

Shaping the future of Sri Lanka's foreign policy

Summary
of Proceedings
of LKI's
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Sri Lankan
Foreign Policy,
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Shaping the Future of Sri Lanka's Foreign Policy:
Summary of Proceedings of LKI's Conference on Sri Lanka's Foreign Policy 2017

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List Of Abbreviations

ACIA	ASEAN Comprehensive Investment Agreement
ASEAN	Association of Southeast Asian Nations
BIT	Bilateral Investment Treaty
BPO	Business Process Outsourcing
BRI	Belt and Road Initiative
DFAID	Department of Foreign Affairs and International Development
ETCA	Economic and Technical Cooperation Agreement
EU	European Union
FDI	Foreign Direct Investment
FTA	Free Trade Agreement
GATT	General Agreement on Tariffs and Trade
GDP	Gross Domestic Product
GSP+	Generalised Scheme of Preferences Plus
GVCs	Global Value Chains
HRM	Human Resources Management
IUU	Illegal, Unreported, and Unregulated (fishing)
LKI	Lakshman Kadirgamar Institute
LTTE	Liberation Tigers of Tamil Eelam
MFN	Most Favored Nation
NAM	Non-Aligned Movement
NGOs	Non-Governmental Organisations
ReCAAP	Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia
RCEP	Regional Comprehensive Economic Partnership
SMEs	Small and Medium Enterprises
TPP	Trans-Pacific Partnership
TRIPs	The Agreement on Trade-Related Aspects of Intellectual Property Rights
UN	United Nations
UNCLOS	UN Convention on The Law of the Sea
WTO	World Trade Organization

Foreword

The aftermath of Brexit has seen unprecedented global changes in its wake. We are yet to understand and adjust to the “new normal” of the international order, not to mention the “evolving normal” of Sri Lanka’s domestic order after the end of its civil war in 2009, and rebalancing of relations with major powers.

In 2017, the Lakshman Kadirgamar Institute of International Relations and Strategic Studies (LKI) convened a landmark conference on foreign policy, to try and understand the risks and potential of international and domestic orders together – and to synthesise those understandings in a way that could inform the direction of Sri Lanka’s foreign policy. This was the primary objective of convening the conference, which was titled Sri Lanka’s Foreign Policy: Choices in a Changing World. The conference began with a seminar on Emerging Issues in the Indian Ocean and proceeded as a larger forum on Sri Lanka’s foreign policy, which explored (i) the foundations of that policy, (ii) its strategic, legal and economic issues, and (iii) its key actors.

The conference convened a range of experts – including officers from the Ministry of Foreign Affairs of Sri Lanka, other policymakers, academics and researchers from Sri Lanka and overseas, as well as lawyers, activists and journalists. Together, they provided analysis and suggestions on frameworks of Sri Lanka’s foreign policy (including non-alignment and Sri Lanka’s self-perception in international affairs), the day-to-day issues of Sri Lankan diplomacy (such as illegal fishing and finalising trade agreements) and strategies of foreign policy (for example, para-diplomacy and the use of international law). These proceedings present their views in summary and longer form, with the hope that it will help to formulate and refine policy ideas, responses and solutions, and provide the necessary detail to inform blueprints like Sri Lanka’s Vision 2025.

The conference and these proceedings benefited from multiple sources of support, including from (i) the Ministry of Foreign Affairs, which made available both speakers and financial support, (ii) Hemas PLC, which generously enabled the Seminar on Emerging Issues in the Indian Ocean, (iii) Mr. Daneshan Casie Chetty, who kindly advised on the project, and (iv) last but not least, the dedicated staff and Board of Management of LKI, especially Barana Waidyatilake and Nicola Wijeyarathna, who tirelessly coordinated the project. With similar excellent partnerships from the public and private sectors, LKI looks forward to continuing its mission to generate insights and recommendations on Sri Lanka’s foreign policy.



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Executive Summary

The Lakshman Kadirgamar Institute of International Relations and Strategic Studies (LKI) held a landmark event titled Sri Lanka's Foreign Policy: Choices in a Changing World on the 28th and 29th of June 2017.

The two-fold objectives of the event were:

- (1) To review Sri Lanka's foreign policy in light of changes in the national, regional, and global contexts; and
- (2) To formulate policy suggestions for the next five years.

The event was attended by nearly 300 people, which included representatives from the Foreign Ministry of Sri Lanka, the diplomatic community, think tanks and academia, civil society, the private sector, and the media. The event garnered extensive media coverage, and was reported in various outlets such as the Sunday Times, Daily FT, The Island, the Daily Mirror, and Ceylon Today (which was the official media partner for the event).

The two-day event was structured as two distinct sessions: a seminar on Emerging Issues in the Indian Ocean; and the Sri Lanka Foreign Policy Forum. The seminar brought together both foreign and local experts to discuss recent developments in the region under two thematic sessions: Emerging Security Issues, and Normative Developments and Dispute Resolution. The Sri Lanka Foreign Policy Forum was composed of four distinct sessions: The Foundations of Sri Lankan Foreign Policy, Strategic and Normative Issues of Foreign Policy, a Foreign Policy for National Development, and Key Actors in Sri Lankan Foreign Policy.

The main issues discussed at the event and the key recommendations suggested are contained below.

Geopolitical Issues

The evolving strategic context in the Indian Ocean, particularly against the backdrop of growing Sino-Indian strategic competition, was one of the primary geopolitical themes that was discussed. It was argued that China's strategic goals in the Indian Ocean were to secure the sea lanes of communication that are vital for its trade and energy supply, to invest excess economic capacity via projects of the Belt and Road Initiative (BRI), and to protect its nationals working on those projects. India, meanwhile, was seen as looking to effectively maintain a leadership position in the Indian Ocean region and therefore is apprehensive about Chinese cultivation of influence over regional economies via investments in the BRI.

Besides Sino-Indian strategic competition in the Indian Ocean, participants also discussed rising non-traditional security threats in the region, including piracy, human smuggling, Illegal, Unreported and Unregulated (IUU) fishing, and climate change. They highlighted Sri Lanka's vulnerability to non-traditional threats such as human smuggling and IUU fishing and emphasised the utility of a whole-of-government approach in addressing such threats.

A broader underlying policy of actively supporting a rules-based international order would be helpful in this regard.

Finally, participants also discussed the utility of Sri Lanka's adherence to non-alignment in its current strategic context. Opposing views were expressed on the subject. For some, non-alignment remained a policy imperative; a broad ideological spectrum that allowed for movement within the spectrum rather than leaving it outright. For others, non-alignment appeared to have outlived its Cold War-era utility and providing only a veneer of neutrality that masks underlying alliances in practice – including increasingly important economic networks.

Key policy suggestions emerging from the discussion were:

- While the international system is moving towards a different polarised world, it would be hasty to underestimate the US global influence and military prowess. Accordingly, Sri Lanka should continue to engage constructively with the US.
- Sri Lanka should invest in resources to develop a deep understanding of the internal drivers and implications of Indian and Chinese foreign policy and strategic initiatives.
- Sri Lanka could balance between China and India by advocating for a rules-based international order and working within regional blocs, especially economic blocs.
- Sri Lanka should cultivate pro-Lankan constituencies in India using culture-based soft power (such as religious heritage links).
- Sri Lanka should carefully evaluate the costs and benefits of Foreign Direct Investment (FDI) and strategic partnerships in politically sensitive areas such as Trincomalee.
- Sri Lanka, along with other regional states, should invest more in coastguards rather than navies to address non-traditional security threats. The use of coastguards is generally perceived to be less hostile than military deployments.
- Sri Lanka could host an international institution that analyses and provides responses to maritime security threats. Sri Lanka could look to the Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia (ReCAAP) and assess how Singapore has become a centre for information sharing.
- Sri Lanka should continue to adhere to non-alignment, and perhaps exploit the crisis of leadership in the Non-Aligned Movement (NAM) to band together with moderate states within NAM in taking the movement forward in a more principled manner consistent with NAM's historical values.
- Sri Lanka could build its soft power and brand as a middle income economy by establishing a small foreign aid programme.

Economic Issues

As Sri Lanka is a small open economy, the implications of an unfavourable external economic environment since the global financial crisis in 2008 received considerable attention. Asia's trade has slowed in relation to GDP since the crisis, and FDI inflows to the region have fallen. There is uncertainty in international policy and a growing risk of protectionism. The Trump administration is adopting an 'America First' approach, which led to the US withdrawal from the Trans-Pacific Partnership (TPP) Agreement and re-negotiation of the North American Free Trade Agreement (NAFTA). The Doha Round of the World Trade Organization (WTO) appears to have collapsed, and there is still little discussion on reviving the negotiations or embarking on a new multilateral trade round. The Brexit discussions are sparking worries about the future direction of EU and UK trade policy.

According to some participating experts, export pessimism on Asia's trade and FDI is overstated. Advanced economies are in recovery mode, and this will translate into rising import demand for goods and services from Asia. China's growth moderation and rising labour costs also present business opportunities for others. These include development of technologically sophisticated global value chains (GVCs) in East Asia, the migration of some of China's labour-intensive GVC stages to Asian countries, a greater role for SMEs in Asia's GVCs, and the expansion of service exports across Asia.

Furthermore, some Asian countries are intent on pursuing various regional cooperation initiatives and are keen to keep markets open. ASEAN and major regional economies are actively negotiating Asia's mega-regional trade agreement – the Regional Comprehensive Economic Partnership – and pursuing bilateral free trade agreements (FTAs). China has also developed the Belt and Road Initiative (BRI) from Asia to Europe, and established the Asian Infrastructure Investment Bank (AIIB) to foster greater regional infrastructure development.

The discussions alluded to Sri Lanka's trade and FDI record. The country has a geographical advantage to become an economic hub between Dubai and Singapore, a role that few others currently seek, and to be a gateway to the Indian subcontinent. It was the first economy in South Asia to adopt economic reforms when it switched to an outward-oriented strategy, in 1977. Sri Lanka has attracted FDI and witnessed the growth of exports of tea, textiles, and tourism. It recently regained GSP+, which enables preferential market access to the EU. It is also actively pursuing bilateral FTAs with China, Singapore, and India to reduce barriers to trade and FDI.

However, Sri Lanka is facing several pressing challenges in the post-crisis era. FDI flows lag trade flows, and neither is diversified in terms of products and markets. The US and EU continue to dominate the country's tea and textiles trade. There is little evidence of entry into GVCs led by East Asia and into the region's expanding trade in services. There is a risk that the country's limited trade policy capacity is over-burdened by the simultaneous pursuit of multiple FTA negotiations.

Additionally, as a lower middle-income economy, Sri Lanka is likely to receive less concessionary aid and be more reliant on more expensive finance from international capital markets and international agencies. Bilateral non-traditional donors with various commercial interests are rising in importance in the context of dwindling aid flows to Sri Lanka, and non-resident Sri Lankans are expressing interest in contributing to Sri Lanka's economic development.

Key policy suggestions emerging from the discussion were:

- Sri Lanka should attempt to diversify its sources of FDI towards regional economies, particularly investors from the South Indian states and from provinces in China.
- It should adopt a more proactive approach to FDI and strategic investors using modern promotion tools, incentives, and public-private sector partnerships.
- Sri Lanka's foreign service, like its counterparts in other foreign ministries, can usefully support the Board of Investment to promote inward FDI, including by liaising with multinational companies in their host countries and potential local joint-venture partners.
- An initiative for economic engagement with non-resident Sri Lankans could bring capital and skills into key sectors and professions.

- As Sri Lanka will increasingly deal with more advanced economies in East Asia, it should enter bilateral investment treaties (BITs) with a selective and differentiated approach.
- The country's FTA strategy should prioritise the conclusion of agreements with a few key Asian economies. Its FTA negotiating capacity must be strengthened, if necessary by using external expertise, including the expertise of non-resident Sri Lankans.
- Sri Lanka should examine how it can take advantage of key Asia-wide strategic initiatives (such as the BRI, RCEP, and possibly the TPP) and existing WTO agreements (like the Trade Facilitation Agreement and the Information Technology Agreement).
- Sri Lanka should firmly uphold principles of competition, transparency, and aid effectiveness in transactions with non-traditional bilateral donors.
- Sri Lanka should pursue deep structural reforms to improve the business environment for the private sector, including reducing import tariffs, streamlining business procedures, investing in physical and internet infrastructure, improving access to finance for SMEs, and raising labour productivity.
- A whole-of-government approach is needed for geoeconomic diplomacy, with coordination among various ministries, departments, and other government agencies. A unit within the Prime Minister's Office that promotes inter-agency cooperation between the defence and foreign policy establishments would be a useful start.

Legal Issues

The legal context of Sri Lanka's political and economic diplomacy was a recurring theme of the discussions. Participants analysed this legal context at the levels of international law and domestic law. They emphasised Sri Lanka's potential to use both international and domestic law to maximise the country's development and global opportunities, while also noting current challenges to this task, which include a lack of human and other resources and momentum for legal reforms.

Participants highlighted Sri Lanka's distinguished history in international law. Well-known diplomats, judges, and academics from Sri Lanka have made significant contributions to international law in organs of the United Nations (UN) and in other influential organisations. Three Sri Lankans – including Christopher Weeramantry, Antony Anghie, and Radhika Coomaraswamy – are among the select few of around 20 global thinkers who have delivered the Grotius Lecture of the American Society of International Law. Sri Lanka's historical reputation in international law can be viewed as a source of its soft power.

Another largely positive context is that Sri Lanka has sought to be a responsible host state for foreign investment, that is compliant with bilateral and international legal decisions. By contrast to its approach with investment treaties, however, participants observed deficiencies in Sri Lanka's use of international human rights laws to secure human rights in the country. They noted the lack of a legal mechanism to enquire into allegations of violations of criminal law (both national and international), despite the recommendations of the Consultation Task Force on Reconciliation Mechanisms that was appointed by the government.

Other challenges remain, especially in using the domestic legal system to harness international opportunities. Sri Lanka's domestic legal system lags behind other jurisdictions in Asia in efficiency and transparency and therefore, in its ability to attract foreign investment. A major challenge is that Sri Lanka lacks the capacity to track and leverage the increasingly complex network of international laws in both economic and non-economic spheres; for example, in the sphere of intellectual property. This is essential to maximising the potential value of such obligations to Sri Lanka, as well as to minimising their risks. international), despite the recommendations of the Consultation Task Force on Reconciliation Mechanisms that was appointed by the government.

Key suggestions emerging from the discussion were:

- The government should work to maximise the benefits of international laws and harness Sri Lanka's historical reputation as a leader in this field, rather than acting passively, or even defensively, in response to international laws.
- Sri Lanka should therefore identify and devote additional resources (e.g. from overseas Sri Lankans) towards understanding the details and nuances of Sri Lanka's network of international obligations, as well as obligations it may assume in future.
- To encourage foreign investment, there is an urgent need to significantly increase the efficiency of the judicial system. For example, the average time to enforce a contract in Sri Lanka's courts is much longer than in competitor economies like Singapore.
- Sri Lanka should build on recent, welcome changes to dual citizenship laws by further reforming its immigration laws to facilitate the economic contributions of overseas Sri Lankans. India's experience of instituting legal arrangements for their diaspora to live and work in India may be instructive.
- If there is not sufficient progress on preventing illegal fishing in the Palk Strait, Sri Lanka may wish to consider pursuing litigation under the UN Convention on the Law of the Sea (UNCLOS), which is an option that has been successfully used by other smaller states against larger neighbours.