

**Minutes of the Meeting with Minister and Officials of MoDSIT held on 03<sup>rd</sup> May 2018 at 4.00 pm at the Conference Room of the Ministry.**

**Attendance**

**MoDSIT**

1. Hon. Malik Samarawickrama, Minister, MoDSIT
2. Mrs. Chandanie Wijayawardhana, Secretary, MoDSIT
3. Mr. K.J. Weerasingha, Chief Negotiator
4. Mr. Vimalendrarajah, DG/D. FP, Member of NTN Committee
5. Mr. Ariththa Wickramanayke, Member of NTN Committee
6. Mr. Deshal De Mel, Member of NTN Committee
7. Mr. Nirmalan Wigneswaran, SSC/AG's Department, Member of NTN Committee
8. Eng. Mangala P.B. Yapa, Advisor to MoDSIT
9. Mr. Anushka Wijesinha, Advisor, MoDSIT
10. Mr. B.H.M.D. Herath, AD, MoDSIT
11. Mr. Geeth Prasanna De Silva, AD, MoDSIT

**IESL**

1. Eng. Prof. (Mrs.) N. Ratnayake, President IESL
2. Eng. Prof T.M. Pallewatta, President Elect, IESL
3. Eng. Jayavilal Meegoda, Immediate Past President, IESL
4. Eng. (Dr.) Ananda Ranasinghe, Chairman – Past Presidents Forum and Council Member, IESL
5. Eng. Arjuna Manamperi, Vice President, IESL
6. Eng. Granie Jayalath, Vice President, IESL
7. Eng. K.P.I.U. Dharmapala, Vice President, IESL
8. Eng. Mangala Silva, Hony. Secretary, IESL
9. Eng. Neil Abeysekara, CEO/Executive Secretary, IESL

**SLIA**

1. Archt. (Ms.) Dulmini De Mel, Chairperson, SLIA (on invitation of IESL)

1. Preliminaries

Minister welcomed the IESL delegation and commenced the meeting. It was decided to take minutes of the meeting, as IESL considered it as a formal meeting.

2. Opening remarks by President IESL

President, IESL, addressing the Minister and the team from MoDSIT introduced IESL as a professional body and not a Trade Union, having nearly 20,000 Members who are engineers, out of which 5,000 are Chartered Engineers. She mentioned that the IESL is the professional body authorized to register engineering practitioners in the three categories of engineering practice, viz. Chartered Engineers, Associate Engineers and Affiliate Engineers, under ECSL Act of March 2017. It has the objective of

*ensuring professional services to the society and supporting national development* through IESL members who have undergone world class educational standards, stringent professional certifications and continuous professional development.

She also said that the IESL delegation would like to focus especially on Services Trade Liberalization (Chapter 7) under the SLSFTA, in particular matters related to the Engineering Sector in the discussions.

She emphasized that the Schedules and Commitments in the SLSFTA should have been prepared with the direct engagement of the relevant professional bodies, as these commitments directly impacts the practice of their respective professions. Such impacts could be either positive or negative, depending on how the commitments are undertaken and written into the Agreement. As an example, the IESL would welcome the entry of high level engineering professionals from other countries in areas where the specialist knowledge is lacking among the local engineers. Also, IESL expressed that if such highly specialized engineers are brought in, it should be for a limited period of time, and it should be tied up with knowledge transfer to the local professionals. IESL does not want the foreign companies established here (under Mode 3, for example) bringing in engineers for jobs where there are qualified local engineers to fill those posts. Sri Lanka produces, through state university system alone, about 1,800 engineers a year. This number will increase to about 2,500 by year 2020. It was stated GoSL is aggressively producing Engineering Technology graduates through the newly established four-year Engineering Technology degrees through the state system. The IESL was of the view that the Schedules of Commitments (SoC) of the SLSFTA, as finalized, hardly pay attention to such mission critical aspects, because MoDSIT had failed to engage the professional bodies like IESL, IIESL, SLIA, etc. in drafting the Schedules of Commitments of the SLSFTA.

She added that though IESL has been participating in the meetings since 2016, the Schedules of Commitments were never discussed with the IESL and what is written in the SoC of the document, is not acceptable to the IESL in the present form. She said that the Ministry might have employed specialists in international trade to draft the said document, but had seriously neglected the views of the Professionals in the crucial area of S of C preparation.

She urged the Minister to review the S of C using the correct data and inputs from the respective professional bodies if he was genuinely interested in the stated goal of “desiring to raise living standards, promote economic growth and stability, create new employment opportunities and improve the general welfare.”

She also stated that this meeting should have been given much earlier, as the IESL has requested meetings to deliberate on these matters by letters since November 2017.

3. Hon. Minister pointed out the importance of FTA’s to attract much needed Foreign Direct Investments (FDI’s), which is a policy decision taken by the government and stressed that the MoDSIT always expect and encourage valuable inputs from all professional organizations.

4. The IESL representatives complained that several letters were sent to the Secretary to the Ministry requesting meetings (dates of the letters 27/11/2017, 23/01/2018) followed by several telephone inquiries and alleged that, no response was received from MoDSIT.

Minister stated that he is not aware of any communications sent to him while the Secretary to the Ministry admitted the receipt of the letters sent to the Ministry, while explaining that the Ministry received many such requests from stakeholders, i.e. various professional institutions, trade associations, business chambers etc. During the period and in it is practically not feasible to have meetings or to individually respond to the request. She emphasized that common consultative meetings for all professional associations were held and the views expressed by the participants were taken into consideration in final drafting of the document.

The negotiation team reiterated that the suggestions of the professionals were taken into consideration when S of C of SLSFTA was prepared in all the areas related to engineering services and said that they are willing to go into details and explain any concerns the IESL has.

5. Responding to the queries of IESL and SLIA representatives, Minister and MoDSIT officers confirmed that SLSFTA was in force with effect from 01<sup>st</sup> May 2018 and no amendment was possible for the agreement at this stage. Minister also said that no Parliamentary ratification was needed to implement the agreement.

Representatives of the IESL alleged that the Ministry, as a government body, had not kept to professional ethics and betrayed the trust placed in them, by denying their rights as engineers to address concerns before the agreement was signed (on 23/01/2018) and before it came into force (on 1/5/2018). In response, the negotiating team explained that it is not possible to share draft documents being deliberated on G to G negotiations, but engaging in prior stakeholder consultations, which is the internationally adopted practice has been followed and the concerns of all stakeholders, including professionals have been addressed to the best possible extent.

6. In response to a query made by IESL, MoDSIT Officials mentioned that unless the Parliament ratifies the FTA agreement, the terms in the agreement could not have any implications on the laws of the country.

7. In response to the questions pertaining to the arbitration procedures to be adopted in the FTA, the Ministry delegates said that under the “**Conditional Arbitration Process**” arbitration could take place in Sri Lanka or Singapore, and the Sri Lankan arbitration process would be expedited to result in a decision within 3 weeks. However, the IESL team was of the view that the process would be very expensive, and the Sri Lankan companies would not be able to afford the cost of arbitration, and thus would be at a major disadvantage in conflict situations.

8. In response, it was clarified that the Regulations on Employment Based Visa category (which is still not implemented in Sri Lanka) is in the process of ratification and the Secretary to the Ministry said that it would be submitted to the Cabinet within the next two weeks’ time. However, IESL and SLIA representatives wanted to record the usual lack of accountability or divided responsibility while Eng.

Mangala Yapa, a representative of MoDSIT, wanted IESL to lobby the politicians to get it (formulation of legal regulations) done fast.

9. MoDSIT team stated that the Regulations on Employment visa would be effective from the time they would be enacted, in spite of the SLSFTA becoming operational before that.

10. When asked if the Commitments that were given in the SLSFTA would not be applicable to the other FTA's to be signed, under the 'Most Favoured Nation' obligation of GATS, the Ministry officials and the negotiators categorically stated that it would not be so, and the commitments for those two countries would be much more stringent.

11. Detail clarification on "four modes" were made by the MoDSIT and clearly mentioned that there are no any commitments under the "MODE 4- Independent Movement of Natural Persons". Further, clarification made on "MODE 3- Commercial Presence" in deeply for the request made by the IESL.

12. The following were the concluding remarks;

- IESL stated that they do not agree with said agreement in principal, specifically with the way Schedules of Commitments were done pertaining to the sectors affecting the professionals associated with IESL and SLIA, without and denying the input of professional bodies, IESL in particular.
- IESL concludes that before and after the meeting, the position of the IESL has not changed with regard to the commitments given by the Sri Lankan party, and the Professional Bodies are disappointed in the way the opportunities for intervention were denied to them.
- Minister and officials of MoDSIT requested the IESL and SLIA (and other professional bodies) to submit their specific concerns on the SLSFTA and areas to be incorporated into legal regulations as well as when drafting the next two FTA's lined up, i.e. with China and India and further MoDSIT team reiterated that the Schedule of Commitments under CSFTA & ETCA will be different from that of Singapore.

28/05/2018