such steps as are identified by the Council, the Council shall forthwith cancel the Certificate issued to such enterprise or service.

Appeal from  
refusal to grant a  
license or  
cancellation of  
license.

47. (1) Any person to whom a the grant of a license in terms of subsection (2) of section 44 is refused or whose Certificate has been cancelled in terms of section 46, may appeal to an appeals tribunal

appointed by the Minister for this purpose. The composition of the Tribunal and the procedure to be followed by the tribunal shall be prescribed.

Council to identify  
symbol.

48. The Council shall identify a symbol which shall be the symbol of the Council and which is set out in the Fifth Schedule hereto. All duly registered travel and tourist enterprises would be authorized to use or display the symbol in the manner prescribed by the Council.

(2) No person shall without the sanction of the Council use or display the symbol of the Council.

(3) Any person who without the permission of the Council uses or displays the symbol of the Council or a symbol or representation so nearly representing the symbol of the Council in such a manner as to mislead or confuse a third party, shall be guilty of an offence under this Act.

Price Regulation  
Order.

49. (1) The Chairman of the Council on the recommendation of the members of the Council may, where it appears to him to be expedient, so to do, after consultation such as may appear to be necessary, by order regulate the prices, rates, fees or charges that may be imposed, levied, demanded or recovered for the provision of any tourist service. Such order is in this Act referred to as a "Price Regulation Order".

(2) Any Price Regulation Order-

- (a) may be made operative to all tourist services throughout Sri Lanka, or may be limited in its operation to tourist services in any such place or area in Sri Lanka as may be specified in the order;

- (b) may be limited in its application to any such description of tourist services as may be so specified;
- (c) may regulate prices, rates, fees or charges in respect of tourist services of different descriptions or different classes of tourist services of the same description; and
- (d) may prescribe the conditions subject to which such prices, rates, fees or charges may be imposed, levied, demanded or recovered by any such services, including conditions as to quality and standards of the amenities or facilities afforded by any such services

(3) (a) Without prejudice to the generality of the powers conferred by the preceding provision of this section, the Director- General of the Council shall, in making any price Regulation Order have regard primarily, to the necessity of ensuring that any description of tourist services of any one class shall be entitled to impose, levy, demand or recover higher maximum prices, rates; fees or charges than any other lower class of tourist services of the same description.

(b) For the purposes of this Chapter, the term "class", in relation to any travel or tourist service of any description, means the classification allotted or given to that service in the register maintained for such purpose as required by law.

(4) Every Price Regulation Order shall come into operation when such Order is made and signed by the Chairman of the Council



(5) After any Price Regulation Order has been signed by the Chairman of the Council, public notice thereof shall forthwith be given -

- (a) by the publication of such Order in the Gazette; or
- (b) as prescribed by regulations made for the purpose under this Act.

(6) Every Price Regulation Order shall, as soon as may be after the date on which it comes into operation, be placed before the Minister for his consideration, and the Minister may thereupon approve or rescind the Order.

(7) Where any Price Regulation Order is rescinded by the Minister under subsection (6), notice of such rescission shall be published in the Gazette, and the order shall be deemed to be rescinded with effect from the date of such publication, but without prejudice to anything done or suffered thereunder or any right, obligation or liability acquired, accrued or incurred thereunder.

(8) Where any Price Regulation Order has been approved by the Minister, notification of such approval shall be published in the Gazette.

(9) Any Price Regulation Order made in terms of the above provisions may from time to time in the best interests of the travel and tourist trade, be amended or varied.

50. (1) Where any Price Regulation Order is for the time being in operation, the proprietor or manager of every tourist service to which that Order relates shall -

- (a) maintain, or cause to be maintained, a register of prices, rates, fees or charges levied in respect of each

Obligations upon  
the making of a  
Price regulation  
Order.

of the services provided by such proprietor or manager and referred to in the Order;

(b) make, or cause to be made, such register available for inspection by the Director - General of the Council or any person authorized in writing in that behalf by the Director - General ; and

(c) exhibit, in a conspicuous place and in such manner as may be directed by the Director - General, a list of the prices, rates, fees or charges referred to in that Order.

## PART XI

### GENERAL

Payment of  
expenses incurred  
in suit or  
prosecution.

51. Any expense incurred by the Council in any suit or prosecution brought by or against the Council before any Court shall be paid out of the Fund of the Council , and any cost paid to , or recovered by, the Council in any such suit or prosecution shall be credited to the Fund of the Council.

No writ to lie against  
any member of the  
Council.

52. No writ against person or property shall issue against a member of the Council in any action brought against the Council.

Instruments to be  
prima facie  
evidence.

53. Every instrument purporting to be an instrument issued by the Council and to be sealed as required by this Act. or to be signed by or on

behalf of the Council shall be admissible in evidence and be deemed to be prima facie evidence thereof.

Council to call for  
information. /

54. The Council or any person authorized in that behalf by the Council may by notice require any person to furnish to the Council or the person so authorized, within such period as shall be specified in the notice, all such returns or information relating to all such matters as may be necessary to enable the Council to prepare tourist or other schemes under this Act as are within the knowledge of that person.

Council may enter  
upon land &c.,

55. The Council or any person authorized in that behalf by the Council may, for the purpose of the exercise or performance of the powers or duties conferred or imposed on the Council under this Act, enter upon or into any land or structure situated in the area and may make such inspections, surveys, examinations or inquiries as may be necessary for any such purpose.

Manner of service  
of notice &c.,

56. (1) Any notice, order, instrument or other document required under this or any Order made thereunder to be served on any person may be served -

- (a) by delivering it that person ;or
- (b) by leaving it at the usual or last known place of abode of that person, or in the case of a body corporate, at the Registered office of that body ; or
- (c) person at his usual or last known place of

abode or in the case of a body corporate , to the Registered office of that body;

(2). Any document which is served in accordance with the provisions of subsection (1) shall be deemed to have been duly served on the person to whom it is addressed.

Rules governing contracts.

57. (1) Contracts on behalf of the Council may be made as follows.

(a) a contract if made between a private person would be by law required to be in writing , may be made on behalf of the Council in writing;

(b) a contract which if made between private persons would be by law required to be in writing ,signed by the parties to be charged therewith , may be made on behalf of the Council in writing signed by any person or persons duly authorized thereto as hereinafter provided .

(2) A contract made according to this section may be waived or discharged in the same manner in which it is authorized by this section to be made.

Persons willing to be employed in travel or tourist services to be registered with the Council.

58. (1) Any person who wishes to be employed in any travel or tourist service shall register themselves with the Council in accordance

with regulations which may be made in that behalf, as fit and suitable persons therefor.

(2) Any person who engages in employment in the travel or tourist services without registering with the Council, shall be guilty of an offence.

Power of Council  
to make rules.

59 (1). The Council may make Rules in respect of all or any matter for which Rules are authorized or required by this Act to be made.

(2). No Rule made by the Council under this Act shall have effect until it has been approved by the Minister and published in the Gazette.

Offences.

60. (1) Every person who —

- (a) knowingly makes any false or incorrect statement in any application, return or other document made or furnished under or for the purposes of this Act or any Order made there under ; or
- (b) false or refuses to furnish any information or return required by this
- (c) resists or obstructs any person in the exercise ,discharge or performance of any power , function or duty conferred or imposed upon that person by or under this Act or any Order made thereunder,

shall be guilty of an offence.

(2) Every person who commits an offence, offences under this Act shall, on conviction after summary trial before a Magistrate be liable to imprisonment not exceeding two years imprisonment or a fine of not exceeding two hundred thousand rupees or both such fine and imprisonment.

Sanction of  
Council to be  
obtained for  
prosecutions.

61. No prosecution for an offence under this Act shall be instituted in any Court except with the written sanction of the Council.

Offences by body  
of persons.

62. Where an offence under this Act is committed by a body of persons, then, -

- (a) if that body of persons is a body corporate, every director and officer of that body corporate; or
- (b) if that body of persons is a firm, every partner of that firm,

shall be deemed to be guilty of that offence:

Provided however, that a director or an officer of such body corporate, or a partner of such firm, shall not be deemed to be guilty of such offence if he proves that such offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

Compounding of  
Offences.

63.(1) Any offence under this Act may, if no prosecution for such offence is pending be compounded by the Director General of the Council on the payment by the accused of such sum of money as may be determined

by the Director General of the Council or if a prosecution for such offence is actually pending, be so compounded by the Director General of the Council with the concurrence of the Magistrate up on recording reasons for such compounding of the offence.

(2) Compounding of an offence under this section shall have the effect of an acquittal.

(3) Monies paid by the accused person for the purpose of compounding an offence shall be credited to the fund of the Council.

Repeal of the  
Ceylon tourist  
Board Act, No. 10  
of 1966.

64. (1) The Ceylon Tourist Board Act No 10 of 1966 is hereby repealed. The Minister shall by Order published in the Gazette appoint the date on which such repeal shall take effect.

(2) Notwithstanding the repeal of the Ceylon Tourist Board Act, No. 10 of 1966,-

- (a) all movable and immovable property vested, on the day preceding the appointed date, in the Ceylon Tourist Board shall vest, with effect from the appointed date, in the Council;
- (b) all contracts, and agreements entered into by or with the Ceylon Tourist Board and subsisting on the day preceding the appointed date, shall be deemed, with effect from the appointed date, to be contracts and agreements entered into by or with the Council;

- (c) all actions and proceedings instituted by or against the Ceylon Tourist Board and pending, on the day preceding the appointed date, shall be deemed, with effect from the appointed date, to be actions and proceedings instituted by or against the Council as the case may be, and may be continued and completed accordingly;
- (d) all members, officers and servants of the Ceylon tourist Board immediately preceding the appointed date shall be deemed with effect from the appointed date to be members, officers and servants of the Council; and
- (e) all judgements and orders made in favour or against the Ceylon tourist Board and remaining unsatisfied on the date preceding the appointed date, shall be, deemed with effect from appointed date to be judgements and orders made in favour of, or against, the Council, as the case may be, and may be enforced accordingly;
- (f) all training schools and Institutes being controlled and managed by the Ceylon Tourist Board on the date preceding the appointed date, shall with effect from appointed date be deemed to vest in the National Institute of Tourism and Travel.

(2) The permits and the licensee issued in terms of the provisions of the Tourist Board Act No 10 of 1966 shall continue to be valid and



effective as if made hereunder until permits and license are issued in terms of this Act.

Amendment of  
Tourist  
Development Act,  
No. 14 of 1968.

65. The Tourist Development Act, No. 14 of 1968 is hereby amended as follows: -

- (1) by the insertion immediately after section 1 of that Act of the following new section which shall have effect as section 1A of that Act:-

"Tourism Act,  
No. of 2003 and  
Sri Lanka  
Tourism  
Development  
Council" to be  
substituted for the  
expressions  
"principal Act"  
and "Board",  
respectively.

1A. Wherever the expressions "principal Act" and "Board" appear in this Act, such expressions shall be taken to refer to the "Tourism Act, No. of 2003" and the "Sri Lanka Tourism Development Council established by section 2 of the Tourism Act, No. of 2003", respectively.

- (2) by the repeal of sections 77, 78, 79, 80, 81 and 82 of Chapter I of Part IV of that Act;
- (3) in section 103 of that Act,-
  - (a) by the repeal of the definition of the expression "Board";
  - (b) by the repeal of the definition of the expression "Competent Authority"; and

(c) by the repeal of the definition of the expression "principal Act";

(4) by the repeal of the Fourth, Fifth, Sixth and Seventh Schedules to that Act.

#### Regulations

66. (1) The Minister may make regulations in respect of matters for which regulations are authorized or required to be made by this Act.

(2) Without prejudice to the generality of the powers conferred by subsection (1), the Minister may make regulations in respect of all or any of the following matters:-

(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.

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

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

Compulsory  
acquisition of  
land.

67. (1) Where any land or any interest in any land is required by the Council for any of its purposes, that land or interest therein may be acquired under the Land Acquisition Act by the Government for the Council and the provisions of that Act shall, save as otherwise provided in subsection (2) of this section, apply for the purposes of the acquisition of that land, or interest therein. Such land or such interest therein shall, for the purposes of the Land Acquisition Act, be deemed to be required for a public purpose.

(2) In the case of any such acquisition where the public notice of the intention to acquire that land or interest therein is published as required by the Land Acquisition Act at any time within the period of five years commencing from the date of coming into operation of this Act, notwithstanding anything to the contrary in the Land Acquisition Act, the market value of the land or the interest therein shall be deemed to be the market value which the land or the interest therein would have had on July 22, 1977, increased by a reasonable amount on account of improvements, if any, effected to such land, after that date.

Sinhala Text to  
prevail in case  
of any  
inconsistency.

68. In the event of any inconsistency between the Sinhala and Tamil Texts of this Act, the Sinhala Text shall prevail.

Interpretation.

69. Unless the context otherwise requires –

“Central Environmental Authority” means the Central Environmental Authority established under the National Environmental Act, No. 47 of 1980;

"NAITA" means the

"Tertiary and Vocational Training Authority" means the  
Authority established under the Tertiary and Vocational  
Training Act, No. 20 of 1990.

## FIRST SCHEDULE

(Section 45)

### MATTERS IN RESPECT OF WHICH PROVISION MAY BE INCLUDED IN THE TOURIST HOTELS CODE

1. The regulation, supervision, classification, inspection and control of the establishment, maintenance and operation of tourist hotels.
2. The prohibition –
  - (a) of the erection, re-erection or alteration of buildings to be used or used as tourist hotels; or
  - (b) of the use or occupation of tourist hotels or any parts thereof for any purpose other than the business of such hotels,except under the authority, and under and in accordance with the terms or conditions, of any permit issued by the competent authority.
3. The form and manner in which applications for such permits shall be made to such authority, and the documents and other information which shall accompany such applications.
4. The procedure to be followed by such authority in entertaining and disposing of applications for such permits, and the circumstances in which orders may be made by such authority granting or refusing such permits.
5. The prohibition of the use of premises for the purposes of carrying on the business of tourist hotels unless such premises are registered and licensed by the competent authority under the Code, the form and manner in which applications for such registration or licensing shall be made, and the procedure to be followed in entertaining and disposing of applications for such registration or licensing.
6. The fees to be paid for such registration or licensing, the circumstances in which order may be made by the competent authority granting or refusing such registration or licensing, and the circumstances in which orders may be made by such authority suspending or cancelling such registration or licensing.
7. The conditions subject to which such registration or licensing may be granted, the form and manner in which such registration or licensing may be effected, the classification of tourist hotels for the purposes of such licensing, and the circumstances in which such classification may be altered or reviewed.

8. The duration of such registration or licensing.

9. The maintenance of registers and books for the purpose of the registration or licensing of tourist hotels, the symbols and designs that shall be exhibited in tourist hotels for the purpose of indicating to tourist the classification assigned to such hotels, and the display of lists of fees or charges which may be levied by tourist hotels under and in accordance with the provisions of any Price Regulation Order relating to such hotels.

10. The preferment of appeals to the Tribunal constituted for the purpose under this Act by persons aggrieved by orders made by the competent authority refusing any application made under the Code or any orders made by such authority suspending or cancelling the registration or licensing of such hotels.

11. Such powers of entry and inspection of premises, the inspection of documents and books, the furnishing of returns or information, and the taking of copies of or extracts from books or documents, as may be necessary for the purpose of enabling the competent authority to dispose of any applications made under the Code, or for securing compliance with, or preventing breaches or contraventions of, the provisions of the Code.

12. The prohibition of the taking or assumption of any name, title or addition that a tourist hotel has been registered, classified and licensed under the Code unless it has been so registered, classified and licensed.

13. The books to be kept and maintained in respect of tourist hotels.

14. The making of breaches or contraventions of any provisions of the Code, offences under this Act and the provision of penalties for such offences.

15. Providing that the procuring or attempting to procure tourist hotels to be registered or licensed under the Code by the making of any false or fraudulent representations shall be an offence under this Act and the penalties for such offence.

16. The mode and manner of the payment by tourists for services and facilities provided by tourist hotels, and the mode and manner of the acceptance of such payment by such hotels.

17. All other matters connected with or incidental to any of the matters aforesaid.

18. In this Schedule :-

"alteration", in relation to any tourist hotel, means -

- (a) the construction of an internal wall or partition;
- (b) the alteration of the internal arrangement of such hotel which effects any change in the open space attached to such hotel, or its drainage, ventilation or sanitary arrangements; or
- (c) any change which has the effect of reducing the existing facilities, comforts or amenities of such hotel;

"Code" means the Tourist Hotels Code.

## SECOND SCHEDULE

(Section 45)

### MATTERS IN RESPECT OF WHICH PROVISION MAY BE INCLUDED IN THE TRAVEL AGENTS' CODE

1. The regulation, supervision, classification, inspection and control of the establishment, maintenance and operation of the business of a travel agent.
2. The prohibition of the carrying on of the business of a travel agent unless such business is registered and licensed by the competent authority, the form and manner in which any application for such registration or licensing shall be made, and the procedure to be followed in entertaining and disposing of such application.
3. The fees to be paid for such registration or licensing, the circumstances in which orders may be made by the competent authority granting or refusing such registration or licensing, and the circumstances in which orders may be made by such authority suspending or cancelling such registration or licensing.
4. The conditions subject to which such registration or licensing may be granted, the form and manner in which such registration or licensing may be effected, the classification of travel agents for the purposes of such registration, and the circumstances in which such classification may be altered or reviewed.
5. The duration of such registration or licensing.
6. The maintenance of registers and books for the purpose of the registration or licensing of travel agents, the display by travel agents in their principal place of business and in each branch office of their certificates of registration and their licences, and the lists of fees or charges which may be levied by such agents under and in accordance with the provisions of any Price Regulation Order relating to such agents.
7. The preferment of appeals to the Tribunal constituted for the purpose under this Act by persons aggrieved by orders made by the competent authority refusing any application made under the Code, or any orders made by such authority suspending or cancelling the registration or licensing of such agents.
8. Such powers of entry and inspection of premises, the inspection of documents and books, the furnishing of returns or information, and the taking of copies of or extracts from books or documents, as may be necessary for the purpose of enabling the competent authority to dispose of applications made under the Code, or for securing compliance with, or preventing breaches or contraventions of, the provisions of the Code.
9. The prohibition of the taking or assumption of any name, title or addition that any travel agent has been registered, classified and licensed under the Code unless his business has been so registered, classified and licensed.
10. The making of breaches or contraventions of any provisions of the Code, offences under this Act, and the provision of penalties for such offence.
11. Providing that the procuring or attempting to procure travel agents to be registered or licensed under the Code by the making of any false or fraudulent representations shall be an

offence under this Act and the penalties for such offence.

12. The mode and manner of the payment by tourists for services and facilities provided by travel agents, and the mode and manner of the acceptance of such payment by such agents.

13. The prohibition of the transfer by any travel agent of any licence issued to him under the code, and the declaration that any such transfer shall be null and void.

14. All other matters connected with or incidental to any of the matters aforesaid.

15. In this Schedule, "Code" means the Travel Agents' Code.

### THIRD SCHEDULE

(Section 45)

#### MATTERS IN RESPECT OF WHICH PROVISION MAY BE INCLUDED IN THE TOURIST GUIDE LECTURERS' CODE

1. The regulation, supervision, classification, inspection and control of the establishment, maintenance and operation of the business of a tourist guide-lecturer.

2. The prohibition of the carrying on of the business of a tourist guide lecturer unless such business is registered and licensed by the competent authority, the form and manner in which any application for such registration or licensing shall be made, and the procedure to be followed in entertaining and disposing of such application.

3. The fees to be paid for such registration or licensing, the circumstances in which orders may be made by the competent authority granting or refusing such registration or licensing, and the circumstances in which orders may be made by such authority suspending or cancelling such registration or licensing.

4. The conditions subject to which such registration or licensing may be granted, the form and manner in which such registration or licensing may be effected, the classification of tourist guide lecturers for the purposes of such registration, and the circumstances in which such classification may be altered or reviewed.

5. The duration of such registration or licensing.

6. The maintenance of registers and books for the purpose of the registration or licensing of tourist guide lecturers, the display by tourist guide lecturers in their principal place of business and in each branch office of their certificates of registration and their licences, and the lists of fees or charges which may be levied by such guide lecturers under and in accordance with the provisions of any Price Regulation Order relating to such guide lecturers.

7. The preferment of appeals to the Tribunal constituted for the purpose under this Act by persons aggrieved by orders made by the competent authority refusing any application made under the Code, or any order made by such authority suspending or cancelling the registration or licensing of a tourist guide lecturer.

8. Such powers of entry and inspection of premises, the inspection of documents and

books, the furnishing of returns or information, and the taking of copies of or extracts from books or documents, as may be necessary for the purpose of enabling the competent authority to dispose of applications made under the Code, or for securing compliance with, or preventing breaches or contraventions of, the provisions of the Code.

9. The prohibition of the taking or assumption of any name, title or addition that the business of any tourist guide lecturer has been registered, classified and licensed under the Code unless such business has been so registered, classified and licensed.

10. The making of breaches or contraventions of any provisions of the Code, offences under this Act, and the provision of penalties for such offence.

11. Providing that the procuring or attempting to procure tourist guide lecturers to be registered or licensed under the Code by the making of any false or fraudulent representations shall be an offence under this Act and the penalties for such offence.

12. The mode and manner of the payment by tourists for services and facilities provided by tourist guide lecturers, and the mode and manner of the acceptance of such payment by such guide lecturers.

13. The prohibition of the transfer by any tourist guide lecturer of any licence issued to him under the Code, and the declaration that any such transfer shall be null and void.

14. All other matters connected with or incidental to any of the matters aforesaid.

15. In this Schedule, "Code" means the Tourist Guide Lecturers' Code.

#### FOURTH SCHEDULE

(Section 45)

##### MATTERS IN RESPECT OF WHICH PROVISION MAY BE INCLUDED IN THE SPECIFIED TOURIST SERVICES CODE

1. The regulation, supervision, classification, inspection and control of the establishment, maintenance and operation of the business of a specified tourist service.

2. The prohibition of the carrying on of the business of a specified tourist service unless such business is registered and licensed by the competent authority, the form and manner in which any application for such registration or licensing shall be made, and the procedure to be followed in entertaining and disposing of such application.

3. The fees to be paid for such registration or licensing, the circumstances in which orders may be made by the competent authority granting or refusing such registration or licensing, and the circumstances in which orders may be made by such authority suspending or cancelling such registration or licensing.

4. The conditions subject to which such registration or licensing may be granted, the form and manner in which such registration or licensing may be effected, the classification of specified tourist services for the purposes of such registration, and the circumstances in which such classification may be altered or reviewed.



5. The duration of such registration or licensing.

6. The maintenance of registers and books for the purpose of the registration or licensing of specified tourist services, the display by specified tourist services in their principal place of business and in each branch office of their certificates of registration and their licences, and the lists of fees or charges which may be levied by such services under and in accordance with the provisions of any Price Regulation Order relating to such service.

7. The preferment of appeals to the Tribunal constituted for the purpose under this Act by persons aggrieved by order made by the competent authority refusing any application made under the Code, or any orders made by such authority suspending or cancelling the registration or licensing of a specified tourist service.

8. Such powers of entry and inspection of premises, the inspection of documents and books, the furnishing of returns or information, the taking of copies of or extracts from books or documents, as may be necessary for the purpose of enabling the competent authority to dispose of applications made under the Code, or for securing compliance with, or preventing breaches or contraventions of the provisions of the Code.

9. The prohibition of the taking or assumption of any name, title or addition that the business of any specified tourist service has been registered, classified and licensed under the Code unless such business has been so registered, classified and licensed.

10. The making of breaches or contraventions of any provisions of the Code, offences under this Act, and the provision of penalties for such offence.

11. Providing that the procuring or attempting to procure a specified tourist service to be registered or licensed under the Code by the making of any false or fraudulent representations shall be an offence under this Act and the penalties for such offence.

12. The mode and manner of the payment by tourists for services and facilities provided by specified tourist services, and the mode and manner of the acceptance of such payment by such services.

13. The prohibition of the transfer by any specified tourist service of any licence issued to such service under the Code, and the declaration that any such transfer shall be null and void.

14. All other matters connected with or incidental to any of the matters aforesaid.

15. In this Schedule, "Code" means the Specified Tourist Services Code.

## **FIFTH SCHEDULE**

(Section )

Symbol

**Report of the Special Committee**

**appointed to**

**Review the New Tourism Law**

**and make**

**Recommendations for a Way Forward**

**for**

**Sustainable Development of Tourism**

**Supplement B**

**May 2006**

## **CONTENTS**

- 1. Amendments to the Ceylon Tourist Board Act, No.10 of 1966.**
  
- 2. An Act to Provide for the Establishment of the Sirimavo Bandaranaike Institute of Tourism and Hotel Management and for matters Connected therewith or Incidental thereto.**

**Amendments to the**

**Ceylon Tourist Board Act No10 of 1966**

AN ACT TO AMEND THE CEYLON TOURIST BOARD ACT, NO.10 OF  
1966.

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

- |       |  |  |
|-------|--|--|
| 1     | This Act may be cited as the Ceylon Tourist Board (Amendment) Act, No. of 2006 and shall come into operation on such date as the Minister may appoint by Order published in the Gazette.   | Short Title and date of operation  |
| 2     | The long title of the Ceylon Tourist Board Act, No.10 of 1966 (hereinafter referred to as "the principal enactment") is hereby amended by the substitution, for the words "CEYLON TOURIST BOARD FOR THE ENCOURAGEMENT, PROMOTION AND DEVELOPMENT OF TOURIST TRAVEL TO OR IN OR FROM CEYLON", of the words "SRI LANKA TOURIST BOARD FOR THE ENCOURAGEMENT, PROMOTION AND DEVELOPMENT OF TOURIST TRAVEL TO OR IN OR FROM SRI LANKA". | Amendment of long title of Act, No.10 of 1966  |
| 3 (1) | In the principal enactment and in every other written law, there shall be substituted-   | Ceylon Tourist Board and Ceylon Tourist Board Act to be known as Sri Lanka Tourist Board and Sri Lanka Tourist Board Act, respectively |
| (a)   | for the words "Ceylon Tourist Board Act", the words "Sri Lanka Tourist Board Act"; and   |  |
| (b)   | for the words "Ceylon Tourist Board", the words "Sri Lanka Tourist Board".   |  |
| (2)   | Every reference to the "Ceylon Tourist Board Act" and the "Ceylon Tourist Board" in any notice, notification, contract, communication or other document shall be read and construed as a reference to the "Sri Lanka Tourist Board Act" and the "Sri Lanka Tourist Board", respectively.   |  |
| 4     | Section 6 of the principal enactment is hereby repealed and the following section substituted therefore:-  | Replacement of section 6 of the principal enactment  |
|       | 6 (1) The Board shall consist of nine members appointed by the Minister-   |  |
|       | (a) one of whom shall be a person who has distinguished himself in the field of travel and tourism;  | Constitution of the Board  |

- (b) one of whom shall be a representative of the Ministry of the Minister in charge of the subject of Finance, nominated by that Minister;
  - (c) one of whom shall be a representative of the Ministry of the Minister in charge of the subject of Provincial Councils, nominated by that Minister;
  - (d) two of whom shall be representatives of the Tourist Hotels Association of Sri Lanka, nominated by that Association;
  - (e) one of whom shall be representative of the Sri Lanka Association of Inbound Tour Operators, nominated by that Association;
  - (f) one of whom shall be a representative of the Association of Small and Medium Enterprises in Tourism, Sri Lanka, nominated by that Association;
  - (g) one of whom shall be a person who has shown capacity and experience in the field of marketing; and
  - (i) one of whom shall be a person who has shown capacity and experience in the field of law or engineering or accountancy.
- (2) The member appointed under paragraph (a) of subsection (1) shall be the Chairman of the Board.
  - (3) A person shall be disqualified for being appointed, or for continuing as a member of the Board if he is or becomes a member of Parliament or of a Provincial Council or of a local authority.
  - (4) A member of the Board who is in any way, directly or indirectly, interested in any contract made or proposed to be made by the Board shall disclose the nature of his interest at a meeting of the Board, and such disclosure shall be recorded in the minutes of the Board, and the member shall not take part in any deliberation or decision of the Board with regard to that contract.
  - (5) The Minister may, for reasons assigned, remove any Member of the Board from office.

- (6) A member of the Board may at any time resign from office by a letter in that behalf addressed to the Minister. The resignation shall be effective from the date on which it is accepted by the Minister in writing.
- (7) If the Chairman or any member of the Board is temporarily unable to discharge the duties of his office on account of ill health, absence from Sri Lanka or any other cause, the Minister may, having regard to the provisions of subsection (1), appoint some other person to act in his place as Chairman or as a member.
- (8) Every member of the Board shall, unless he earlier vacates office by death, resignation or removal, hold office for a period of five years. A member of the Board who vacates office by effluxion of time shall be eligible for reappointment.
- (9) No act or proceeding of the Board shall be deemed invalid by reason only of the existence of any vacancy amongst its members or any defect in the appointment of a member thereof.
- (10) The members of the Board shall be paid such remuneration out of the Fund of the Board as may be determined by the Minister with the concurrence of the Minister in charge of the subject of Finance

5. The following section is inserted immediately after 15, and shall have effect as section 15A of the principal enactment:-

15 A(1) There shall be a Tourism Advisory Committee (In this section referred to as "the Committee") consisting of the following members appointed by the Minister:-

- (a) three members nominated by the Tourist Hotels Association of Sri Lanka, to represent respectively, city hotels, resort hotels and circuit hotels;
- (b) one member nominated by the Sri Lanka Association of Inbound Tour Operators;
- (c) one member nominated by the Association of Small and Medium Enterprises in Tourism, Sri Lanka;
- (d) one member nominated by the Travel Agents Association of Sri Lanka;

Insertion of new section  
15A in principal  
enactment

Tourism Advisory  
Committee

- (e) one member nominated by the Airline designated by the Government as the National Carrier;
  - (f) one member nominated by the Board of Airline Representatives; and
  - (g) three members appointed from amongst persons who have distinguished themselves in the fields of travel and tourism, one of whom shall be appointed as the Chairman of the Committee.
- (2) A member of the Committee may resign from the Committee by letter in that behalf addressed to the Minister.
  - (3) The Minister may, for reasons assigned, remove a member of the Committee from office.
  - (4) Subject to the provisions of subsections (2) and (3), the term of office of a member of the Committee shall be five years.
  - (5) The member appointed as the Chairman of the Committee shall preside at meetings of the Committee. In the absence of the Chairman from any meeting of the Committee, the members present at such meeting shall elect, from amongst themselves, a Chairman for that meeting.
  - (6) The members of the Committee shall be paid such remuneration out of the Fund of the Board as may be determined by the Minister with the concurrence of the Minister in charge of the subject of Finance.
  - (7) The Committee shall meet as often as may be necessary for the discharge of its functions.
  - (8) The Committee shall advise the Board on all matters referred to the Committee for its advice by the Board and may advise the Board on any matter relating to the development of the travel and tourism industries."
6. Section 14 of the principal enactment is hereby amended by the repeal of subsection (1) of that section and the substitution of the following subsection therefor:-

Amendment of section 14  
of the principal enactment

"(1) In the exercise, discharge and performance of its powers, functions and duties, the Board shall be subject to, and act in accordance with, such



policy directions as the Minister may , from time to time, issue in writing."

7. Section 16 of the principal enactment is hereby amended by the repeal of subsection (1) of that section and the substitution , of the following subsection therefor:-

Amendment of section  
16 of the principal  
enactment

"(1) The staff of the Board shall consist of the following-

- (a) a Director General of Tourism;
- (b) three Additional Directors. General of Tourism in charge respectively, of the Department of Marketing and Promotion , the Department of Planning and Development and the Department of Regulation; and
- © such other officers and servants as the Board may deem necessary for the proper and efficient conduct of the business of the Board."

- 8 Section 17 of the principal enactment is hereby amended by the repeal of subsection (1) of that section and the substitution, of the following subsection therefore:-

Amendment of  
section 17 of the  
principal enactment

"(1)The Board shall establish and maintain a Marketing and Promotion Department, a Planning and Development Department, a Regulation Department and such other departments as it may deem necessary for the proper and efficient conduct of its business".

- 9 Sections 22 and 23 of the principal enactment are hereby repealed and the following sections substituted therefore:-

Replacement of  
sections 22 and 23 of  
the principal enactment

22 Article 154 of the Constitution shall apply to the audit of the accounts of the Board.

Audit of accounts of  
the Board

23(1) There shall be a Fund to be called the Tourism Development Fund.

Tourism  
Development Fund

(2) There shall be paid into the Tourism Development Fund-

- (a) one third of all sums collected as Embarkation Levy under section 2 of the Finance Act, No.25 of 2003;and
- (b) all sums levied as Tourism Development Levy under

section 11 of the Finance Act, No. 25 of 2003 and collected by the Director General.

- (3) The Board shall manage the Tourism Development Fund.
- (4) The Board shall disburse annually to the Board, the Sirimavo Bandaranaike Institute of Tourism and Hotel Management and the Sri Lanka Convention Bureau, from moneys lying to the credit of the Tourism Development Fund, the respective amounts determined under subsection (5) for disbursement to such Board, Institute and Bureau.
- (5) The amounts to be disbursed annually to the Board, the Sirimavo Bandaranaike Institute of Tourism and Hotel Management and the Sri Lanka Convention Bureau from the Tourism Development Fund shall be determined by a Committee consisting of the Deputy Secretary to the Treasury, the Secretary to the Ministry of the Minister in charge of the subject of Tourism and the Chairman of the Board. In determining the amounts to be so disbursed the Committee shall have regard to the programme budgets submitted by such Board, Institute and Bureau under subsection (7).
- (6) All moneys disbursed to them under subsection (4) from the Tourism Development Fund shall be used by the Board, the Sirimavo Bandaranaike Institute of Tourism and Hotel Management and the Sri Lanka Convention Bureau only for the promotion and development of tourism, including human resource development but not for capital investment in tourist infrastructure projects.
- (7) For the purpose of enabling the Committee to determine the amounts to be disbursed to them under subsection (5), the Board, the Sirimavo Bandaranaike Institute of Tourism and Hotel Management and the Sri Lanka Convention Bureau shall submit to the Committee, at the beginning of every financial year, programme budgets giving details of the expenditure proposed to be incurred by them in the promotion and development of tourism in that financial year.
- (8) The Board shall cause proper accounts to be kept of the income and expenditure and all other transactions of the Tourism Development Fund.
- (9) Article 154 of the Constitution shall apply to the audit of the accounts of the Tourism Development Fund."

10 Section 54 of the principal enactment is hereby amended by the insertion, immediately after the definition of "Minister", of the following definition:-

Amendment of  
section 54 of the  
principal enactment

"Provincial Council" means a Provincial Council established under Chapter XVII A of the Constitution."

11 For the avoidance of doubts it is hereby declared that the Tourism Act, No.38 of 2005 is hereby repealed.

Repeal of Tourism  
Act, No.38 of 2005

12 In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.

Sinhala text to  
prevail in case of  
inconsistency

**An Act to Provide for the Establishment  
of the  
Sirimavo Bandaranaike Institute  
of  
Tourism and Hotel Management  
and for  
matters connected therewith or incidental thereto**

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF THE SIRIMAVO BANDARANAIKE INSTITUTE OF TOURISM AND HOTEL MANAGEMENT AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO

1. This Act may be cited as the Srimavo Bandaranaike Institute of Tourism and Hotel Management Act, No. of 2006 and shall come into operation on such date as the Minister may appoint by Order published in the Gazette.

Short title

PART 1

ESTABLISHMENT OF THE SIRIMAVO BANDARANAIKE INSTITUTE OF TOURISM AND HOTEL MANAGEMENT AND ITS CONSTITUTION

2. (1) There shall be a body to be called the Srimavo Bandaranaike Institute of Tourism and Hotel Management ( in this Act referred to as the "Institute" ).

Establishment of the  
Sirimavo Bandaranaike  
Institute of Tourism and  
Hotel Management

- (2) The Institute shall by the name assigned to it by the subsection (1) be a body corporate with perpetual succession and a common seal and may sue and be sued in such name

3. The functions of the Institute shall be –

Functions of the  
Institute

- (a) to train persons at all levels to meet local and foreign needs for managerial , supervisory , skilled and semi skilled manpower in the hospitality and tourism industries and to award certificates and diplomas to the persons so trained;
- (b) to promote the efficient operation of the satellite schools network and to establish at least one school in each province, in consultation with the relevant Provincial Councils;
- (c) to establish , in consultation with the relevant authorities , a system of national certification in order to improve the occupational skills of persons employed in the hospitality and tourism industries and to set standards for such persons;
- (d) to provide facilities for trade testing and certification;

- (e) to establish training and exchange programmes with other hospitality training Institutions and Universities;
- (f) to disseminate information with regard to the functions and activities of the Institute , to public and other relevant Institutions:
- (g) to train and issue certificates to all categories of tourist guides.:
- (h) to promote the effective teaching of foreign languages and information technology for the purposes of tourism:
- (i) to undertake research and assignments relating to tourism:
- (j) to develop and maintain an accreditation system to ensure international recognition of certificates and diplomas awarded by the Institute:
- (k) to conduct research on employment trends and man power and training requirements in the, hospitality and tourism industries;
- (l) to develop and conduct and: advanced courses in hospitality and tourism management; and
- (m) to operate a model tourist hotel within the Institute providing accommodation , food and beverage services and conference facilities on a commercial basis, for training in hospitality and tourism management.

4. The Institute shall have the following powers-

Powers of the  
Institute

- (a) to acquire in any manner whatsoever and hold, take or give on lease or hire, mortgage , pledge , sell or otherwise dispose of , any movable or immovable property ;
- (b) to establish and operate training centres in hospitality and tourism management ;
- (c) to conduct , assist ,coordinate and encourage research into all aspects of hospitality and tourism management;
- (d) to appoint , employ, remunerate , and exercise disciplinary control over, its officers and servants:

- (e) to levy fees or charges for services rendered by the Institute ;
- (f) to import plant , machinery and equipment required for the purpose of the Institute and to receive equipment, funds and any other assistance necessary for the discharge of its functions;
- (g) to establish work performance standards for its officers and servants , and to evaluate their performances in accordance with such standards;
- (h) to establish and maintain welfare and recreational facilities for its officers and servants;
- (i) to make rules in relation to its officers and servants including their appointments , training and promotion , remuneration , disciplinary control and grant of leave;
- (j) to make rules and in respect of the general administration of the Institute :
- (k) to represent the Institute in national and international bodies and conferences relating to hospitality and tourism management ; and
- (l) to do all the other acts and things which are necessary or conducive or incidental to the discharge of its functions.

5. In the exercise of its powers and the discharge of its functions, the Institute shall comply with the policy of the Government in relation to hospitality and tourism management and with any policy direction issued by the Minister in writing.

The Institute to exercise its powers under the direction of the Minister

6. The Board of Governors constituted under section 7 shall administer the affairs, exercise the powers and discharge the functions, of the Institute.

The Board to administer the affairs of the Institute

7. (1) The administration and management of the affairs of the Institute shall be vested in a Board of Governors hereinafter referred to as "the Board" ) consisting of the following members.-

Constitution of the Board

- (a) the person for the time being holding office as the Secretary to the Ministry of the Minister in charge of the subject of Tourism , who shall be the Chairman of the Board;
  - (b) the person for the time being holding office as Secretary to the Ministry of the Minister in charge of the subject of Vocational Training or his or her nominee who shall be an officer not below the rank of a senior assistant secretary;
  - © the person for the time being holding office as the Secretary to the Ministry of the Minister in charge of the subject of Provincial Councils or his or her nominee who shall be an officer not below the rank of a senior assistant secretary;
  - (d) the person for the time being holding office as the Secretary to the Ministry of the Minister in charge of the subject of Finance or his or her nominee who shall be an officer not below the rank of a senior assistant secretary;
  - (e) the person for the time being holding office as the Chairman of the Sri Lanka Tourist Board;
  - (f) the person for the time being holding office as the Chairman of the University Grants Commission established by the Universities Act, No. 16 of 1978 or a member of such Commission nominated by such Chairman; and:
  - (g) one member appointed by the Minister from amongst persons who possess recognized qualifications and have wide experience in the fields of hospitality and tourism management.
- 2) The Registrar of the Institute appointed under section 11 shall act as the Secretary to the Board
- (3) The provisions of the Schedule to this Act , shall have effect in relation to the term of office of the members of the Board , remuneration payable to such members , meetings and the seal of the Board.
8. (1) There shall be a Advisory Council ( in this section referred to as "the Council") consisting of the following members appointed by the Minister-
- (a) the Director General of Tourism;
  - (b) two members nominated by the Ceylon Hotel School Graduates Association;

Advisory Council of  
the Institute



- (c) two members nominated by the Tourist Hotels Association of Sri Lanka;
  - (d) one member nominated by the Sri Lanka Association of Inbound Tour Operators ;
  - (e) one member nominated by the Travel Agents Association of Sri Lanka;
  - (f) one member nominated by the Association of Small and Medium Enterprises in Tourism, Sri Lanka; and
  - (g) one member nominated by the National Guide Lecturers Association of Sri Lanka.
- (2) A member of the Council may resign from the Council by a letter in that behalf addressed to the Minister.
  - (3) The Minister may, for reasons assigned, remove a member of the Council from office.
  - (4) Subject to the provisions of subsections (2) and (3), the term of office of a member of the Council shall be five years.
  - (5) The Director General of Tourism shall preside at meetings of the Council. In the absence of the Director General of Tourism from any meeting of the Council, the members present at such meeting shall elect, from amongst themselves, a Chairman for that meeting.
  - (6) The Council shall meet as often as is necessary for the discharge of its functions.
  - (7) Subject to the other provisions of this section, the Council may determine the procedure to be followed at meetings of the Council and the transaction of business at such meetings.
  - (8) The Council shall advise the Board on all matters referred to the Council by the Board for the Council's advice and may, of its own motion, advise the Board on any matter relating to training in the hospitality and tourism industries.
9. The Board may delegate the Principal or any other officer of the Institute, any of its powers and functions.

Delegation of the powers  
and duties of the Board

## PART II

### APPOINTMENT OF THE PRINCIPAL OF THE INSTITUTE AND OTHER OFFICERS AND SERVANTS OF THE BOARD

10.(1) The Board shall appoint a person who has suitable qualifications in hospitality and tourism management to be the Principal of the Institute (hereinafter referred to as "the Principal"). The Principal shall be the chief executive officer of the Institute.

Appointment of the Principal of the Institute

(2) It shall be the duty of the Principal to implement the decisions of the Board and to exercise, subject to the general direction of the Board, disciplinary control over the staff of the Institute.

(3) the Principal shall exercise, perform and discharge all such powers, duties and functions as may be delegated to him by the Board.

(4) The Principal may be paid such remuneration as may be determined by the Board.

11.(1) Subject to other provisions of the Act, the Board may-

Powers of the Board with regard to appointments of the staff of the Institute

(a) appoint to the staff of the Institute, a Registrar and such other officers and servants as may be necessary for the purposes of the Institute;

(b) dismiss and exercise disciplinary control over the staff of the Institute;

(c) fix the wages or salaries or other remuneration of the staff of the Institute; and

(d) determine the terms and conditions of service of the staff of the Institute.

(2) Rules may be made under this Act in respect of all or any of the matters referred to in the subsection (1)

12.(1) At the request of the Board, any officer in the public service may, with the consent of that officer and the Secretary to the Ministry of the Minister in charge of the subject of the Public Administration, be

Appointments of the public officers to the staff of the Institute

temporarily appointed to the staff of the Institute for such period as may be determined by the Board with like consent or be permanently appointed to such staff.

- (2) Where any officer in the public service is temporarily appointed to the staff of the Institute, the provisions of the subsection (2) of the section 14 of the National Transport Commission Act No 37 of 1991 shall, *mutatis mutandis*, apply to, and in relation to, him.
  - (3) Where any officer in the public service is permanently appointed to the staff of the Institute, the provisions of subsections (3) of section 14 of the National Transport Commission Act 37 of 1991, shall, *mutatis mutandis* apply to, and in relation to, him.
  - (4) Any officer or servant of a public Corporation may, with the consent of such officer or servant and the governing authority of such Corporation, be temporarily or permanently appointed to the staff of the Institute on such terms and conditions, including those relating to the provident fund rights, as may be agreed upon by such governing authority and the Board.
  - (5) Where the Institute employs any person who has entered a contract with the Government by which he has agreed to serve the Government for a specified period, any period of service by that person to the Institute shall be regarded as service to the Government for the purpose of discharging the obligations of such contract.
  - (6) In this section, "governing authority" in relation to a public corporation means the Board of Directors or other body howsoever described charged with the administration of the affairs of that public corporation.
13. No officer or servant of the Institute shall render paid services to any other person without the consent of the Board.

Rendering of the services  
by officers &c. of the  
Institute to other  
employers

## PART 111

### FINANCE

14. (1) The Institute shall have its own Fund .

The Fund of the  
Institute

(2) There shall be credited to the Fund of the Institute:-

- (a) all such sums of money as may be voted from time to time by Parliament for the use of the Institute : and
- (b) all such sums of money as may be received by the Institute as disbursements from the Tourist Development Fund established by the Sri Lanka Tourist Board Act;
- (c) all such sums of money as may be received by the Institute in the exercise , discharge and performance of its powers, function and duties.

(3) There shall be paid out of the Fund of the Institute, all such sums of money as may be required to defray any expenditure incurred by the Institute in the exercise , discharge and performance of its powers , functions and duties under this Act.

15. (1) The financial year of the Institute shall be the calendar year.

The financial year and  
audit of accounts of  
the Institute

(2) The Institute shall cause proper accounts to be kept of the income and expenditure , assets and liabilities and all other transactions of the Institute.

(3) the provision of Article 154 of the Constitution shall apply to the audit of the accounts of the Institute.

## PART IV

### General

16. All members of the Board and officers and servants of the Institute shall be deemed public servants within the meaning of the Penal Code and the provisions of that Act shall be construed accordingly.

Members and officers &c. of  
the Institute deemed to be  
public servants

17.(1) Where any immovable property is required to be acquired for the purposes of the Institute 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 acquired under the Land Acquisition Act and be transferred to the Institute.

Acquisition of immovable property under the Land Acquisition Act for the Institute

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

18.(1) Where any immovable property of the State is required for the purposes of the Institute, such purpose shall be deemed to be a purpose for which a special grant or lease of such property may be made under the 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 Institute,

State property both movable and immovable to be made available to the Institute

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

19 The State may provide for the use of the Institute, such land, buildings and other facilities as may be deemed necessary for the proper discharge by the Institute, of its functions.

State to make available premises & c. for use of the Institute

20 The Minister may give policy directions in writing as to the discharge of the functions and the exercise of the powers of the Board, and the Board shall give effect to such directions.

Power of the Minister to give policy directions to the Board

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

Rules

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

22.(1) All property, movable and immovable, vested in the Sri Lanka Tourist Board and used, on the day preceding the date on which this Act

Transitional Provision

comes into operation, for the purposes of any Hotel School maintained by such Board shall, with effect from the date on which this Act comes into operation, vest in, and be the property of, the Institute.

- (2) All officers and servants of the Sri Lanka Tourist Board employed, on the day preceding the date on which this Act comes into operation, in every Hotel School maintained by the Institute shall, with effect from the date on which this Act comes into operation, be deemed, for all purposes, to be officers and servants of the Institute.

23. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.

Sinhala text to prevail in case of inconsistency

#### SCHEDULE (Section 7(3))

- 1 A person shall be disqualified for being appointed or continuing as a member of the Board-

SCHEDULE (Section 7(3))

- (a) if he is or becomes a Member of Parliament, a Provincial Council or a local authority;
- (b) if he, directly or indirectly, holds or enjoys any right or benefit under any contract made by or on behalf of the Institute;
- © if he has such financial or other interest as is likely to affect prejudicially the discharge by him of his functions as a member of the Board.

- 2(1) Every member of the Board appointed under section 7(1) (g) shall, unless he earlier vacates office by death, resignation or removal from office, hold office for a period of five years.

- (2)(a) Where a member of the Board appointed under section 7(1)(g) dies or resigns or is removed from office, the Minister may, having regard to the provisions of that paragraph, appoint another person to be a member in place of the member who dies, resigns or is removed from office.

- (b) Any member of the Board appointed under paragraph (a) shall, unless he earlier vacates office by death, resignation or removal from office, hold office for the unexpired part of the term of office of the member whom he succeeds.

(3) Where a member of the Board appointed under section 7(1) (g) is by reason of illness or other infirmity or absence from Sri Lanka, temporarily unable to perform the duties of his office, the Minister may, having regard to the provisions of that paragraph, appoint another person to act in his place.

3 The Minister may, for reasons assigned, remove a member of the Board appointed under section 7 (1) (g) from office.

4 A member of the Board appointed under section 7(1) (g) may at any time resign from the Board by letter addressed to the Minister.

5 A member of the Board who vacates office otherwise than by removal, shall be eligible for reappointment.

6 No act or proceeding of the Board shall be deemed to be invalid by reason only of the existence of any vacancy in the Board or of any defect in the appointment of a member thereof.

The members of the Board may be paid such remuneration out of the Fund of the Board as may be determined by the Minister with the concurrence of the Minister in charge of the subject of Finance.

8 (1) Meetings of the Board shall be held once at least every month.

(2) the Chairman through the Registrar shall give at least seven days notice in writing of every meeting of the Board to each of the members, and shall specify in such notice the business to be dealt with at such meeting.

(3) Notwithstanding the provisions of subparagraph (2), the Chairman shall, through the Registrar, summon a special meeting of the Board within seven days after being requested in writing to do so by at least two members of the Board.

(4) The quorum for a meeting of the Board shall be five members.

(5) The Chairman shall preside at meetings of the Board and in the absence of the Chairman from any meeting of the Board, a member

elected from amongst the members present at such meeting shall preside thereat.

- (6) If the Chairman is 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 member of the Board to act in his place.
- (7) Where there is an equality of votes on any matter to be decided at a meeting of the Board, the Chairman at such meeting shall, in addition to his own vote, have a casting vote.
- (8) Subject to the provisions herein contained, the Board may determine its own procedure.