

Head 295 - Department of Commerce

1. Financial Statements

1.1 Unqualified Opinion

The audit of the financial statements of the Department of Commerce for the year ended 31 December 2019 comprising the statement of financial position as at 31 December 2019 and the statement of financial performance, and cash flow statement for the year then ended, was carried out under my direction in pursuance of provisions in Article 154 (1) of the Constitution of the Democratic Socialist Republic of Sri Lanka read in conjunction with provisions of the National Audit Act No. 19 of 2018. The Summary Report containing my comments and observations on the financial statements of the Department of Commerce was issued to the Accounting Officer on 23 July 2020 in terms of Section 11 (1) of the National Audit Act No. 19 of 2018 . The Annual Detailed Management Audit Report of the Department was issued to the Accounting Officer on 02 February 2021 in terms of Section 11 (2) of the Audit Act. This report is presented to Parliament in terms of Section 10 of the National Audit Act No. 19 of 2018 which is read in conjunction with Article 154 (6) of the Constitution of the Democratic Socialist Republic of Sri Lanka.

In my opinion, the financial statements prepared in accordance with the provisions of State Accounts Circular No. 271/2019 dated 03 December 2019 give a true and fair view of the financial position of the Department of Commerce as at 31 December 2019 and its financial performance and cash flow for the year then ended, in accordance with Generally Accepted Accounting Principles.

1.2 Basis for Unqualified Opinion

I conducted my audit in accordance with Sri Lanka Auditing Standards (SLAuSs). My responsibilities, on the financial statements are further described in the Auditor's Responsibilities for the Audit of the Financial Statements section of my report. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my opinion.

1.3 Responsibilities of Chief Accounting Officer and the Accounting Officer on Financial Statements

The Chief Accounting Officer and the Accounting Officer is responsible for preparation of financial statements in a manner that reflects a true and reasonable position and determines the internal control required to enable financial statements to be prepared without inadequate false statements that may result from fraud and error in accordance with Generally Accepted Accounting Principles and the provisions of Section 38 of the National Audit Act, No. 19 of 2018 .

As per Section 16 (1) of the National Audit Act No. 19 of 2018, the Department is required to maintain proper books and records of all its income, expenditure, assets and liabilities, to enable annual and periodic financial statements to be prepared.

The Accounting Officer shall ensure that an effective internal control system is maintained and maintained for the financial control of the Department in terms of sub-section 38 (1) (c) of the National Audit Act and it should be periodically reviewed the effectiveness of the system and make any necessary changes to keep the system running efficiently.

1.4 Auditor's Responsibility on Audit of Financial Statements

My objective is to express a reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue the Summary Report of the Auditor General that includes my opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with Sri Lanka Auditing Standards will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

As part of an audit in accordance with Sri Lanka Auditing Standards, I exercise professional judgment and maintain professional skepticism throughout the audit. I also:

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- It is not intended to express an opinion on the effectiveness of internal control of the Department to plan appropriate audit procedures in a timely manner.
- Evaluate the structure of financial statements including disclosures and content-based transactions and events the structure that the financial statements are appropriate and reasonable.
- The transactions and events underlying the structure and content of the financial statements are appropriately and fairly when submitting financial statements as a whole.

The Accounting Officer was made aware of important audit findings, key internal control deficiencies and other matters identified in my audit.

1.5 Report on Other Legal Requirements

I declare the following matters in terms of Sub-section 6 (1)(d) and Section 38 of the National Audit Act No. 19 of 2018 .

- (a) The financial statements are in consistent with those of the preceding year,
- (b) The recommendations made by me regarding the financial statements furnished for the preceding year had been implemented.

2. Financial Review

2.1 Commitments and Liabilities Entered Into

The following observations are made.

Audit Observation	Recommendation	Comments of the Accounting Officer
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(a) Even though it cannot be entered into liabilities exceeding the provisions made available for expenditure objects in terms of Financial Regulation 94 (1), the liabilities amounting to Rs.1,883,623 had been entered into exceeding the savings in 02 recurrent expenditure objects.	It should not entered into liabilities exceeding the provisions made available in accordance with Financial Regulation 94 (1).	As a result of the settlement of liabilities for the year 2018 at the beginning of the year under review, this situation has arisen due to these provisions were insufficient. It has been noted to take necessary steps to minimize this situation in future.
(b) Even though the statement of commitments and liabilities under Note No. (iii) should matched with the statement of commitments and liabilities issued by the Treasury for each Head of expenditure in terms of Paragraph 3.4 of State Accounts Circular No. 271/2019 dated 03	Actions should be taken in terms of Paragraph 3.4 of State Accounts Circular No. 271/2019 dated 03 December 2019.	Obtaining Services related to commitments and liabilities under expenditure object which was not mentioned in the statement of

December 2019, there was a difference of Rs. 2,529,277 in between the 02 statements.

commitments and liabilities of the Treasury had affected to change the Register of Liabilities of the Department with the statement of commitments and liabilities issued by the Treasury.

2.2 Issuing and settling advances to public officers

The following observations are made.

Audit Observation	Recommendation	Comments of the Accounting Officer
<p>(a) A difference of Rs. 291,367 was observed in between the balance shown in the Departmental Books and the balance in Treasury Computer Printouts .</p>	<p>The balance as per the Departmental Books and the balance of the Treasury Computer Printouts should be equal to each other.</p>	<p>This difference is inherited from previous years. As a result, since the account was not matched from the year 2005 , steps have been taken to rectify it and it will take time. Actions will be taken to rectify from the accounts of the next year.</p>
<p>(b) Recoveries of installments relating to the loan balance of an officer in Foreign Service from August 2019 amounting to Rs.243,512 had not been carried out by 31 December 2019 .</p>	<p>Arrangements should be made to record in the Departmental Books obtaining relevant information from the Ministry of External Affairs.</p>	<p>Since one officer has been serving in the Foreign Service since August 2019 , the loan installments of that officer is being recovered by the Ministry of External Affairs from that day. It has not been able to record those details in the Department Books because those details were not sent to our Department.</p>

3. Operating Review

3.1 Failure to Perform Roles

The following observations are made.

Audit Observation

(a) Although a Trade Remedies Unit had been set up to carry out Trade Remedies, completion of recruitment of an Economist to the Unit as per the Action Plan as well as formulation of regulations related to the Act had not been carried out.

Recommendation

The tasks specified in the Action Plan should be completed within the relevant year.

Comments of the Accounting Officer

Arrangements are being made to recruit an economist through a newspaper advertisement. Regulations related to the Act are also being prepared. The Minister in charge has signed on 09 October 2020 to enforce the Trade Remedies Act, 19 October 2020.

(b) The Department had identified 14 performance indicators for the year 2019. Out of this, the targets had not been set for the 04 indicators such as negotiations to secure Tariff Concessions under Non-reciprocal Trade Agreements, negotiations to secure tariff concessions under Reciprocal Trade Agreements, defending Sri Lanka's Interest at Multilateral Forum, intervention and resolution of market access issues reported and actions had not been taken to perform those functions.

Actions should be taken to set the goals related to performance indicators and to achieve them.

Providing a single target as per the nature of these 04 tasks, is practically impossible. Though it was guessed, it is unable to provide targets. These activities are being carried out within the existing government policy framework. Those will not be implemented without the guidance of the existing government.

3.2 Failure to Obtain the Desired Output Level

The following observations are made.

Audit Observation	Recommendation	Comments of the Accounting Officer
<p>(a) The Progress in achieving performance indicators such as number of Joint Commissions held and organizing inward buying missions to attend trade exhibitions / fairs held in Sri Lanka, had existed less than 40 per cent.</p>	<p>Actions should be taken to achieve the progress outlined in the Action Plan.</p>	<p>It is difficult to hold all the Joint Commissions in one year. Therefore, all the relevant Joint Commissions for the year are taken as targets. Only 2 or 3 out of them are practically held. The situation at trade fairs is also similar. Therefore, it reflects a percentage of 40 per cent.</p>
<p>(b) Although it had been stated in the Action Plan for the year 2018 that the preparation of a procedure in collaboration with the Sri Lanka Customs and other relevant agencies for the preparation of non-preferential rules of origin framework, it had not been carried out even by the end of the year under review.</p>	<p>The tasks stated in the Action Plan should be completed within the relevant year.</p>	<p>These legal guidelines had to be redesigned in 2019 . Although discussions have been carried out with the Sri Lanka Customs in this regard, studying in-depth is required due to its complexity. Therefore, this activity could not be completed in 2019 .</p>

3.3 Management Inefficiencies

The following observations are made.

Audit Observation	Recommendation	Comments of the Accounting Officer
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<p>(a) If the fees charged for services provided by government agencies were not revised within the last 03 years, those fees should be revised by 15 per cent and the approval of the Secretary to the Treasury should be obtained in terms of Public Finance Circular No. 01/2018 dated 17 January 2018 integrated by Public Finance Circular No. 01/2020 dated 28 August 2020 . However, it had been revised the fees charge by the Department for approving the lending institutions under the Mortgage Act on 09 June 2003 and the other charges on 01 January 2014 at last.</p>	<p>Arrangements should be made to revise the fees in terms of Public Finance Circular No. 01/2018 dated 17 January 2018 integrated by Public Finance Circular No. 01/2020 dated 28 August 2020 .</p>	<p>Arrangements will be made to revise in future.</p>
<p>(b) The power to declare lending institutions had been assigned to the Director General of Commerce on the recommendations of the Committee on Recommendation of Lending Institutions under the Mortgage Act No. 06 of 1949, the Trustees Ordinance No. 12 of 1947 and the Local Trust Receipts Act No. 14 of 1990 . Accordingly, 391 Lending Institutions had been recommended and declared in terms of Section 114 (1) of the Mortgage Act from September 1973 to December 2019. A</p>	<p>Establishment of a mechanism to regulate the activities of approved lending institutions and it is required to maintain updated information on their functionality.</p>	<p>Since the Recommendation Committee makes its recommendations with effect for a period of 03 years when recommending lending institutions from the year 2019 , a study takes place of their financial status when they apply for re-registration.</p>

methodology to ensure whether all of these institutions are still at operation to renew registrations had not been implemented. Similarly, a formal system had not been implemented until the end of the year under review to review the function and financial position of institutions.

- (c) Since the implementation of the Mortgage Act No. 06 of 1949 did not fall under the purview of any Ministry as per the Extraordinary Gazette Notification No. 2187/27 dated 09 August 2020, the approval process of lending institutions under Chapter 114 of the said Act had suspended since that day.

It should take immediate actions to remove the obstacle to continue the approval process for lending institutions.

A Memorandum has been submitted to the Cabinet of Ministers to be Gazetted under the Ministry of Finance for further implementation of this activity practically and to be implemented by this Department.

3.4 Other Observations

 The following observations are made.

Audit Observation

- (a) Although the Progress Reports which had to be prepared as per the Action Plan should be submitted in accordance with the National Budget Circular No. 01/2017 dated 13 January 2017 and the National Budget Circular No. (01)/01/2017 dated 05 March 2018, arrangements had not been so made. As a result, it could not be comparatively observed the performance of the tasks outlined in the Action Plan.

Recommendation

 Actions should be taken in accordance with the National Budget Circular No. 01/2017 dated 13 January 2017 and the National Budget Circular No.1/(01)/2017 dated 05 March 2018 .

Comments of the Accounting Officer

 Arrangements will be made to provide a report on the activities performed in 2019 by the Department in future as per the Action Plan.

(b) The task of representing foreign trade consists of 32 officers who represents 30 Sri Lankan Missions abroad. There were 19 tasks outlined in the Action Plan to be performed by these Missions and the Progress Reports on the performance of individual Foreign Commercial Officers were not submitted to measure the progress of the performance of those functions.

Actions should be taken in accordance with the Action Plan and Progress Reports should be prepared accordingly.

Arrangements will be made to obtain a report including the activities performed by each Commercial Officer during the year 2019 as per the Action Plan in future.

4. Good Governance

4.1 Internal Audit

Audit Observation

Although at least 04 Audit and Management Committees should be held within an year as per Paragraph 5.3 of the Circular No. DMA / 01-2019 dated 12 January 2019 of the Department of Management and Audit, the Department had not conducted at least a single Committee during the year under review . Similarly, the Internal Audit Division of the Line Ministry had not conducted an internal audit and issued reports for the year under review.

Recommendation

Arrangements should be made in accordance with Circular No. DMA / 01-2019 dated 12 January 2019.

Comments of the Accounting Officer

There is no an Internal Audit Division in this Department and these activities carried out by the Line Ministry.

5. Human Resources Management

The following observations are made.

Audit Observation	Recommendation	Comments of the Accounting Officer
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(a) There were Vacancies in 33 posts including 10 senior level vacancies, 01 tertiary level vacancies, 17 secondary level vacancies and 05 primary level vacancies as at end of the year under review and it was 22 per cent of the approved staff in this Department where the approved cadre was 152 . Accordingly, it was impossible to recruit the staff required to carry out the activities of the Department without any hindrance .	The Department should take actions to fill the vacancies.	Observation is accepted.
(b) The post of Director General of Commerce, the highest post in the Special Grade of this Department, had been in vacant since 11 September 2019 . Even though the Acting Additional Director General of Commerce acted as the Director General of Commerce from that day, both posts of Director General of Commerce and Additional Director General of Commerce became vacant on the retirement of that officer on 30 May 2020 . Thus, in a situation where there are vacancies in both the top positions at the executive level, the most senior and the only Commercial Director who was serving in Sri Lanka had been appointed as the Acting Director General of Commerce. Although a	Actions should be taken to fill the vacancies in Top Management expeditiously.	-do-

Memorandum for Cabinet of Ministers had been drafted and submitted to the Line Ministry for that, the Decision of Cabinet of Ministers had not been received even by now.

- (c) The post of Director (Sri Lanka Administrative Service (I)) is in vacant from the date of approval (25 June, 2014) even by now. Even though several requests had been made to the Ministry of Public Administration to attach an officer for this purpose, the appointment as such had not been made so far . In addition, there are 06 vacancies for the post of Assistant Director of Commerce and the notice required to conduct an examination for recruitment had been sent to the Department of Examinations. It had been impossible to appoint agents for Foreign Missions as a result of delays in filling these vacancies. It was observed that it would adversely affect the performance of the Department.

Actions should be taken to fill the vacancy in relevant post because of existing vacancies in the approved staff affects the performance of the organization.

An Acting Director of Commerce had been appointed to the post of Additional Director General of Commerce from 01 June 2018 to 10 September 2019. Requests have been made from the Ministry of Public Administration to appoint an Officer for the post of Sri Lanka Administrative Service (I) and the recruitment process for 06 posts of Assistant Director of Commerce is being carried out.