

Report of the Auditor General on Head 244 – Department of Trade and Investment Policy - Year 2015

The audit of the Appropriation Account and the Reconciliation Statements including the financial records, books, registers and other records of the Department of Trade and Investment Policy for the year ended 31 December 2015 was carried out in pursuance of provisions in Article 154(1) of the Constitution of the Democratic Socialist Republic of Sri Lanka. The Management Audit Report for the year under review was issued to the Director General of the Department on 28 September 2016. The audit observations, comments and findings on the accounts and reconciliation statements were based on a review of the Accounts and Reconciliation Statements presented to audit and tests of samples of transactions. The scope and extent of such review and tests were such as to enable as wide an audit coverage as possible within the limitations of staff, other resources and time available to me.

1.2.1 Responsibilities of the Chief Accounting Officer and the Accounting Officer for the Accounts and Reconciliation Statements

The Chief Accounting Officer and the Accounting Officers are responsible for the maintenance, preparation and fair presentation of the Appropriation Account and the Reconciliation Statements in accordance with the provisions in Article 148, 149, 150 and 152 of the Constitution of the Democratic Socialist Republic of Sri Lanka, other statutory provisions and the Public Finance and Administrative Regulations. This responsibility includes: designing, implementing, maintaining internal control relevant to the preparation and fair presentation of Accounts and Reconciliation Statements that are free from material misstatements whether due to fraud or error.

2. Accounts

2.1 Appropriation Account

The total net provision made for the Department amounted to Rs.1,161.76 million and out of that Rs.1,161.01 million had been utilized by the end of the year under review. Accordingly, the savings out of the net provisions of the Department amounted to Rs.0.75 million or 0.07 per cent of the net provisions. Details appear below.

Expenditure	As at 31 December 2015			Savings as a Percentage of Net Provision
	Net Provision	Utilization	Savings	
	Rs.Millions	Rs. Millions	Rs. Millions	
Recurrent	1,157.09	1,156.56	0.53	0.04
Capital	4.67	4.45	0.22	4.86
Total	1,161.76	1,161.01	0.75	0.07

2.2. Advances to Public Officers Accounts

The limits authorized by Parliament for the Advances to Public Officers Account of the Department under Item No.24401 and the actual amounts are given below.

Expenditure		Receipts		Debit Balance	
Maximum Limit	Actual	Minimum Limit	Actual	Maximum Limit	Actual
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Rs.Millions	Rs.Millions	Rs.Millions	Rs.Millions	Rs.Millions	Rs.Millions
2.50	2.15	1.20	1.86	12.00	7.95

2.3 Audit Observation

According to the Financial Records and Books for the year ended 31 December 2015, it was observed that subject to the audit observations appearing in paragraph 1.1 of the Management Audit Report, the Appropriation Account and the Reconciliation Statements of the Department of Trade and Investment Policy have been satisfactorily prepared. The material and significant observations out of the observations included in that Management Audit Report appear in Paragraph 3 herein.

3. Material and Significant Audit Observations

3.1 Appropriation Account

As overprovisions had been made for 02 Objects, the savings after the utilization of those provisions had been 27 per cent and 33 per cent of the total net provision made.

3.2 Assets Management

Annual Board of Survey

The following observations are made.

- (a) According to the Paragraph 3.5 of the Public Finance Circular No.02/2014 of 17 October 2014, the disposal of the goods required to be disposed of out of the unusable goods included in the Board of Survey Report should be completed before 26 February of each financial year. Nevertheless, action had not been taken thereon even by 25 April 2016 despite the appointment of a committee for that purpose.
- (b) According to the Board of Survey Reports presented to Audit, action had not been taken in accordance with the Financial Regulation 757 (2) (a) in respect of the excesses and the shortages observed.

3.3 Non-compliances

Non-compliances with Laws, Rules and Regulations

Instances of non-compliance with the provisions of laws, rules and regulations observed during the course of audit test checks are analyzed below.

Reference to Laws, Rules and Regulations	Value	Non-compliance
	Rs.	
(a) Circular No. M.O.F.P.01/2010/01 dated 11 October 2010 of the Ministry of Finance and Planning and Paragraph 03 of the Circular No. M.O.F.01/2015/01 dated 15 May 2015 of the Ministry of Finance.	US\$.460 and Rs. 28,713	The incidental allowance which should be paid only when the Foreign State/ Donor Institution does not pay any amount to meet the incidental expenditure such as travelling and telephone charges in the foreign country had been paid for the officers of the Department in 05 instances despite the payment of that allowance by the Foreign State/ Donor Institution and US\$.460 and Rs.28,713 been paid therein regardless of the above payment.
(b) Paragraph 9 of the Circular No. M.O.F.P 01/2010/01 dated 11 October 2010 of the Ministry of Finance and Planning.	-	Although US\$750 (Rs.99,951) had been paid to an officer as incidental and combined allowances to participate in the Sri Lanka Joint Working Group discussion scheduled to be held in Islamabad in Pakistan, that programme had been cancelled. Nevertheless, without taking action to refund this amount to the Department, it had been set off for another tour of that officer and for a tour to Bhutan of another officer and savings of US\$ 126 (RS.16,084) had been refunded.

3.4 Performance

According to the Action Plan 2015, the observations on the progress of the Department are given below.

- (a) The Annual Action Plan had been prepared in accordance with the Public Finance Circular No.01/2014 dated 17 February 2014. Forty activities had been included in the Action Plan and it had been stated that action would be taken “if arisen or if requested” in respect of 16 activities or 40 per cent out of the above activities.
- (b) In the preparation of Action Plan by the Department only a few selected number of activities had been included therein over a number of years. It was observed that the

inclusion of the activities of preparation of plans included in the functions of the Department in the Action Plan was not taking place.

(c) Taking Action on the Appeals Relating to the Customs Affairs

The following observations are made in this connection.

- (i) A private party had forwarded an appeal relating to a customs inspection on 12 February 2015. The observations of the Director General of the Department of Customs had been enquired in this connection on 20 February 2015. Nevertheless, information had not been furnished to Audit that the future action was taken in this regard.
- (ii) An appeal had been forwarded to the Department on 23 January 2015 under Section 26 of the Exchange Control Act. Although requests had been made from the Exchange Control Department of the Central Bank of Sri Lanka to give observation in this connection by the letter dated 09 February 2015 and the reminder dated 08 December 2015, future action had not been taken to according to the file even by 31 December 2015.

(d) Granting Approval for the Clearance of Goods on the Settlement of Customs Charges under the Post-Payment Method

The following observations are made.

When the provisions made for the institutions are inadequate to settle the duties of custom relevant to the goods imported for the Government institutions, in order to clear the relevant goods without delay, the Department had granted approval according to the recommendations/concurrences/directives of the Department of National Budget/Department of Public Finance Policy to clear the relevant goods on the concurrence of settling the customs duty payable for those goods out of the provisions saved at the end of the year. As the institution that granted the approval had not taken follow up actions on the failure to carry out the relevant clearances within the prescribed period, those outstanding tax relating to the period from the year 2007 to the year 2015 had been Rs.19,497,552,935. According to the correspondences exchanged relating to those outstanding amounts at the end of the year 2015 and the year 2016, it was observed that the recoverability of that amount had become uncertain.

- (ii) The Department had not maintained a proper register in this connection and the Department was unaware of the clearance of the goods relating to those approvals. Nevertheless, in granting approval for this purpose by the Department, a condition that the goods imported under this cannot be sold without the prior approval of the Department, given on rent or lease or otherwise disposed of had been included in the relevant letters.

- (iii) In the examination of several letters selected on a sample basis, the matters such as not functioning under the relevant Ministry, not establishing that the recommendations were made by the Ministry, difficulties caused in finding information/files relating to the imported goods and inadequacy of the budgetary provisions had been stated as the reasons attributed to such failure to settle the outstanding money by the relevant institutions. The Department or the Department of National Budget or the Department of Fiscal Policy had not adopted a formal methodology in this connection.

(e) Issue of Concessionary Motor Vehicle Permits

A scheme for the import of motor vehicles under the concessionary conditions for the Government Officers had been implemented based on the Circulars issued by the Department from time to time from the year 2007 to 20 November 2015. Further, the senior Government Officers retired from the Government service as well as the officers who returned to the Sri Lanka on completion of the services in the foreign missions had been issued the motor vehicle import permits. The following observations are made in this connection.

- (i) The Department had not maintained an updated data base relating to that matter. As the true situation had not been revealed, an officer of the Sri Lanka Air Force who had obtained a concessionary motor vehicle permit in the year 2008 in terms of the Circular No.165 of the Ministry of External Affairs had been reissued a permit on 07 June 2011, thus resulting losses to the Government.
- (ii) In terms of the Public Administration Circular No.06/2006 dated 25 April 2006, the officers who complete a period of 06 years continuous and active service in a post of senior level are entitled to the concessionary motor vehicle permit. Nevertheless, the Chief Secretary of the Southern Province had granted concessionary motor vehicle permit for 42 retired officers in the Sri Lanka Education Administrative Service.
- (iii) As revealed by the audit test check, the tax relief given for a motor vehicle imported by a permit issued to one of the above officers had been Rs.4,165,329. Accordingly, a colossal amount of tax had been deprived of by the Government as a result of the all the matters specified above.
- (iv) Although it had been a function of the Department to take action in terms of Sections 19 (a)(1) and 19 (a)(2) Customs (Amendment) Ordinance relating to the tax relief granted hereunder, no action whatsoever had been taken thereon.

(f) Coordination of the Removal of Customs Duty under Sections 19 (a)(1) and (2) of the Customs (Amendment) Ordinance

It is stated in Section 19 (a)(2) of the Ordinance that the duties of customs leviable for any goods imported by, or consigned to any person may be exempted entirely or any part thereof subject to such conditions as may be specified in the Order. It is further stated that every such Order shall be published in the Gazette and shall, as soon as may be after its publication in the Gazette, be tabled in Parliament. Further, the Parliament may by resolution revoke these Orders within sixty days of the publication of such Orders in the Gazette and in such an instance, the duties of customs payable on the exempted goods may be recovered under Section 145 of the Act.

- (i) Accordingly, it is stated that the activities relevant thereto are carried out by the Department of Trade and Investment. Nevertheless, according to the files made available to Audit, the Department had taken action only to carry out activities relevant to publish the grant of tax relief up to August 2011 in the Gazette and table in parliament.
- (ii) The tax relief thus granted had not been in compliance with the above requirement that “ If the tax relief is revoked by a resolution passed in Parliament within 60 days from the date of publication such Order in the Gazette, the duties of customs payable for the goods exempted shall be paid to the Director General of Customs by the importer or the consignee of those goods”.
- (g) It had been a function of the Department to look into all the affairs relevant to the SAARC Development Fund. Thereunder, action had been taken to carry out a direct supervision relating to the projects implemented under the financial assistance of the Fund. Although the relevant project had been completed, the Performance Report, Progress, Financial and Social Assessment and the Independent Audit Report requested by the Fund had not been furnished. Activities relating to the projects initiated in the years 2013 and 2014 had been delayed and a stock of research gloves value at US\$. 27,335 imported under the project had not been cleared from the Air Port even by 13 August 2015. As a result, a demurrage charge had to be paid thereon. Accordingly, the discharge of the functions of the Department could not be satisfied in audit.

3.5 Transaction of Contentious Nature

As the contribution of the Sri Lanka for the initial capital of the SAARC Development Fund, five installments totalling US\$ 32,160,000 at the rate of US\$. 6,432,000 had to be paid from the year 2010. Out of that, five installments had to be settled by the end of the year 2014. Accordingly, provisions amounting to Rs.1,083,500,000 had been made from the Budget Estimates ,2015 for US\$8,146,000. Out of that, US\$ 4,073,000 or Rs.544,763,750 had been paid as the first part on 11 August 2015 and US\$ 4,073,000 or Rs.575,352,387 had been paid as the second part on 05 October 2015. Even though provisions had been made for this purpose in the year 2015, payment of relevant installments had been delayed without being properly paid in time. Accordingly, overpayment of Rs.36,616,137 had to be made by the Department as a result of changes in the exchange rate.

3.8 Human Resources Management

(a) Approved Cadre and Actual Cadre

The position of the cadre as at 31 December 2015 had been as follows.

	Category of Employees	Approved Cadre	Actual Cadre	Number of Vacancies
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(i)	Senior Level	14	12	02
(ii)	Secondary Level	30	29	01
(iii)	Primary Level	13	13	-
	Total	57	54	03
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