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WORLD



Investment Climate for Logistics

Under

Commercial Hub Regulations

In Sri Lanka

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Government Notification – The Finance Act No. 12 of

2A
 1. ප්‍රකාශන - (1) පළමු - ශ්‍රී ලංකා ප්‍රජාතාන්ත්‍රික සමාජවාදී ජනරජයේ අති විශේෂ ප්‍රකාශන - 2013.07.11
 Part I : Sec. (1) - GAZETTE EXTRAORDINARY OF THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA - 11.07.2013

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The Gazette of the Democratic Socialist Republic of Sri Lanka
 EXTRAORDINARY

අංක 1818/30 - 2013 ජූලි මස 11 වැනි කුසලානවැනිදා - 2013.07.11
 No. 1818/30 - THURSDAY, JULY 11, 2013

(Published by Authority)

PART I : SECTION (I) — GENERAL Government Notifications

THE FINANCE ACT No. 12 OF 2012

REGULATION made by the Minister of Finance and Planning under PART IV of the Finance Act, No. 12 of 2012, as amended by Finance Act, No. 12 of 2013.

MAHINDA RAJAPAKSA,
 Minister of Finance and Planning

Ministry of Finance and Planning,
 Colombo 01,
 10th July, 2013.

Regulation

1. This Regulation may be cited as the Finance Act - Commercial Hub Regulation No. 1 of 2013.

2. The Board of Investment of Sri Lanka established by the Board of Investment of Sri Lanka Law No. 4 of 1978 amended (hereinafter referred to as "the Board") may, in addition to the contents of Regulation No. 01 of 1978 published in *Gazette Extraordinary* No. 8/2 of October 31, 1978, embodied or incorporated in any agreement entered into between Board and any Enterprise in terms of Section 17 of the said Law, and give effect to the following Provisions provided for PART IV of the Finance Act, No. 12 of 2012 (Principal Act) as amended by the Finance Act, No. 12 of 2013.

- (1) Any new enterprise which is established or incorporated in Sri Lanka and engaged in any one or more of following business activities, where at least Sixty Five percent (65%) of its total investment has been from foreign sources including and transfers from a Foreign Currency Banking Unit of a licensed Commercial Bank operating in Sri Lanka, and of which the total turnover is from export of goods and/or services, shall be exempted from the application of Provisions of the Customs Ordinance (Chapter 235), the Exchange Control Act (Chapter 423), the Imports and Exports (Control) Act, No. 1 of 1969, and acts referred to in schedule referred to in the Principal Act as amended by the Finance Act, No. 12 of 2013.

- (a) entrepot trade involving an import, minor processing and re-export;
- (b) off-shore business where goods can be procured from one country or manufactured in one country, shipped to another country without bringing the same into Sri Lanka;
- (c) providing front end services to clients abroad;



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- (d) operations of the Headquarters of leading buyers for the management of the finance supply chain and billing operations;

- (e) logistic services such as a bonded warehouse or in the case of operation of multi-country consolidation in Sri Lanka;

Further, if an Enterprise engaged in entrepot trade in manufacturing a product, as defined in the Principal Act and having considered the importance of availing such product in the domestic market in the interest of the national economy, such Enterprise may be permitted domestic sales upto a certain percentage payable in Sri Lanka Rupees, and permission for such sales shall be given by the Board, with prior concurrence of the Minister of Finance and in such case the turnover of such domestic sale shall be treated as turnover from deemed exports, in the hand of such Enterprise.

Provided however —

- (a) a new Enterprise which is engaged in business activities referred under (a) and (c) above and engaged in the physical importation of goods, wares or merchandise for re-export, shall be required to operate such business activities in a Free Port or in a designated Bonded Area. However, where an Enterprise engaged in entrepot trade as defined in the Principal Act obtained the approval under these Provisions for manufacturing or assembling a product, such Enterprise is required to be operated either in a Free Port or in a specified bonded area;
- (a) a new Enterprise which is engaged in business activities referred under (b), (c) and (d) above, may be established outside a Free Port or a Bonded Area;
- (b) the minimum investment of a new Enterprise which is engaged in business activities referred under (a) above shall be United States Dollars Five Million (US\$ 5 Mn.), required to be invested in fixed assets within Six (06) months from the date of the related agreement signed between the Enterprise and the Board. It shall also be required that such Enterprise shall achieve an annual re-export turnover of not less than US\$ 20 Mn. over a period of Five years from the date of commencement of operations of such business;
- (c) the minimum investment of a new Enterprise which is engaged in business activities referred under (c) above shall be United States Dollars Three Million (US\$ 3 Mn.), required to be invested in fixed assets within Six (06) months from the date of the related agreement signed between the Enterprise and the Board. It shall also be required that such Enterprise shall achieve an annual re-export turnover of not less than US\$ 15 Mn. over a period of Five years from the date of commencement of operations of such business;
- (d) the minimum investment of a new Enterprise which is engaged in business activities referred under (b) and (c) and/or (d) above shall be United States Dollars One Million (US\$ 1 Mn.), required to be invested in fixed assets and which investment shall be required within six (06) months from the date of the related agreement signed between the Enterprise and the Board. It shall also be required that such Enterprise shall achieve an annual re-export turnover of not less than US\$ 10 Mn. over a period of Five years from the date of commencement of operations of such business.

3. A new Enterprise which is engaged in business activities referred under 2. (1) (a), (b), (c), (d) and (e) above shall maintain clear detailed records of all its transactions in the prescribed forms provided by the Board, which shall include details relating to all inward and outward remittances of Foreign Exchange, and such records shall be submitted to the Board and the Controller of Exchange, annually. Further, such records shall be maintained at the operational premises of the Enterprise pertaining to the past three consecutive years at any given point in time, to facilitate easy submission of the same whenever the Board or the Controller of Exchange may require.

4. A new Enterprise which is engaged in business activities referred under 2. (1) (a), (b), (c), (d) and (e) above shall be subject to a synchronized operational procedure/s that shall be introduced by the Department of Customs, the Board of Investment of Sri Lanka and Sri Lanka Ports Authority in respect of Free Port or the Bonded Area, as may be relevant.

5. Movement of goods to or from a Free Port or a Bonded Area in to or from the Sri Lankan territory, shall be subject to the provisions of the said Customs Ordinance and the Imports and Exports (Control) Act as may be applicable, as if such goods have been imported into Sri Lanka or exported from Sri Lanka, as the case may be.

6. Notwithstanding the exemptions granted in terms hereof, it is hereby required that Enterprises referred to in this Regulation are subject to the restrictions and prohibitions imposed in Schedule (B) to the Customs Ordinance. As such, the Director General of Customs or any officer authorized by him shall have the power to enter into any business premises to which this Regulation applies and take necessary action, if any such Enterprise is said to have acted contrary to the prohibitions or restrictions set out in Schedule (B) to the Customs Ordinance.

7. However, the 'Limitations' set out in Section 3(a) of *Gazette* No. 1252/14, 2002 of 19.04.2002, by the Controller of Exchange in terms of Sections 7, 10, 11, 15 and 30(?) of the Exchange Control Act (Chapter 432 of the CLE) as may be amended, shall not apply to such an Enterprise, and as such, foreign ownership shall be permissible in such Enterprise.

8. A new Enterprise which is engaged in any business activity referred under 2. (1) (a), (b), (c), (d) and (e) above shall be eligible for tax concessions available under Section 13(a)(i), 13(a)(ii), 13(a)(iii), 13(a)(iv), 16(c), 16(d) and Section 17(A) of the Inland Revenue Act, No. 10 of 2006, as amended, subject to the fulfilment of the requirements specified under the respective Section/s.

9. A new Enterprise that is engaged in any business activity referred under 2. (1) (a), (b), (c), (d) and (e) may also be considered in terms of the Strategic Development Projects Act, No. 14 of 2008, having followed the due process as set out in the said Act, provided the investment is not less than US\$ 10 Mn.

10. The 'Country of Origin Certificates' issued by the Department of Commerce will be made available to any enterprise referred to in this Regulation, only in respect of domestic exports entering into the Bonded Area or the Free-Port Area, under this Regulation.

11. The Colombo and Hambantota Ports as declared in terms of Section 2(iii) of the Sri Lanka Ports Authority Act, No. 51 of 1979, are hereby declared as Free Ports, for the purposes of this Regulation.

12. Katunayake Export Processing Zone and Koggala Export Processing Zone declared in terms of the Board of Investment Law No. 4 of 1978, are hereby declared as Bonded Areas for the purposes of this Regulation.

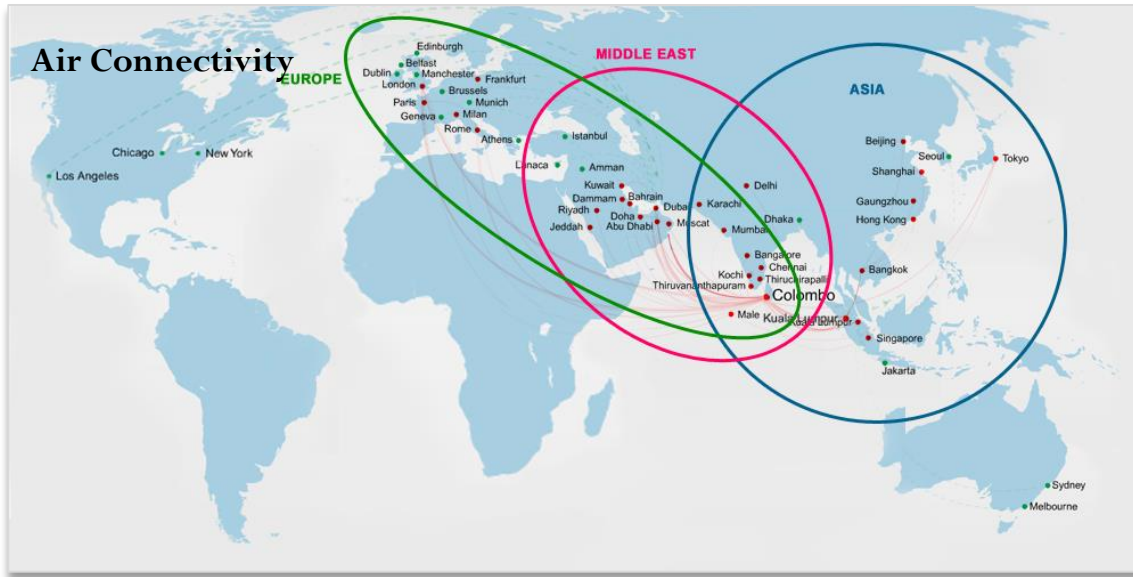
13. Mattala Rajapaksa International Airport located at Mattala, declared under The Air Navigation Regulation of 1955 - Notice under Regulation 126 issued in terms of *Gazette Extraordinary* No. 1789/52, dated 01st February 2013, and boundaries set out in Schedule A of *Gazette Extraordinary* No. 1800/25 dated, 07th March 2013 issued under Section 111 of the Customs Ordinance (Chapter 235) and Marigowda Export Processing Zone declared in terms of the Board of Investment Law No. 4 of 1978, are hereby declared as specified Bonded Areas for the purposes of this Regulation.

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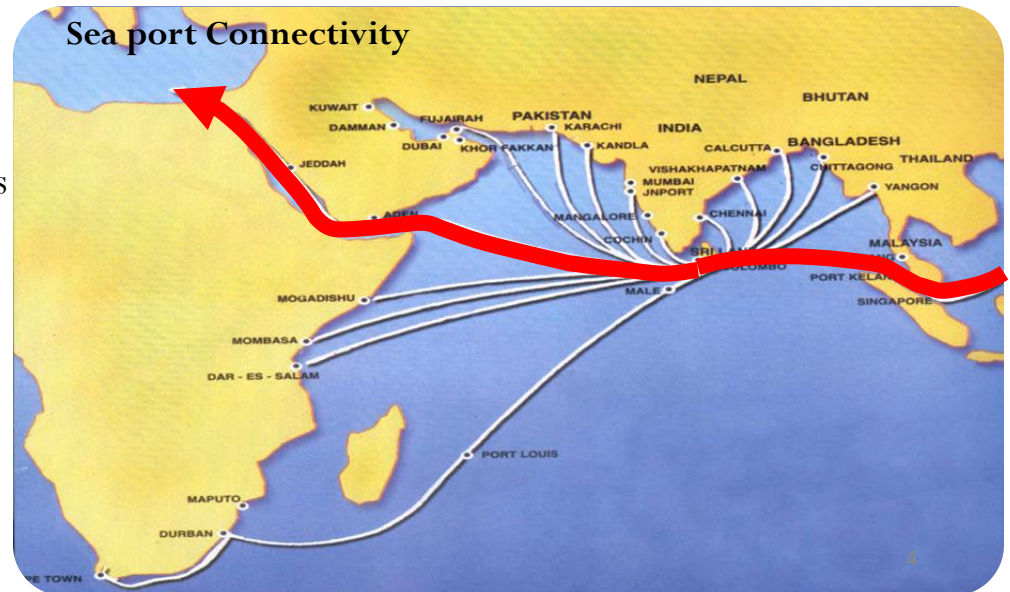
Quick facts on Gazette

- ❖ Name of Regulation
- ❖ Hub Projects to be entered in to an agreement with
- ❖ At least 65% of total investment should be from
- ❖ 3 laws exempted for Hub Projects
- ❖ Five business activities
- ❖ Minimum investment & turnover for hub activities
- ❖ Country of Origin issued by Dept. of Commerce
- ❖ 6 locations permitted for hub operation

Sri Lanka's Geostrategic Location



- Located at the center of sub continents



- Located within the vicinity of main shipping routes connecting East & West providing direct access to important trading partners

Legal framework

- Government has announced to setup Free Ports and Bonded Areas to create trade related infrastructure to facilitate import and export of goods and services with freedom to carry out transactions in convertible foreign currency.
- The Free Port and Bonded Area are special areas reserved for specific activities and governed by the provisions of following Acts and Regulations
 - In 2012, the Finance Act 12 of 2012, first announced the legislation applicable for Commercial Hub activities.
 - In 2013, amendments were made by Finance Act No 12 of 2013
 - Commercial Hub Regulation No. 1818/ 30 was issued on 11-07-2013



PARLIAMENT OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF
SRI LANKA

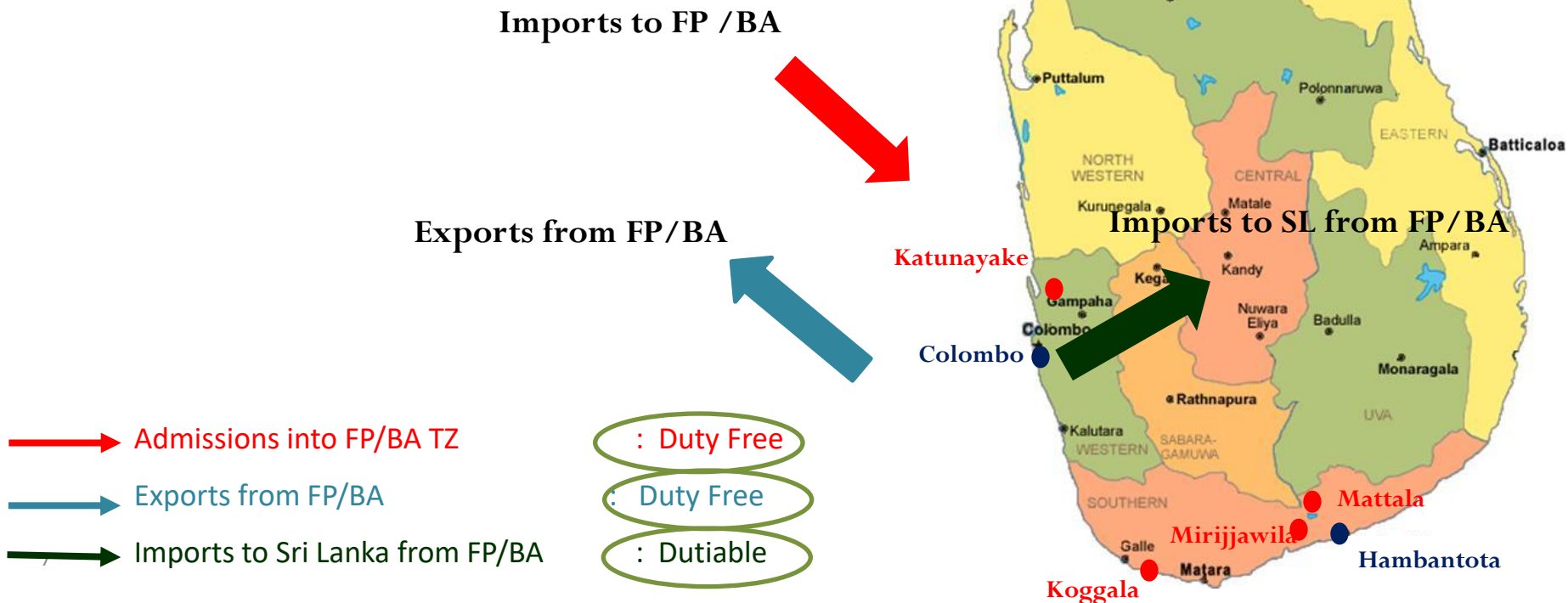
FINANCE ACT, No. 12 OF 2012

“Sri Lankan territory” means the territory of the Republic of Sri Lanka and does not include any Free Port or a Bonded Area declared under this Part of this Act.”.

Declaration of Free Port & Bonded Area

- What are Free Port (FP) & Bonded Areas (BA) for the purpose of Finance Act 12 of 2012 ?

Areas “which are geographically inside Sri Lanka but are legally considered outside its customs territory”.

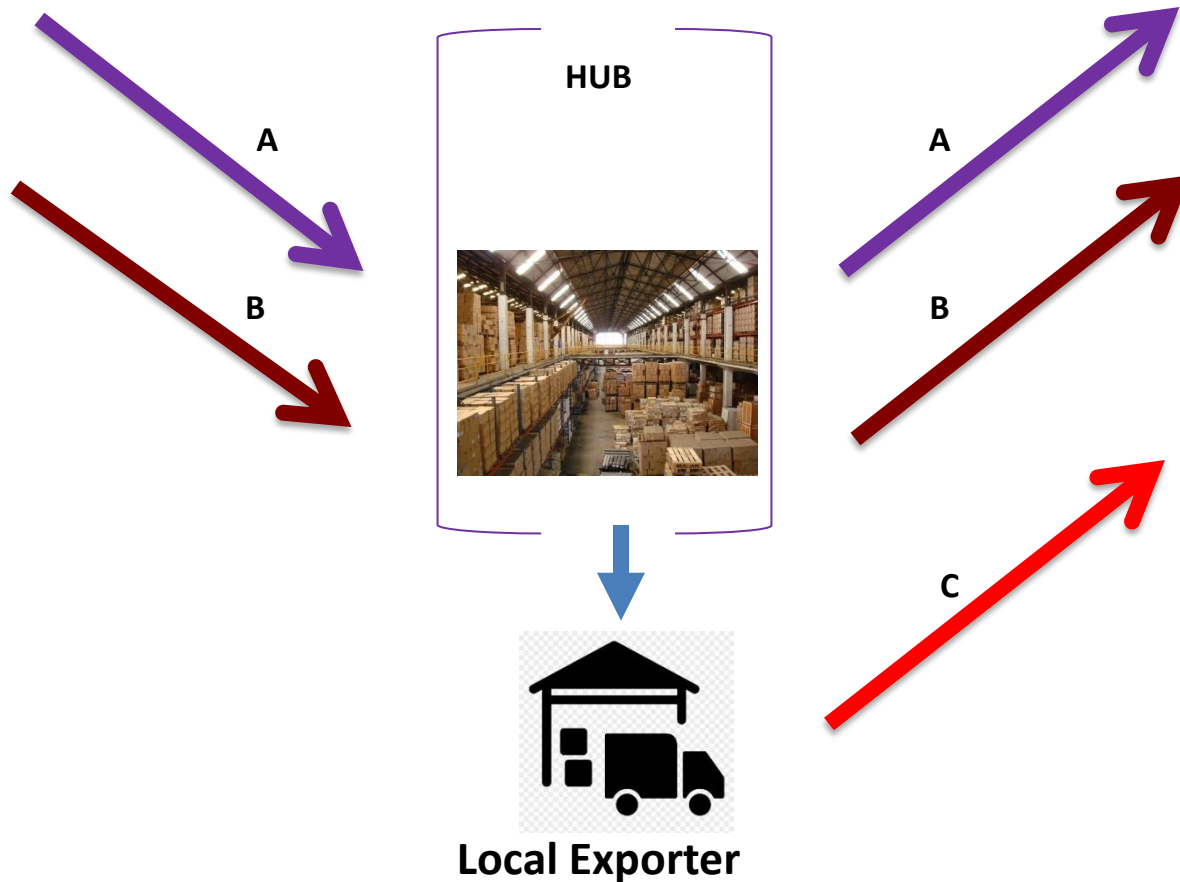


FIVE ACTIVITIES APPROVED UNDER COMMERCIAL HUB REGULATIONS

1. Entrepot trade
2. Off-shore business
3. Front end services
4. Headquarters Operations
5. Logistic services



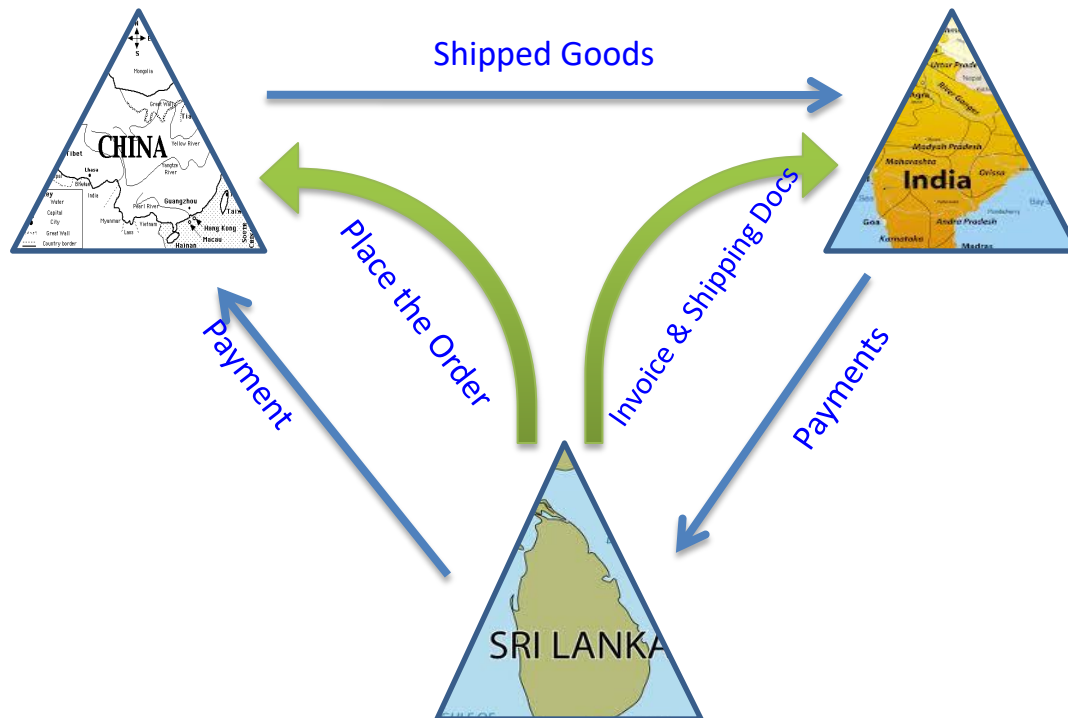
Permitted Activities (a) Entrepot Trade (ET)



USD 5 Mn

- Involving in import
- Minor processing and re-export
- Manufacturing or assembling with minimum 10% DVA.

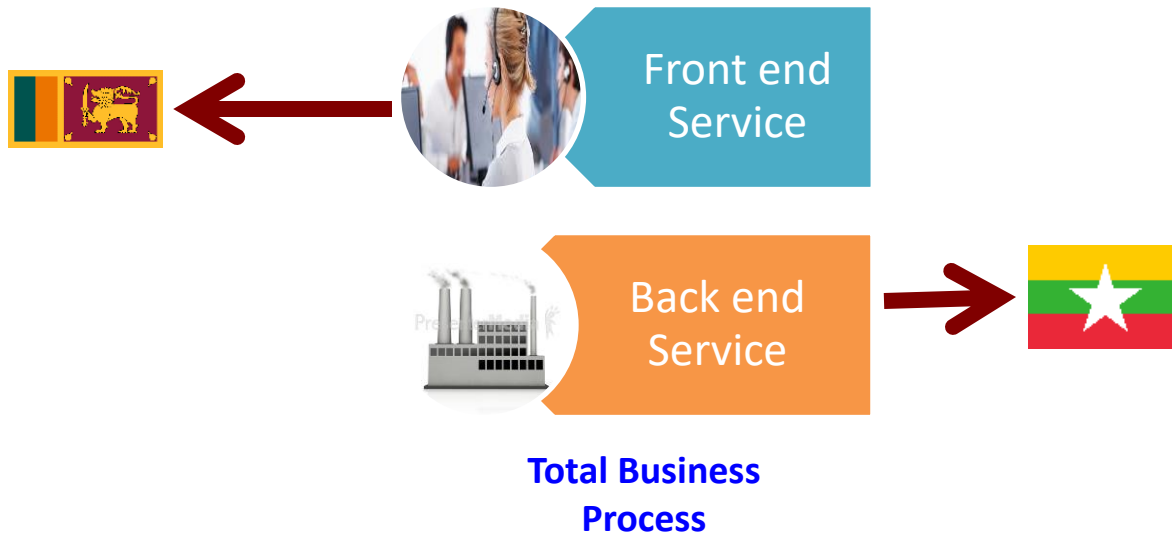
(b) Off-Shore Business



USD 1 Mn

Where goods can be procured from one country or manufactured in one country and shipped to another country without bringing the same into Sri Lanka.

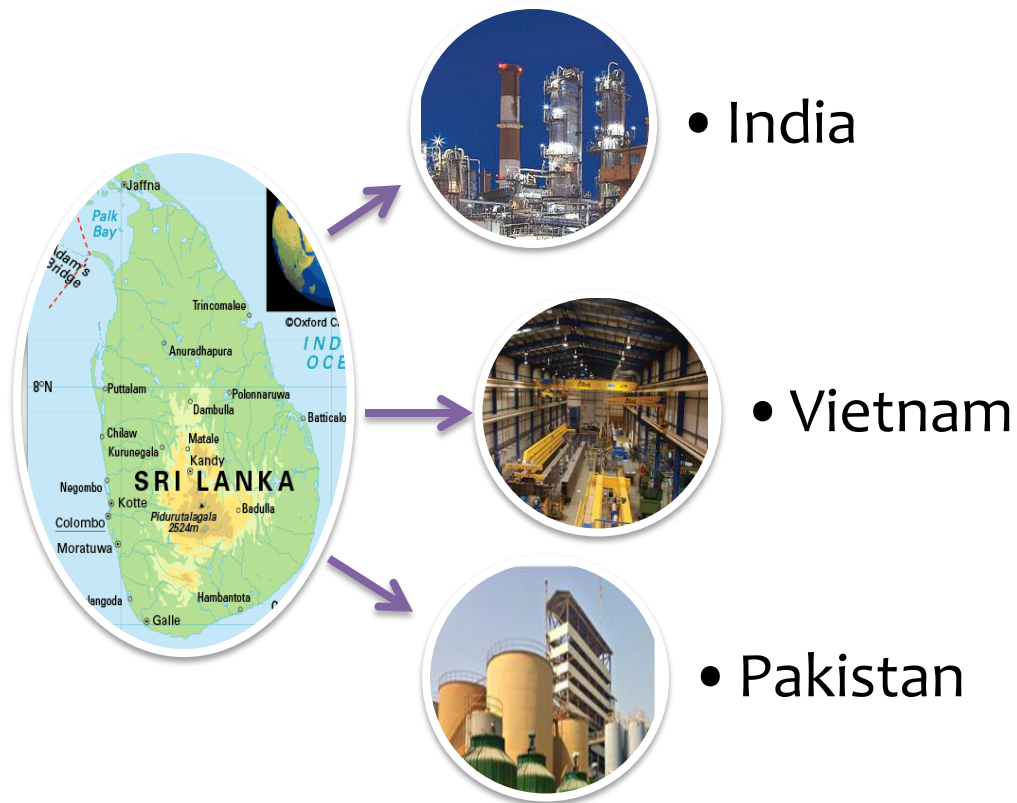
(c) Front End Services



USD 1 Mn

- Marketing, Sales & Business Development
- Product Design & Development, SCM
- Sampling ,Testing
- Quality Cheking

(d) Head Quarters Operations

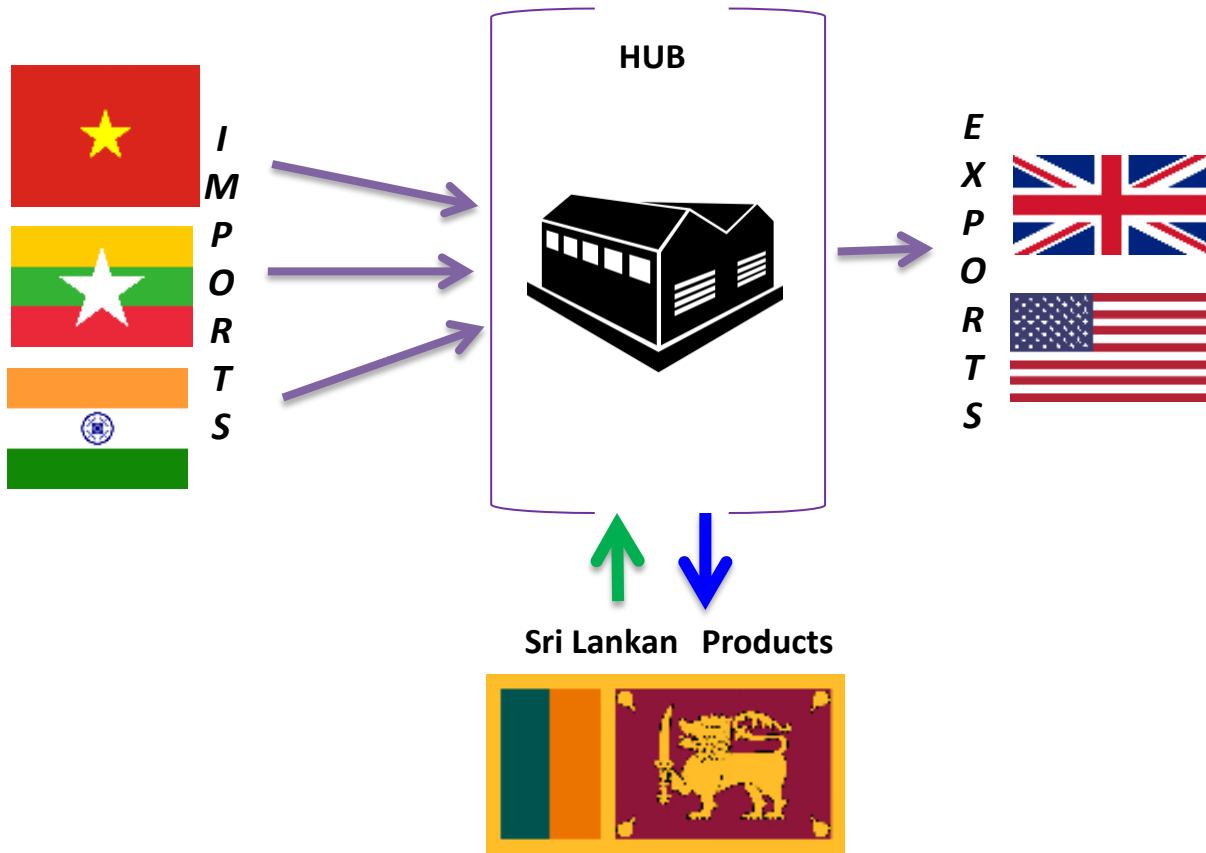


USD 1 Mn

- International Billing
- Quality Control
- Financial Services
- Administration
- Supply Chain Management



(e) LOGISTIC SERVICES (LS)



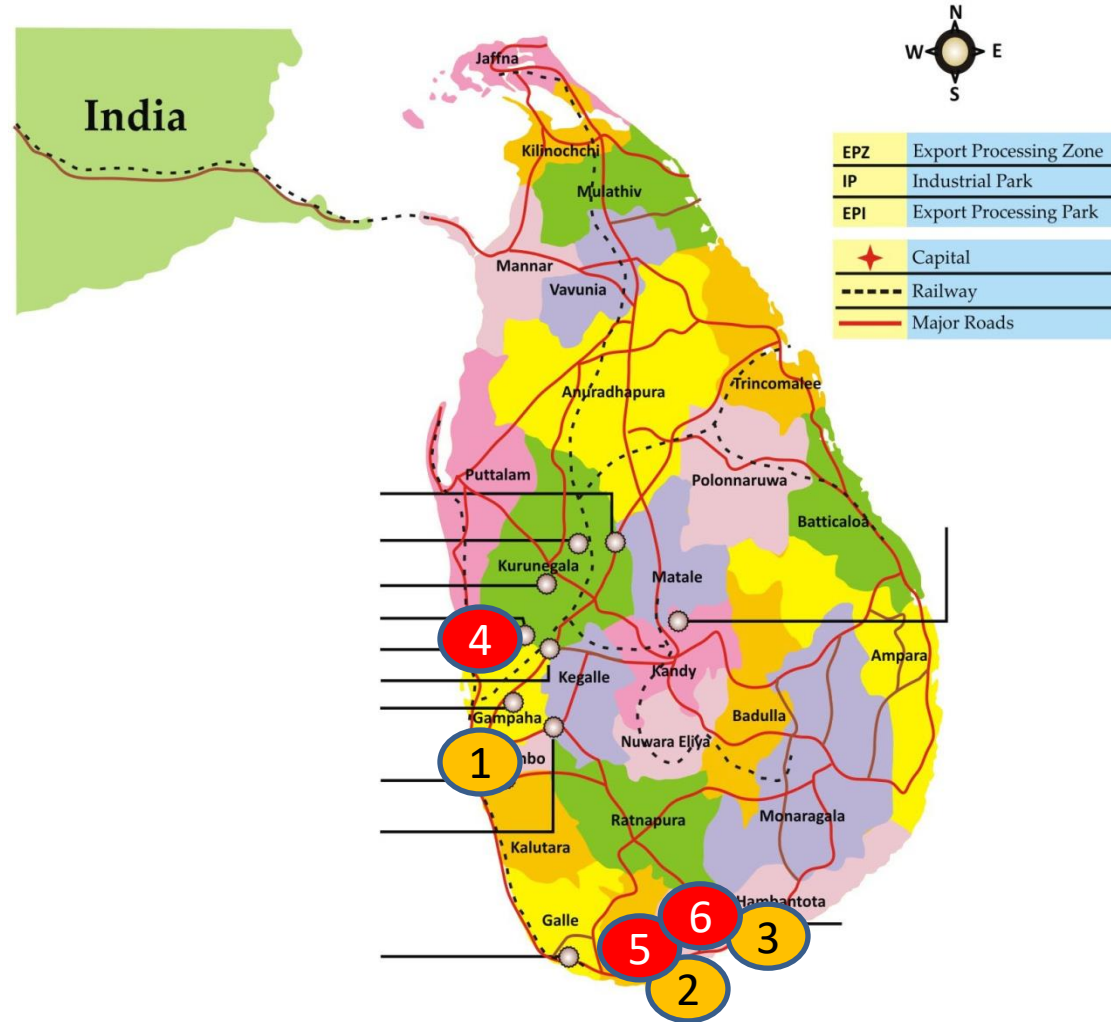
USD 3 Mn

- Warehousing, Inventory Management, Logistic Value Addition
- Freight forwarding for clients abroad
- Transshipment Activities
- Regional Trade Bonds



Six Free Ports & Bonded Areas Under commercial Hub Regulation

-  1. Colombo Port
-  2. Hambantota Port
-  3. Mattala Airport
-  4. Katunayake EPZ
-  5. Koggala EPZ
-  6. Mirijjawila EPZ



Fiscal & Regulatory Benefits of FP & BA

1. Exemptions from the application of Provisions of the

- Customs Ordinance (Chapter 235)

(subjects to restrictions & prohibitions imposed in Schedule B),

- Exchange Control Act (Chapter 423)

(Sec. 3(a) of Gazette 1232/14 dated 19 -04-2002 shall not apply and foreign ownership shall be permissible),

- Imports & Exports (Control) Act, No. 1 of 1969,

- Acts referred to in schedule;

- VAT Act No. 14/2002
- NBT Act No. 09/2009
- Export Dev, Act No. 40/1979
- Special Commodity Levy Act No. 48/2007
- PAL Act 18/2011
- Excise SP Act. No 13/1989

Role of BOI

- Approving authority of enterprises engaged in one or more activities referred in Article 16.1 (a) to (e) of the Finance Act No. 12 of 2012 as amended.
- Enter into agreements with enterprises under section 17 of BOI Act No. 04 of 1978
- Grant exemptions and special concessions under BOI Act, Inland Revenue Act, Finance Act 12 of 2012 as amended and Strategic Projects Development Act.
- Provide a prescribed form to the enterprises to maintain detailed records including inward and outward remittances .
- Introduce synchronized operational procedures jointly with Department of customs and Ports Authority in respect of Free Port and Bonded Area

BOI enterprises approved under Hub Regulations

1.



EFL Global Freeport

All 5 activities

2.



Logistic Services

3.



All 5 Activities

BOI enterprises approved under Hub Regulations

4.



Logistic Services

5.

LAUGFS

Laugfs Terminals Ltd

All 5 Activities

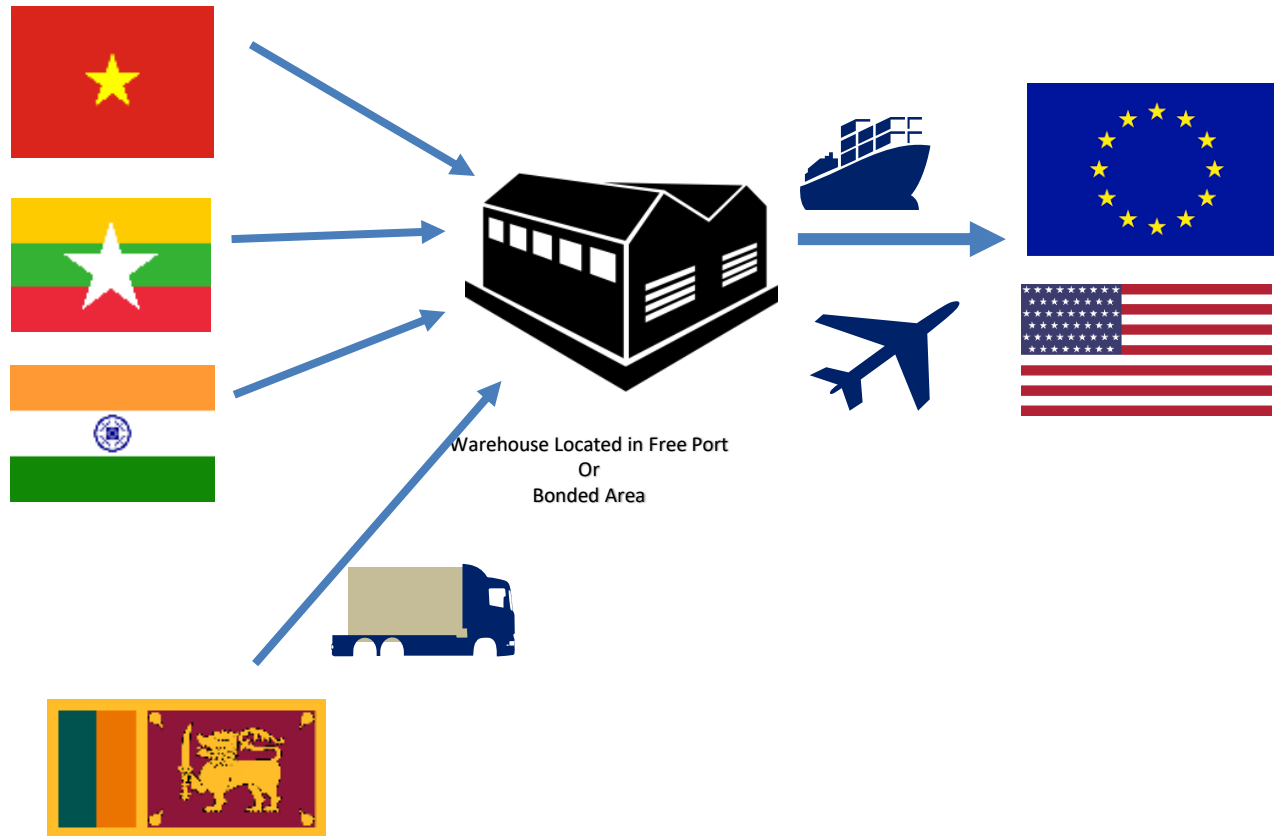
6.

Global Auto

Global Auto manufacturing Ltd

All 5 Activities

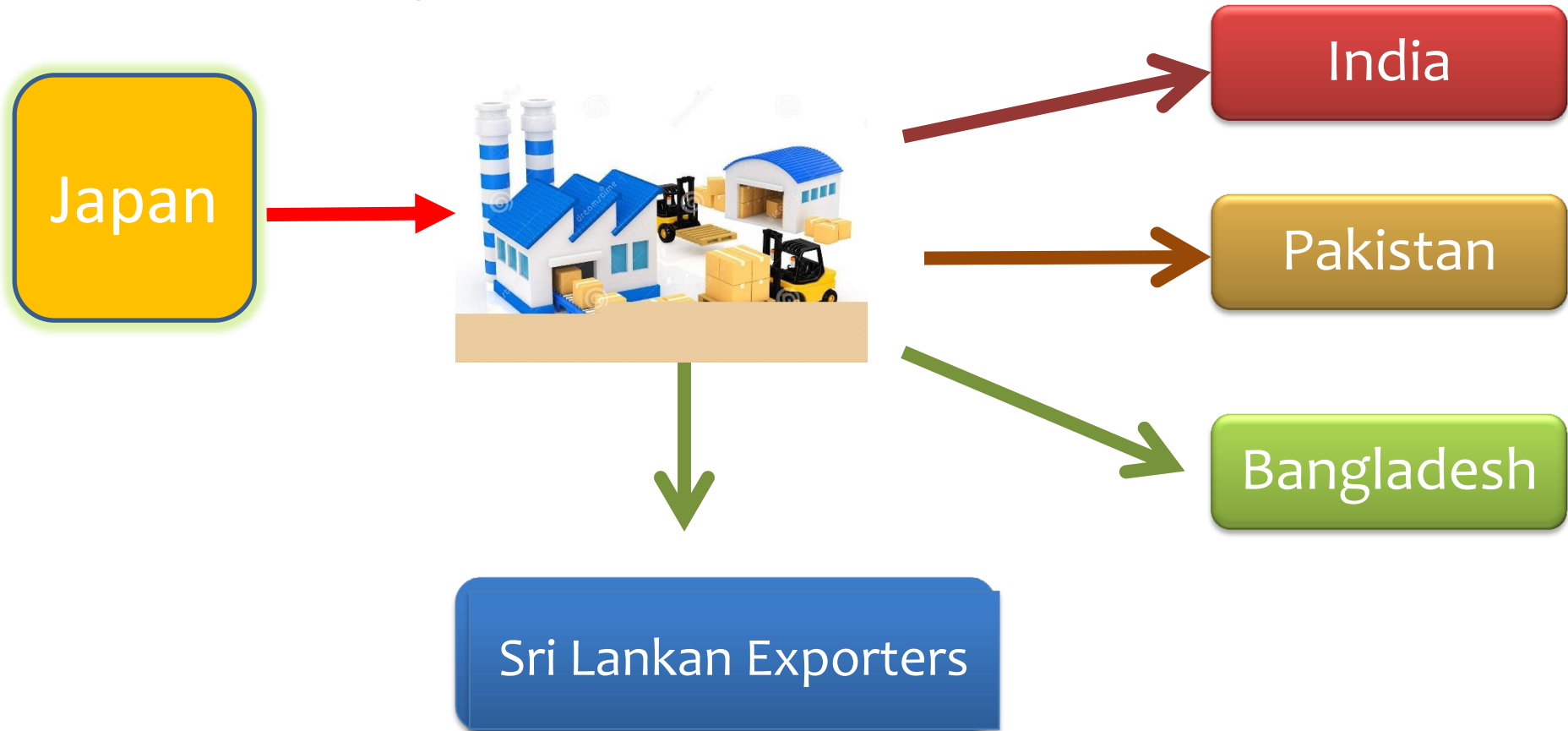
1ST BUSINESS MODEL FOR LOGISTIC SERVICES



- MCC Operation
- Pick & Pack Operation

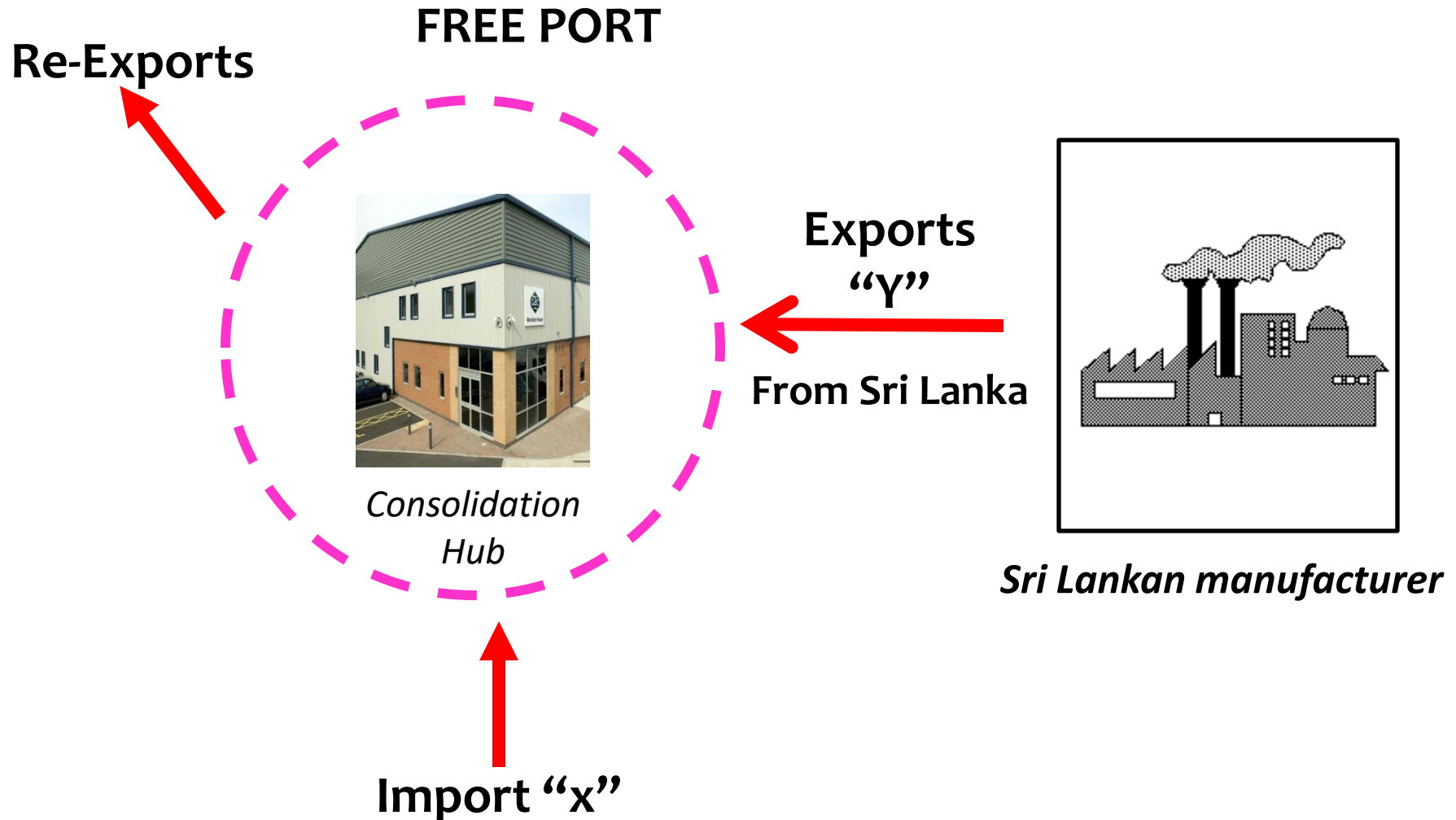
2ND BUSINESS MODEL FOR LOGISTIC SERVICES

Regional Distribution Center



3rd Business Model for Logistic Services

EXPORTS TO HUB BY LOCAL EXPORTER



Cargo Examination



- Special seal no. of Import Cargo should be indicate
“Cargo Release Note”
- SLC offices at the gate of Bonded Area should ensure that the seals are in tact
- Unloading and loading of Cargo should be under the surveillance of CCTV camera

