Provincial councils oppose Sri Lankan government’s investment bill

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Political tensions between the Sri Lankan government and the country’s provincial councils over its new foreign investment measures have deepened in recent weeks. Known as the “Development (Special Provisions) Act,” Colombo’s planned legislation aims to institute a range of measures that will encourage more foreign investment.

If adopted, the legislation will centralise all “economic development” activities in the hands of the Minister of National Policy and Economic Affairs, a new position. The minister will have the authority to declare any part of the island “an economic development area” and determine what activity can be conducted in that zone.

While it has already been approved by the cabinet and will be submitted to parliament in February, eight out of the nine provincial councils have rejected the legislation. The Eastern Provincial Council, which is due to vote on the bill on January 24, is also likely to oppose it. Under the Sri Lankan constitution, the act must be approved by the provincial councils before it can be adopted by the parliament.

Political conflict over Colombo’s foreign investment measures is another indication of the increasingly unstable character of the Colombo government, now approaching its second year in office.

The so-called “National Unity Government”—an alliance between the United National Party (UNP) and the Sri Lanka Freedom Party (SLFP), the country’s two main bourgeois parties—came to power in January 2015 in a US-led regime-change operation to oust the former President Mahinda Rajapakse. Prime Minister Wickremesinghe heads the UNP while President Maithripala Sirisena is the leader of the SLFP.

The provincial councils, which were elected before Sirisena and Wickremesinghe came to power, are still filled with Rajapakse supporters. Rajapakse also leads a group of SLFP parliamentarians unofficially known as the “Joint Opposition” and who defy the SLFP party whip. Seven of the councils that have rejected the new development bill are controlled by the SLFP-led United People’s Freedom Alliance (UPFA).

Sri Lanka’s deputy finance minister Lakshman Yapa Abeywardana, an SLFP parliamentarian, apologetically told a press conference on Wednesday that the government “should have updated the chief ministers and obtained their views before presenting the Bill to the PCs [Provincial Councils]. If that was done the Bill would not have been rejected by the PCs and the government would not have been embarrassed with what happened.”

Minister of fisheries and UPFA general secretary Mahinda Amaraweera also told *Ravaya*, a Sinhala-weekly, that although the UPFA supported a one-stop foreign investment facility, it would “not allow the creation of a minister with super powers.”

The new minister will have wide ranging authority to stimulate economic growth. Section 17 of the proposed act, for example, gives the new ministry power over numerous government departments, including the Board of Investment, Export Development Board, Information Technology and Civil Aviation Authorities, Sri Lanka Ports Authority, Water Supply Board and Tourist Board.

Managing director of the new agency will be hand-picked by the new minister and can issue orders to other institutions, including the regional development bodies that currently come under the purview of the PCs.

Registration of new investors will also come under the new ministry. Once registered, the investing company can acquire all the land it needs and is not bound by current laws related to “land alienation”—a dispensation not previously awarded to foreign investors.

The act also provides legal immunity to all members of the new agency whether they are government officials or drawn from the private business sector. Legal costs or fines incurred by any agency member found guilty of illegal activity will be paid by the Sri Lankan state.

The government’s new development ministry and its wide-ranging powers further highlight Colombo’s desperate efforts to attract foreign investment.

Although the “open market” policies of Sri Lankan President J. R. Jayawardene in 1978 preceded similar measures by other South and South East Asian countries, Colombo’s three-decade communalist war against the separatist Liberation Tigers of Tamil Eelam, dissuaded many foreign businesses from investing.

When the war ended in 2009 the Rajapakse government introduced similar foreign investment legislation but this was blocked by a Supreme Court decision. The court ruled that the planned laws had to be endorsed by a national referendum because some sections contravened the constitution.

The Rajapakse government responded by impeaching the chief justice. Although a replacement was found among the government’s cronies in the legal profession, new presidential elections prevented the legislation from being tabled in parliament. A similar constitutional crisis is now brewing.

In an effort to dissipate these tensions Prime Minister Wickremesinghe has hurriedly called a meeting of the provincial council chief ministers to discuss the planned law and promised to make some changes.

While the provincial councils could be cowed to back the measures, as they were under the Rajapakse regime, the Sri Lankan economy is rapidly declining under the impact of the deepening world economic recession, falling export earnings and growing debts. Foreign Direct Investment (FDI) has declined substantially in recent years, from $933 million in 2013 to $681 million in 2015.

In an October policy statement, Prime Minister Wickremesinghe declared that the government had to “focus on large-scale FDI and accelerated growth” and “creating a positive investment climate … Hurdles that stand in the way of achieving growth for business start-ups will be removed.”

This is the desperate economic vision behind the Development (Special Provisions) Act. Colombo plans to establish 45 cheap labour “economic development zones,” privatise major government enterprises and “reform” labour laws to facilitate “business growth.”

The government has announced that it will allocate 15,000 acres in Hambantota District for a Southern Investment Zone. Early this month poor farmers in the area began protesting the planned handover of their land to foreign investors.

While the government will engage in various manoeuvres and dirty backroom deals to win provincial council support for its new foreign investment rules, the genuine concerns and grievances of poor farmers will not go away.