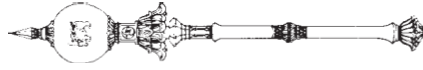


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PARLIAMENTARY SERIES

No. 07

OF

**THE SIXTH PARLIAMENT OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF SRI LANKA
(Second Session)**

FIRST REPORT

FROM THE COMMITTEE ON PUBLIC ENTERPRISES

Presented by

HON. WIJEYADASA RAJAPAKSHE, M.P.,
Chairman of the Committee on Public Enterprises

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Committee on Public Enterprises

Second Session of the Sixth Paliament

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**FIRST REPORT OF THE
COMMITTEE ON PUBLIC ENTERPRISES (COPE)**

SECOND SESSION OF THE SIXTH PARLIAMENT

The Committee on Public Enterprises (COPE) is pleased to present its first report of the sixth Parliament.

The COPE for the second session of the sixth Parliament was nominated by the Committee of Selection in terms of the Standing Order No. 126 of the Standing Order of the Parliament of Sri Lanka announced on 08.03.2006, 07.04.2006 23.05.2006 and 24.05.2006.

This report contains observations and recommendations arising from Auditor General's Reports and the Performance Reports submitted by the Department of Public Enterprises and our examination of officeals in respect of the following Enterprises:

1. Central Bank of Sri Lanka
2. Telecommunications Regulatory Commission
3. Ceylon Electricity Board
4. Bank of Ceylon
5. Ceylon Petroleum Corporation
6. National Savings Bank (NSB)
7. Geological Survey and Mines Bureau (GSMB)
8. Road Development Authority (RDA)
9. Sri Jayawardenapura General Hospital (SJGH)
10. Board of Investment (BOI)
11. Airport and Aviation Services Limited (AASL)
12. Independent Television Network (ITN)
13. National Water Supply and Drainage Board (NWS and DB)
14. National Child Protection Authority (NCPA)
15. Development Lotteries Board (DLB)
16. State Mortgage and Investment Bank (SMIB)
17. National Lotteries Board (NLB)
18. State Engineering Corporation (SEC)
19. People's Bank
20. Institute of Policy Studies (IPS)
21. MILCO (Pvt). Ltd
22. Land Reform Commission (LRC)
23. Samurdhi Authority of Sri Lanka
24. Public Enterprises and Reform Commission (PERC)
25. Sri Lanka Ports Authority (SLPA)
26. Urban Development Authority (UDA)

The COPE met for the first time for this session on 04th July 2006 and has been sitting thereafter on a regular basis to examine these public enterprises in terms of the Standing Order 126, which spells out the powers and functions of this Committee. In terms of the standing orders, the duty devolving on it is to examine the accounts and the performances of public enterprises and to report to Parliament from time to time on the accounts examined, the budgets and annual estimates, the finances and financial procedures, performance and management.

On the day the Committee met first, it decided to meet on every sitting week from Tuesday to Friday and accordingly, the Committee did its first examination on the 19th of July 2006. During that entire week the Committee met and the following institutions were examined thoroughly, basing on the observations made by the Auditor General and the Director General of Public Enterprises. With a view of streamlining the corporate sector and keeping the House informed of matters need urgent attention, the Committee decided to report to Parliament, on these findings through the examinations at earliest opportunity. Accordingly, this Committee wishes to present this report before Parliament. The committee's unanimous view was that mere presentation of a report before Parliament will not make any impact on the wrong doing public enterprises. The Committee proceedings and the relevant minutes are not incorporated with this report and they are available at the *Committee* Secretariat for scrutiny.

It was also decided that the reports to be made in respect of the institutions examined by this Committee would be forwarded to the His Excellency the President and the Minister concern of the subject for his information and also to take appropriate action.

GENERAL OBSERVATIONS

During its examinations, the Committee identified the following deficiencies and irregularities which were common in nature to the following institutions:

- * Failures and omissions on the part of the relevant secretaries to supervise and follow up the performance of the institutions which come within their purview.
- * Failures and omissions on the part of the relevant ministers to keep closed observation into the affairs of the institutions which come within the purview of their duties and obligations.
- * Lack of professionalism in the management of public enterprises.
- * Key senior management position being held on acting capacity or on contract basis for considerably a long period.
- * Lack of quality management resulting in losses.
- * Very poor attention on profitability, liquidity and financial viability.
- * Lack of effective Internal Audit.
- * Poor Treasury Management.
- * Poor supervision of the Line Ministry.

- * Idle and under utilized resources.
- * Absence of good governance practice.
- * Non-availability of updated Corporate Plans and Action Plans.
- * Delays in submitting of accounts.
- * Uneconomical transaction and mismanagement of funds.
- * Non-compliance with financial rules and regulations
- * Non-adherence with the accepted tender procedures.
- * Political interference.
- * Delays or failures in responding to the Committee directives.
- * Payments of withholding taxes by the institutions which amounts to a payment of double taxes.

As a result of the above common deficiencies profitability, liquidity and financial viability of most of the enterprises have been declined.

1. Central Bank of Sri Lanka (CBSL)

Examined on 19.07.2006 and 01.12.2006

1. Swarnamahala Finance Company which was functioning without legal authority had been regularized in compliance with the monetary laws on a direction made by the COPE in its earlier sittings.
2. It was pointed out that the CBSL, has not taken adequate steps against the finance companies functioning in the illegal manner without obtaining the proper approval from the Monetary Board. Frequent publication of notices in news papers indicating the illegal functioning of finance companies are most unhealthy practice which could cause an immense effect adversely to the economy of the country. The Governor undertook to take the remedial measures within the period of two months.
3. It was pointed that the CBSL, should take positive legal action with regard to the non functioning finance companies which amounts to about 80% of the total number of the registered companies.
4. The CBSL has failed, neglected and acted in a lethargic manner in relation to the recovery of a sum of Rs. 7000 million which had been granted to bankrupt financial companies. The list of such companies is annexed to be made as 'A'
5. The Governor undertake to take appropriate legal action with due diligence within a period of two months. The Governor also undertook to explore the possibility to increase dividend/interest to the members of the Employees Provident Fund to meet the inflation rates in compatible manner. The committee expressed its concern above the negative return to the members of the fund.

6. On being pointed out by this Committee the Governor undertook to appoint a Committee to investigate the affairs of the pyramid schemes which had affected the foreign exchange of the country in an adverse manner and to report to the COPE within two months. The Governor expressed his concern over that his name has been falsely and unfairly connected to the said issue in the media.
7. The Committee also expressed its concern about the payment of legal fee amounting to US \$ 300,000 to a foreign bank for arranging a loan facility of Rs. 1 billion.

2. Telecommunications Regulatory Commission. (TRC)

Examined 19th July 2006 and 22nd August, 2006.

1. It was found that the TRC had paid a sum of Rs. 22 million to a company in Los Angeles' for preparation of a Corporate Plan which has been rejected by the Commission as it was a far below the standard required. The consideration has been paid without having an evaluation of the report and also without the approval of the Commission. On direction being made the Director General of TRC now has lodged a complaint to the Bribery and Corruption Commission on the said transaction, Secretary for the Ministry informed the Committee that the said payment was and illegal one.
2. The TRC has failed and neglected to submit its annual report for the year 2005 and accounts to the Department of Public Enterprises and the Parliament up to the date of examination.
3. TRC had paid following additional allowances and the other types of financial benefits to its employees without obtaining the requisite authority.

2000	Rs. 7,028,417
2001	Rs. 9,150,829
2002	Rs. 10,536,762
4. A salary increased to the staff officers by 74% and that of others by 64% from the 1st of June 2003 without the required approval. Further, payments of transport allowance, 2/3 of the housing lone interest, leave encashment, full allowances had been made contrary to the Public Enterprise's Guidelines for good governance and without any approvals.
5. The Commission invested Rs. 140 million and Rs. 30 million in treasury bills and fixed deposits respectively in the year 2003, without the treasury approval, resulting a breach the statutory laws, rules and regulations. The treasury bills, which were purchased by the Commission, had not been endorsed in the Commission's name.
6. A sum of Rs. 19,849,504 is outstanding over a period of two years from frequent users other than Government institutions as at 31st December 2004. A sum of Rs. 16,763,266 is due from private individual uses and Rs. 2,030,770 from fishermen who have received radio sets under various programs implemented by the Ministry of Fisheries and Rs. 636,867 is due from paging operators.

3. Ceylon Electricity Board (CEB)

Examined on 20th July 2006, 8th, 10th and 24th August 2006 and 4th October 2006.

1. CEB had appointed DGM (Personal) w.e.f. 30th July 2006 for the post of the Project Manager, Kerawalapitiya power plant despite the fact that the certain allegations leveled against him regarding the lands, transactions, which had been revealed by the Internal Audit Division of CEB.
2. The Deputy General Manager who was serving in at least 8 to 10 tender boards is a person who has been found guilty to serious charges and recommended for the dismissal. The retired G. M., Mr. Ranjith Fonseka was responsible for keeping the said report shrouded under veil without submitting it to the Board of Directors for necessary actions.
3. Mr. Ranjith Fonseka was responsible for appointing the same DGM, Mr. P.A.G.D.C. Caldera as the Chairman of subsequent Tender Boards of which the transparency was highly questionable. But employees who found with similar charges had been dismissed and prosecuted and now some of them are serving jail sentences.
4. It was transpired that the Board of Directors had been surpassed by the bureaucrats and trade unions on many occasions and such conduct has paved the way for series of corruptions, malpractices. Later the Board of Directors had been dissolved due to their inefficiency.
5. The Direction was given to Board to complete all disciplinary inquiries against the executives within 3 months as most of the higher ranking executive officers were subjected to disciplinary inquiries.
6. The Committee was also expressed its concern over its mismanagement inefficiency and corruption which had been one of the most significant factors to push the corporation to the debit position of approximately Rs. 15 Billion.
7. It appeared that the Internal Audit Division had been weakened with a designed mechanism to prevent the disclosure of certain corruptions and misappropriations.
8. When CEB examined on 4th October 2006, it was informed that there were 74 pending disciplinary actions taken against officers of executive grade and only in the 8 cases final reports had been furnished.
9. The Committee directed to take disciplinary actions against the officers responsible of purchasing of electricity meters, Aluminum and light posts without adhering to the tender procedures.
10. The Committee also insisted that the terminal benefits should not be granted to the retired General Manager until the disciplinary proceedings against him are concluded.
11. The Committee directed that promotion of Mr. Pulleperuma, A. G. M. to the rank of General Manager shall be made by adhering to the procedure for recruitments and promotions.

12. The Chief Internal Audit Officer informed that she cannot perform her duties since the non availability of the relevant documents and files. The Committee directed to take the disciplinary actions against those who refused or failed to furnish the relevant documentation to the Audit Department.

4. Bank of Ceylon (BOC)

Examined on 20th July 2006 & 30th November 2006

1. The Committee expressed its concern that a sum of Rs. 127 Million had been paid to Mr. A. R. Bernard, a foreigner, who served in the capacity of Financial Controller since 2001 to December 2005. Committee expressed the view that his performance has not been up to the mark.
2. The Committee also pointed out the unsatisfactory performance during the said period as Portfolio of the market had been decreased in the following manner.

<i>Year</i>	<i>Market share of the Deposits</i>	<i>Market Share of the advances</i>
2001	22.89%	24%
2005	19.14%	12%

3. The Bank during the Chairpersonship of Ms. Susi Munasinghe had entered into the highly questionable transaction in the sale of London Branch at a colossal loss to the bank which is under investigation now.
4. It was pointed out that the non-performing loans amounting to the tune of Rs. 12 billion should be recovered by adopting suitable remedial measures.
5. The BOC had failed to prepare an updated approved carder taking into consideration the recent changes took place in the bank.
6. The cost to revenue ratio had gone up to 74% as at the date of the examination whereas the said ratio in the private sector banks is below 56%.
7. When examined on 13th November 2006 the Committee observed that the BOC had granted loans amount to Rs. 314 million and overdrafts of Rs. 300 million to International Grossers Alliance by obtaining inadequate security valued only up to Rs. 40 million. This was a blatant violation of the banking rules and procedures. These loans remain unpaid.
8. A sum of Rs. 125.5 million loan had been granted Mahinda Offset Printers on the mere paper security which is a letter written by the Commissioner of Educational Publications to grant certain contracts to the customer to print school books. The Committee directed to furnish a report on the above trasactions.
9. The BOC also undertook to furnish relevant bank documents in relation to frauds committed by the some officers of Water Supply and Drainage Board attached to the Trincomalee and Kiribathgoda branches.
10. It was transpired that the Bank had granted another irregular loan and overdraft facility amounting to Rs. 240 million to Page Electronics (Private) Limited in 2003 which remains outstanding up to date.

11. The Committee is not satisfied with the steps taken to recover total outstanding non performing loans around Rs. 13 billion without interest.
12. The Committee also expressed its dissatisfaction of the officials of the Treasury as they have failed to perform their obligations and duties to minimize the losses incurred by the BOC.

5. Ceylon Petroleum Corporation (CPC)

Examined on 21st July 2006, 23rd August 2006 & 01st December 2006.

1. CPC has failed to fill the vacancy of Internal Auditor for a long period despite the fact the COPE had previously pointed out to them as far back in March 2005. It was revealed that the DGM (Finance) had dropped out the most qualified applicants at the interviews and called less qualified candidates and finally ended up by appointing an employee of CPC without having required minimum qualifications. On this issue the Committee found the DGM (Finance) Mr. L. Karunaratne has given false evidence before the COPE.
2. With regard to the appointment of the Personal Manager, the CPC should have acted in a far more responsible manner and there was no adequate transparency in the selection process. The Ombudsman has already investigated the matter and found that there were irregularities involved in the said appointment.
3. CPC has six hundred employees in excess of the approved carder.
4. It was observed that the role of the Lanka Indian Oil Company (LIOC) has been made a big impact in the fuel supply to the country specially due to the irrational terms entered in the contract. But the CPC informed that the said transaction was done by the Treasury and the PERC and therefore the CPC is not responsible for such acts. As a result of the loopholes in the agreement, the LIOC has manipulated to acquire 58 distributing centers in addition to the number of centers which were lawfully given to them.
5. When CPC was examined on 01st December 2006 it was brought to the notice that Mr. L. Karunaratne, D. G. M. (Finance) and Mr. S. K. Cyril, D. G. M. (Administration) had tendered letters of apologies to this Committee for the mistakes they have made and which were revealed on the previous COPE meeting held on 23rd August 2006.
6. It was raised as to how 8.2 Acres of land at Bloemendhal Road had been transferred to the Lanka Marine Services Limited and the officials were not in a position to explain the current position.
7. A land in extent of 9 Acres of Wanatawilluwa, Halkumbura acquired for CPC in 1970 had been encroached and occupied by around 500 people. No meaningful steps had been taken to safeguard its rights.
8. A land situated in Mahahena within the area of Divisional Secretariat, Kollonnawa has been trespassed and occupied by several persons and no meaningful actions taken by the CPC.

9. The CPC has transferred money approximately 900 million to its Thrift Society without a proper approval and in violation of monetary laws and financial regulations. The Committee directed to submit a report within a period of one month.

6. National Savings Bank (NSB)

Examined on 8th July 2006

1. The Committee pointed out that the recently opened 4 branches are running at loss and the Chairman undertook to take remedial measures as early as possible.
2. The Committee also was concerned that the loan facilities given to the customers in the rural areas is not satisfactory and therefore the bank shall implement a scheme to give more access to customers in the rural areas to obtain loan facilities.
3. The management of the Bank also agreed to explore the possibilities of opening collecting center in Middle East and Italy to accommodate and help Sri Lankan migrants in those countries to invest their earnings at a reasonable interest rate with a maximum security.

7. Geological Survey and Mines Bureau (GSMB)

Examined on 6th September 2006

1. The Bureau is running without a Corporate Plan or even an Action Plan. It was transpired that most of the works had been carried out in haphazard manner.
2. GSMB is spending Rs. 1.25 Million *per mensem* by way of rental and during last 13 years no positive action was taken to have its own building. It has laid a foundation stone in a land belongs to a third party without resorting to acquire the same. The Committee alarmed the Bureau the potential danger of erecting a building without the ownership.
3. A large sum of money had been spent by way of rentals for the vehicles and it was noticed some of the payments are in excess the normal rates in the market and Committee directed the Chief Accounting Officer to submit detailed report on such payments.
4. The GSMB had formed another company in the name of GSMB Technical Services Ltd. which is unwarranted in the Committee's point of view. The Chairman of the Bureau was directed by the Committee to forward a full report on this company.
5. Issuing of licenses for mining of sands had been taken over by the GSMB from the Divisional Secretary and now it has become a failure. The Committee's concern was that the corruption had crept into process of issuing this license. Later it was revealed that function had been now vested in Divisional Secretaries.
6. The Committee expressed its dissatisfaction over the performance of the GSMB with regard to the Tsunami catastrophe. The Committee's view was that they should have taken steps to make the people aware of the Tsunami as they were the officers who had obtained knowledge of Tsunami having participated in workshops in locally and abroad.

8. Road Development Authority (RDA)

Examined on 10th August 2006

1. It was transpired that the RDA has not prepared a Master Plan or a Corporate Plan for the road network to be set up in the country in future. Upon the insistence of the importance of such a plan the RDA agreed to furnish a draft plan within 3 months and final plan within 6 months covering period of at least 20 – 50 years.
2. The RDA also undertook to furnish such plans to Ceylon Electricity Board, National Water Supply and Drainage Board, Telecom Companies and other Government institutions enabling them to plan out their future development activities.
3. The Committee extensively considered the contracts in relation to the construction of Colombo-Katunayaka expressway, Southern express way, Ratnapura-Beragola and Galle-Matara Highways.
4. The Committee also concerned about certain expenses incurred to provide vehicles and laboratory facilities to the consultants of the JBIC who have undertaken to construct the bridge over the Bentara river.

9. Sri Jayawardenapura General Hospital (SJGH)

Examined on 8th August 2006 and 05th September 2006.

1. The Committee dissatisfied with regard to the explanations given by the authority in relation to the construction of the three storied buildings with series of patent and latent defects. The Secretary to the Ministry of Health was directed to furnish a report of the condition of the building through the Central Engineering Consultancy Bureau. It was revealed that approximately a sum of Rs. 36 Million is required to do the rectification works. It is a loss to the Government due to the total negligence of the Hospital Management and the Ministry of Healthcare and Nutrition. The Committee appointed a sub committee consisting of 4 members to inquire into the said matter.

10. Board of Investment (BOI)

Examined on 6th December 2006 and 10th January 2007.

1. The BOI had been functioning for a long period without a Corporate Plan. It was highly inappropriate to run such an important institution without having a properly adopted Corporate and Action plans. We found the purported documents submitted to the Committee were not a Corporate Plan in fact and it is a document prepared for a different purpose. The Committee expressed its dissatisfaction about the conduct of the officials of the BOI who made an attempt to mislead the Parliament by tendering false/bogus documents representing as a Corporate Plan.
2. It was pointed out that the conduct of the BOI in relation to the recovery of dues was unsatisfactory.
3. The BOI occupies several floors at the World Trade Center paying the rent of Rs. 9 Million per month whilst having their own building at Sir Baron Jayathilaka Mawatha idling since 1999 and thereby the Government has lost a colossal amount of money. The Committee directed to furnish the details of such expenses.

4. The Committee also expressed its concern as to why the BOI entered into an agreement with MERBOK MDF Lanka Pvt. Limited with the undertaking to reimburse the electricity tariffs without obtaining the approval of the Board of Directors or the Cabinet. The Committee directed to summon the former Chairman to explain the reasons as to why he had agreed to such an adverse term.
5. The Committee also expressed its surprise that the BOI had approved its carder in an *ad hoc* manner upon receipt of the summons to appear before this Committee which is not in compliance with the required criteria.
6. The Committee was of the view that the Ministry and its Secretary have failed to perform their duties in overseeing financial controls of the BOI. Their failure to monitor the overall performances of the BOI has greatly affected the economy of the country in an adverse manner.
7. The BOI has also failed to perform its duties and obligations in monitoring in imports under the BOI banner and it has employed only 40 employees to monitor 50% of industrial imports whereas the Sri Lanka Custom has employed about 5000 employees to monitor the balance 50%. Therefore the inadequate monitoring of imports under the BOI banner has created an adverse impact in the economy of the country since such imported items go to the local market at lower rate by bankrupting the local industrialist and merchants who are engaged in lawful business activities.
8. The BOI failed to adopt a methodical system to improve the investment whereas it has employed only 27 employees in the investment promotion sector out of over 1400 employees.
9. It was transpired that the loans given for the BOI projects have been misused and thereby abused their authorities. The BOI has failed up to date to take any remedial actions.
10. It was pointed out that the Government has lost a colossal amount which was due by way of stamp duties since the deeds in relation to the immovable property developed under the BOI banner had been under valued contrary to the relevant revenue Acts. We have called for the details with the view of directing to take remedial measures and also it is important to prosecute against the wrongdoers.
11. Chairman and the Secretary to the Ministry admitted that the document tendered to this Committee representing a Corporate Plan at the previous occasion is not the Corporate Plan in fact, is a document prepared for their internal workshop. The Committee pointed out that it was serious misrepresentation made to the Parliament to mislead the Honourable Members. Chairman apologized for marking such false representation and the Committee informed that the appropriate actions will be taken against the said misrepresentation on the part of the Chairman.
12. Dr. Bandula Perera, Addl. Director-General also gave evidence which contained false information with regard to the disciplinary action taken against wrongdoers in his organization and subsequently apologized.
13. The Officials of the BOI were not in a position to furnish statistics about the imports, exports under the BOI banner.

14. It was pointed out the companies registered in the BOI had imported Yellow Corn and Soya bean on the pretext of animal feed and siphoned to the open market for human consumption for a long period of time. As a result the local farmers have been greatly and adversely affected causing enormous losses to the national economy.
15. The Officials of BOI also conceded that they are not in a position to monitor the large quantity of imports due to lack of employees and therefore some BOI Companies fraudulently siphoned imported goods to the local market.
16. BOI had entered into an agreement with a Company called Merbok MDF Lanka (Pvt.) Ltd., by giving unprecedented and extraordinary concessions to reimburse tariff increases by the CEB and also undertaking to reimburse the imposition of any custom duty by the Indian Government out of the public funds. Former Chairman Mr. Thilan Wijesinghe who had signed an agreement was examined in detail and he could not give any reasonable explanation to the Committee. He also conceded to Merbok MDF Lanka (Pvt) Ltd., is the only Company who had received such concessions from the BOI throughout the whole period. Now the Merbok MDF Lanka (Pvt.) Ltd., had claimed Rs. 179,831,721 millions up to November 2004 and the interest from the BOI. The Committee directed the Secretary to hold an inquiry and to report to the Committee as to whether the BOI had acted within their purview. If not to make appropriate recommendation to take actions against those who are responsible for causing loss to the Government. It was transpired that the said Company has exceeded their authority in the manufacture and thereby the plantation in the country is greatly destroyed.
17. This Committee strictly recommended that the Government shall take that appropriate action to monitor the imports and exports by BOI Companies by a responsible organization such as Sri Lanka Customs etc.
18. This Committee is also of the strong view that the BOI is a thoroughly disorganized organization and most of the important works are being done by *ad hoc* manner. They have failed to follow the fundamental and basic rules of an organization for an example the maintenance of statistics about the imports and exports under the BOI.

11. Airport and Aviation Services Limited. (AASL)

Examined on 30th November 2006.

1. It was noted that AASL had paid a sum of Rs. 7 Million to a third party for purchase of a land without signing legal documents and also without the approval of the Board. it was further noticed the said payment had been made contrary to the legal advice given by its Legal Department. It was informed that the said matter had been referred to the Commission for Bribery and Corruptions. We directed to furnish the report and to take legal action against the responsible officers.
2. It was highlighted that it had failed to call audit committee meetings for a long period since 2005. The Chairman undertook to call such audit committee meeting regularly and the Secretary undertook to monitor the same.
3. The Corporate Plan for the year 2006 is not satisfactory at all. AASL undertook to submit a revised Coporate Plan and an Action Plan as early as convenient.

12. Independent Television Network (ITN)

Examined on 29th November 2006

1. It was noticed that there are certain shortcomings in the Corporate Plan for the period of 2005-2009 and the Chairman undertook to submit the revised Corporate Plan within one month.
2. It was noticed that there was a 28% drop in the profit before the tax in the year 2005 and the Chairman informed that it was due to allocation to bad debts of the Rs. 56 million in the previous year.
3. The Committee observed that the ITN shall appoint a duly qualified Accountant to its organization.
4. The ITN officials also failed to explain certain asserts and liabilities and they undertook to submit a detailed report later.

13. National Water Supply and Drainage Board (NWS&DB)

Examined on 29th November 2006

1. The Board had spent U.S.\$ 4.6 million (in Rupees 460 million) for a I.T. project which was commenced in the 2004, but it has failed to complete the project up to date although the scheduled period was two years. It was thoroughly a dissatisfactory situation.
2. Audit and Mangement Committee has not been appointed for a long period. The Committee expressed dissatisfaction about the fancy replies given by the responsible officials.
3. Non revenue water supply has gone up to 44% in the whole island and in the Colombo city alone 51%. The reasons were given as leakage, theft and meter errors. This wastage of colossal amount of public money amounting to over Rs. 1700 million annually. This clearly shows the inefficiency, lethargic conduct and lack of patriotism of the officers commencing from the Secretary to the Ministry to the meter readers. The Committee directed to take immediate measures to reduce the wastages.
4. Amount of bad debt has gone up to Rs. 494 million. No positive action taken to recover them.
5. The whole account system is in disarray. This Committee directed the Auditor - General to appoint an officer to look into the accounts of the Board.
6. It was noticed that 17 rural water supply projects are stopped as water pumps had not been supplied.
7. Officials of the Trincomalee and Kiribathgoda branch offices had defrauded a large sum of amounts by submitting fraudulent bank statements. This Committee has called for relevant documents.
8. The Board has failed to adhere to the accounting standards and there were serious lapses and distortions in accounts. The Committee directed to rectify them within two months.

9. The Board has acted in blatant violations of the Treasury circulars by releasing twelve vehicles to the Ministry concerned.

14. National Child Protection Authority (NCPA)

Examined on 28th November 2006.

1. It was noticed that there were five vacancies in the Board including one psychologist for a period of eight months and the Committee insisted to importance of filling the vacancy.
2. The organization is running without a Corporate Plan since the beginning of the 2006. It was stated that they commenced the preparation of a new Corporate Plan in November 2006, perhaps after the receipt of the summons of this Committee to appear before it.
3. This Organization has no organizational structure or recruitment procedure. As a result of that it appears that most of the works are being done in haphazard manner.
4. This authority is not attending to the protection of children in North and East in a satisfactory manner due to the prevailing situation in those regions.
5. It was pointed out that District Committees of the Child Protection are not functioning in the Districts of Galle, Matara, Mannar, Jaffna and Trincomalee which is a highly unsatisfactory situation. It was due to lack of due diligence of the Organization.
6. In the cause of the examination the Committee observed that the NCPA had not taken actions whatsoever regarding the following matters.
 - * Children who had been deprived from their education.
 - * Mal nutritious children under two years Eg. Kebethigollewa.
 - * Rehabilitation of children surrendered to the Government Institutions.
 - * Activities taken for upgrading of welfare activities of children in affected areas.
7. The Committee inquired about the researches that had been done under the Plan Sri Lanka program and the Alcohol projects and observed that although large sum of monies had been spent on the above research, the particular report had not been received by the NCPA.

The Committee took the above matter seriously and directed the CAO/AO to submit a report on the followings and to take remedial actions to get the original reports immediately.

- * Who had done the above research
 - * What had been given to the country out of the above research
 - * How much of monies spent for the above research
 - * To whom the above monies had been paid etc.
8. Utilization factor of the foreign aids received to the NCPA was also taken into consideration by the Committee. Based on the Auditor-General's comments the Committee observed that the NCPA had not taken action to utilize those funds for the respective projects within the specified time frame and returned those aids to the respective donor agencies during the year 2005.

15. Development Lotteries Board (DLB)

Examined on 17th November 2006.

1. DLB had recruited fifty six non executive grade employees exceeding the approved carder and even without the approval of the Board.
2. DLB has failed to pay the income tax on their profit from the inception which is a serious violation of the revenue laws of the country. The DLB had submitted that it was not due to their fault, but due to the failure of the Ministry of Finance to take a policy decision.
3. DLB admitted seven vehicles belongs to it, used without the emblem being printed on the vehicles. The Chairman undertook to rectify it forthwith.
4. DLB paid annual rental of Rs. 7.2 million whereas it has already spent Rs. 421 million to buy a land and a building in the Union Place which is not being utilized up to date. It should be noted that it is a colossal wastage of the public money.
5. It is also noticed that there is a reduction of approximately 39% of the total revenue last four years due to the increasing financial cost. DLB undertook to workout a mechanism to increase their sale after discussing the existing issues with the UDA, RDA, the Local Government Authorities and Police.
6. It was pointed out that five houses constructed at the cost of Rs. 1.1 million each for "Jayoda" draws had been kept closed and unutilized for a long period.

16. State Mortgage and Investments Bank (SMIB)

Examined on 20th November 2006.

1. It was observed that the amount of the non performing loans had been increased and it would result adversely to the progress of the Bank.
2. It also observed that there was a lack of documentary evidence for audit in respect of long term loans and remain un-recovered for a long period of time of four to ten years. It was informed that the Bank has initiated disciplinary actions against the officials responsible for such defaults.
3. SMIB has not adopted any risk assessment methods in granting loans which is highly unsatisfactory situation under the prevailing circumstances.
4. Treasury officials complained that the SMIB had recruited forty seven employees in violation of treasury circulars. The Chairman and officials gave contradictory explanations reflecting their irresponsibility.
5. SMIB is running without a proper corporate plan. Although there was a business plan for the period of 2004-2007 it has not been updated. Furthermore it was significant to note that there was nobody to answer to queries raised on the said business plan and its achievements which is also highly unsatisfactory affairs of the Bank.

6. It was revealed that there were financial irregularities amounting to Rs. 25 Million since 2004. The Committee directed to furnish a detailed report.
7. It was also revealed that the SMIB awarded a contract of the IT program to Ernest and Young Co. whilst a partner of that company was a member of the SMIB. The SMIB undertook to furnish a detailed report on that.
8. The Chairman also undertook to furnish a report with regard to the steps taken to recover outstanding loans which amount to Rs. 1.1 billion.
9. The Committee expressed its dissatisfaction on the overall financial management and insisted the necessity to have a treasury representative on the Board of Directors.

17. National Lotteries Board (NLB)

Examined on 17th November 2006

1. NLB had undertaken to construct 103 Grama Seva Offices out of which only 57 Offices had been completed and 18 partly constructed. Balance 28 had not been commenced. The officials were not in a position to state whether such acts come within the purview of their acts and what actions taken in relation to defaults.
2. NLB had printed 500,000 calendars although the approval was granted only for printing of 100,000 calendars.
3. It was informed that the subsidiary company incorporated as Online National Lottery Pvt Ltd. has already been bankrupt and a liquidator has been appointed. The Committee directed to summon the previous management to explain the adverse situation created by them.
4. It was unsatisfactory that the NLB budget for 2007 has not been completed. The treasury Representative also informed that the NLB failed to accede to their reminders.
5. The NLB has incurred Rs. 222 Million for print the “Sevana” tickets without following the tender procedure, the Committee directed to submit a report within one month.
6. The NLB had recruited 42 employees despite the direction given by the Director General of Public Enterprises of the Treasury.
7. The NLB has incurred Rs. 12 Million by way of rentals despite the fact it has already spent Rs. 93 Million to purchase a 54 perches land in the Saint Sebastian Hill in the year 2005. No step being taken to utilize the said premises well over a period of two years.
8. The Chairman undertook to submit a corporate plan and action plan within two weeks.

18. State Engineering Corporation (SEC)

Examined on 7th November 2006

1. The outstanding debts of Rs. 335 million exist there exclusively from the Government Institutions and another sum of Rs. 473 million from the private sector. SEC undertook to furnish a detailed report.
2. A large amount of cash had been kept in hand more than 6 years whilst large amount paid by way of interest on overdraft. That shows the lack of due diligence and financial

mismanagement.

3. SEC has no mechanism or management information system to review the performance in monthly or quarterly basis.
4. SEC has failed to answer 25 audit queries within last three years and the Committee directed to reply the said audit queries within one month.
5. The Committee also observed the remarkable progress achieved after the assumption of duties by the new chairman.

19. People's Bank (PB)

Examined on 28th November 2006

1. The Committee expressed its concern; the bank has failed to recover a large sum of money given to the Yasoda Enterprises without security. It was directed to take disciplinary actions against those who were responsible to grant such loans in violation of banking regulations.
2. There were ten other large loans given to its customers in an irresponsible manner and directions given to take disciplinary actions against the responsible officers.
3. Directions were given to regularize the difference of accounts in the book balances and physical balances.
4. The Committee directed to rectify the annual reports in which incorrect facts inserted with regard to the writing off non-performing loans.
5. The Committee also insisted the importance to reduce the percentage of the non-performing loans which is very high compared to the other bank.

20. Institute of Policy Studies (IPS)

Examined on 20th October 2006 and 20th November 2006

1. The Committee was surprised as the Executive Director of the Institute; Dr. Saman Kalegame had the audacity take up the position that the institute has full autonomy and not governed by the financial regulations and the Parliament of Sri Lanka. The Committee rejected his argument and directed that any departure from the financial regulations would result severe repercussions on any officer in the institution.
2. The Committee also expressed its surprise as to how the present Chairman could function in that position as he has already been adjudged by a court of competent as a person of unsound mind several years ago.
3. It also was highly unsatisfactory that the three Members of the Board had continued as *de facto* Directors after the lapse of their tenure in 1992. All decisions and payments after the lapse of their period are illegal. The Committee insisted that in the Government sector there cannot be any *de facto* officers in the absence of lawful appointment.
4. The IPS claimed that it has been exempted from the financial circulars by the treasury. But failed to adduce any proofs.

5. It also was revealed that there are 10 officers who are obliged to pay withholding taxes but not paid since 1995.
6. The Committee directed to obtain legal opinion of the Attorney- General on the above mentioned appointment. In the event the Attorney General is of the view that the said irregularities are beyond rectification IPS shall take necessary steps to reimburse the illegally spent public funds.
7. It was revealed that IPS retaining printed books worth of Rs. 2.4 million since 2003 without any circulation.

21. MILCO (PVT) LTD. (MILCO)

Examined on 10th August 2006, 21st November 2006

1. Committee observed that the MILCO does not have an approved carder although there are 1400 employees at present.
2. MILCO is in the Process of preparing their corporate plan for in year 2006 to 2010 and the Committee insisted the importance of corporate plan and the action plan.
3. Committee also directed to investigate into the shortages of milk beyond the accepted threshold limits.
4. Committee also directed to explain the possibilities to recover a sum of Rs. 348 million due from the Government.
5. The Committee also directed to regularize the accounts of the institution.

22. Land Reform Commission (LRC)

Examined on 05th December 2006.

1. The Committee directed the LRC to update the value of land in the registry maintained by the LRC as the values of the lands in 1979 is reflected for a period over 28 years without any revision thereby the annual accounts continued distorted.
2. It was revealed that the former Chairman of the LRC has accepted a sum of Rs. 7,149,750/= from people with the undertaking to alienate certain lands without approval of the Commission and thereby the said amount is lying in a "current account".
3. The direction was given to take legal advice from the Attorney-General with regard to the recovery of possession of the land illegally alienated and encroached by the trespasses.
4. The Secretary undertook to inquire into the conduct of the Officers who had handed over possession of some lands belongs to the Commission without entering into any agreements and unlawful manner and to initiate disciplinary actions.
5. The Commission had incurred Rs. 21 million for the installation of the computerized data bank but it appears it was not completed due to lack of due diligence of the Commission.

6. It is also pointed out that the ministerial actions shall be taken to resolve on going disputes on ownerships in between the LRC and Janatha State Development Bank, Sri Lanka Plantation Corporation.
7. Committee observed that the Commission has acted in negligent manner in relation to the safeguard of asserts belonging to the Commission.
8. This Committee also directed to furnished certain details with regard to the alienation of certain lands and installation of computer system.

23. Samurdhi Authority of Sri Lanka (SASL)

Examined on 18th October 2006.

1. Samurdhi Authority of Sri Lanka is running without a corporate plan. It undertook to make comprehensive corporate plan and submit to this Committee.
2. An unidentified amount of Rs. 62 million had been reflected in this account of compulsory savings and officials failed to explain the reasons. It undertook to submit a detailed report on the above matter within 2 weeks.
3. On being pointed out the Authority undertook to obtain valid license from the Central Bank to legalize the functions of Micro Finance Institutions.
4. It Committee also pointed out that there is a undue delay in the functions of the audit and management Committee and the said committee functioning without an audit representative. The said Committee also has disregarded the Treasury circular issued in October 2005.
5. It was observed that the Authority had failed to monitor and to collect statistical data from the relevant sources to ascertain whether it had achieved it's goals as contemplated.
6. Authority has failed to recover a sum of Rs. 5.5 million from the defaulters as pointed out by the Auditor-General.
7. Authority was not aware of values of investments that it invested in the shares of the quoted companies. It undertook to furnish detailed report within one week.
8. In investments of Rs. 4.7 million in Fruit export project at Galgamuwa was inquired in to and found that the relevant files had been taken over by the Presidential Investigations Unit.
9. The Committee appointed four member sub-committee to look into the ten projects started with Samurdhi Fund which had been subsequently failed.

24. Public Enterprises Reform Commission (PERC)

Examined on 22nd October 2006.

1. In the course of the examination it was found and Mr. Nihal Amarasekara former Chairman of PERC stated in his evidence that there was a serious fraud involved in privatization of the following transactions.
 - i. Sri Lanka Insurance Corporation
 - ii. Agreement entered into between the Government of Sri Lanka and Lanka Indian Oil Company.
 - iii. Alienation of 8.2 acres land located in Bloemandhal Road.
2. After an exhaustive examination this Committee decided to appoint five members Committee to inquire into the said transactions and report to this Committee.
3. The Committee also directed to furnish a report on liquidation of some companies and irregularities mentioned in accounts.

25. Sri Lanka Ports Authority (SLPA)

Examined on 23rd November 2006.

1. The Committee made a serious concern that the SLPA had not filled the Post of Director (Finance) for a period of nearly three years. The Auditor-General pointed out the following discrepancies in accounting in the SLPA mainly due to the absence of the Director (Finance).
 - (i) Incorrect information given for the audit for the year 2005 accounts.
 - (ii) Not maintaining accounting standards
 - (iii) Non-reconciling of control accounts
 - (iv) Maintaining domain accounts in huge amounts.
 - (v) Calculation of tsunami losses at a sum of Rs. 3 million does not tally with the assets and these assets are being depreciated again and again even they are not in existence.
 - (vi) Contingent liability of Rs. 771 million not disclosed.
 - (vii) Capital expenditure not shown
 - (viii) Recurrent expenditure shown under trade debtors not recovered.
 - (ix) Setting off debit balances against credit balances.
 - (x) Maintenance of six suspense accounts with a balance of Rs. 469 billion.
 - (xi) 37 control accounts with a difference of Rs. 956 million maintained. It was also reported to the Committee that due to this unsatisfactory situation the audit Officers were also got frustrated.
2. The SLPA has spent sum of Rs. 234 million by way of consultancy fee with regard to the contract of computer system for the SLPA and it was observed that this contract had been abandoned. That amount is a total loss to the Government.

26. Urban Development Authority (UDA)

Examined on 24th August 2006 & 05th October 2006.

1. The Committee noted that the annual reports had not been submitted to the Parliament after 2004 and UDA, being the institution which plans basic structure of the development of the urban areas of the country where there should be an updated Corporate Plan, the UDA does not have an updated Corporate Plan.
2. The Committee observed that due to increase of the administration expenses operational losses of the UDA had been increased in the year 2005.
3. The Committee also noted that the accounts were not in required standards and the subsidiary accounts had not been included in the balance sheet distinctively of the UDA.
4. The Committee noted that there had been outstanding amount of Rs. 139 million due from the rest houses and no positive action had been taken to recover the above monies.

Annex A
(Rs. Mn)

**Refinance/Direct Loans Granted to Failed Finance Companies
(as at 30.06.2006)**

Name of the company	Funds provided by CBSL		Repayments as at 30.06.2006		Principal outstanding as at 30.06.2006	Interest due up to 30.06.2006	Total (principal + interest) outstanding
	Period	Amount granted	Amount repaid	As a % of amount granted			
Companies vested in the CBSL: @							
Castle Finance Co. Ltd	1990-1991	37.8	1.9	5.0	35.9	65.9	101.8
Hideki Finance & Inv. Ltd	1989-1994	49.2	27.67	56.3	21.5	85.9	107.4
Home Finance Ltd	1989-1992	103.8	4.2	4.0	99.6	210.1	309.7
Sarabhoomi Inv. Co. Pvt. Ltd	1989-1991	4.5	0	-	4.5	8.4	12.9 #
The Sevana Fin. & Inv. Co. Ltd	1991-1992	4.3	1.2	27.7	-	-	0.0 ##
The Travel Bag Inv. & Fin. Ltd	1991	1.0	0.08	8.0	-	-	0.0 ##
The United Motor Fin. Co. Ltd	1991	12.7	12.68	100.00	-	6.6	6.6
Union Trust & Inv. Ltd	1989-1994	269.3	10.2	3.8	259.1	541.0	800.1
Mercantile Credit Ltd	1991-2000	1742.5	181.6	10.4	1560.9	3510.4	5071.3
Companies not vested in the Monetary Board: @							
House & Property Trades Ltd	1988-1991	254.4	0.1	0.0	254.3	472.8	727.1 ###
Translanka Inv. Ltd	1988-1995	221.7	6.6	2.9.8	-	-	0.0
Companies taken over by another finance company:							
Finance & Guarantee Co. Ltd	1989	2.5	2.5	100.0	-	-	0.0
Panadura Finance & Enterprises Ltd	1991	19.0	1.9	10.0.0	-	-	0.0
<i>Total</i>		2723	327	1.2	2,236	4901.1	7,137

- 1 Balance after paying a sum of Rs. 8 million on 21.07.03 on the CBSL as interest.
- # Rs. 3,126,050.14 (capital o/s) and Rs. 7,469,171.54 (interest o/s) of Sevena Finance & Inv. Ltd were written off as the company was wound up on 08.08.05.
- ## Rs. 920,000.00 (capital o/s) and Rs. 1,842,783.48 (interest o/s) of Travel Bag Inv. Fin. Co. Ltd were written off as the company was wound up on 08.08.05.
- ### Rs. 155,637,201.70 (capital o/s) and Rs. 371,761,475.57 (interest o/s) of Translanka Investments Ltd were written off as the co. was wound up on 08.11.05
- @ ALL COMPANIES EXCEPT HIDEKI FINANCE & INV. LTD ARE UNDER LIQUIDATION

Sale of 90% Shares of Lanka Marine Services Ltd. (LMSL)

1. Cabinet on 17.08.2000 decided to liberalize the bunkering business on the following lines:
 - to liberalize the bunkering sector and to permit a limited number of parties to operate bunkering services
 - **that the monopoly given to LMSL to be restricted to one year, within which period privatisation of LMSL to be completed**
 - new entrants to the bunkering sector to sell bunkers within the territorial waters of Sri Lanka, including the immediate vicinity of Port of Colombo
 - PERC to seek offers through an open tender process from investors. PERC initiate action make recommendations to Cabinet on the process to be followed

To facilitate the above, the Government enacted Petroleum Products (Special Provisions) Act No. 33 of 2002.
2. PERC on **28.10.2001** called for Expression of Interest (EOIs) to issue Licences for bunkering and on **8.11.2002** called for EOIs for the Sale of 90% Shares of LMSL, with a closing date of **28.02.2002** giving only **3 weeks**.
3. On **28.02.2002** Chairman PERC, P. B. Jayasundara caused Secretary to the Treasury, Charitha Ratwatte to appoint a TEC to evaluate **both** EOIs and final Bids. **No Cabinet Appointed Tender Board was appointed**. Since TEC was appointed after **28.02.2002**, calling for EOIs and the relevant Documents had not been approved by the TEC.
4. At the 'Pre-Bid Conference' on 30.04.2002, PERC Chairman, P. B. Jayasundera, confirmed;
 - "LMS will not have a monopoly on the import and sale of bunkers subsequent to the sale of Lanka Marine Services Ltd."
 - "The Government cannot takeover Court Cases".
 - "Land - within one year of the closing date. PERC to revert by 7th May 2002 regarding the terms of the transfer including any payments that would have to be made by LMSL"

5. The RFP has stated;

“The SLPA have indicated a rent of 10 S / MT for the use of the Dolphin Pier and the pipelines up to the Bloemendhal Installation.

“The SLPA proposes to develop the South Jetty as a common user facility and have indicated a fee of 3 S /sq . ft for the office space.”

“Bidders shall conduct and are solely responsible for conducting their own independent research..... Bidders shall conduct and are solely responsible for conducting their own due diligence No written or oral information provided shall be considered legally binding by the Bidders”

6. PERC Chairman P. B. Jaysundara forwarding Chief Valuer’s 1993 Valuation of LMSL, had called for an updated valuation of LMSL from the Chief Valuer, who had confirmed that the ‘assets valuation’ was completed and the ‘business valuation’ is to be started.
7. Questionably abandoning the Chief Valuer’s valuation, DFCC Bank had been selected by PERC **without competitive offers** to do a ‘business valuation’ of LMSL. DFCC Bank has placed the ‘floor price’ of the ‘business valuation’ for bidding at Rs. 1,200,000,000/- on the basis that LMSL was not to have a monopoly. DFCC Bank’s valuation had also been erroneous.

DFCC Bank has not valued the Net Assets of LMSL particular by Bloemendhal Land of 8A 2R 21.44P which the Chief Valuer had confirmed had been completed, but PERC had questionably avoided. Chief Valuer had valued this land in 1993 at Rs. 82,866,000/-.

Normally the ‘net assets valuation’ and the ‘business valuation’ are both taken into reckoning in placing a valuation on an ongoing business.

8. The Minister of Power and Energy , Karu Jayasuriya has submitted Cabinet Memorandum on 21.06.2002, as per the TEC recommendations for the Sale of 90% Shares of LMSL on the basis of a ‘floor price’ of Rs. 1,200,000,000/- (*The ‘net assets valuation’, particularly the Land, had not been taken into reckoning*) on a bidding process on the Colombo Stock Exchange, and sought the following Cabinet Approvals:
- authorize CPC to sell 90% Shares of LMSL to successful bidder on the process identified, and terms and conditions stipulated in the Share Sale and Purchase Agreement and the Common User Facility Agreement, and to gift the balance 10% Shares to the employees of LMSL.
 - authorize the sale of 90% Shares of LMSL at or about the ‘benchmark / floor price’ of Rs. 1,200,000,000/- which would be introduced for bidding on the Colombo Stock Exchange.
 - authorize the Secretary to the Treasury, CPC and SLPA to enter into the Share Sale and Purchase Agreement, Common User Facility Agreement and any other ancillary agreements.

- authorize SLPA, in association with the CPC, to acquire and manage the Common User Facilities, until the formation of the proposed terminal company.
- authorize allocation of funds required for upgrading the Common User Facilities to be multi-user capable from the sale of 90% Shares of LMSL, and CPC or any other party to carry out such works.

Cabinet Memorandum of 21.06.2002 had not expressly disclosed the extent of Government Land of 8A 2R 21.44P at Bloemendhal Road and its Market Value.

9. Cabinet Approval for the Cabinet Memorandum of **21.06.2002** has been given only on **14.08.2002**, and has been confirmed and notified on **21.08.2002**. Hence, between **21.06.2002** and **21.08.2002**, **no action, whatsoever, could have been taken on this matter.**
10. **Before confirmation and notification of Cabinet Approval on 21.08.2002** PERC Chairmen, P. B. Jayasundera;
 - (i) on **12.07.2002** on exchange of Letters which John Keels Holdings Ltd., had made the ‘award’ for the Sale of 90% Shares of LMSL to John Keells Holdings Ltd.
 - (ii) The ‘award’ to John Keels Holdings Ltd., had been made on the basis that John Keels Holdings Ltd., had been the only party, who had submitted a 10% Bid Bond on the ‘floor price’ of Rs. 1,200,000,000/- as required by letter dated **25.06.2002** to be submitted by **10.07.2002**. This has been alleged by the other Bidders as ‘foul play’.
 - (iii) On **2.8.2002** on exchange of Letters with John Keells Holdings, PERC Chairman, P. B. Jayasundera has agreed to grant a ‘monopoly’ to LMSL after Jhon Keells Holdings purchases 90% Shares of LMSL. **Previously the TEC had rejected the Bid of Sri Lanka Shipping Co. Ltd., for requesting a monopoly for 8 years for LMSL.**
 - (iv) On 20.8.2002 PERC Chairman, P. B. Jayasundera, Secretary to the Treasury Charitha Ratwatte and Director Legal PERC, Shamalee Gunawardene, acting in concert had signed the Share Sale & Purchase Agreement and CUF Agreement with John Keells Holdings Ltd. CUF Agreement included the following new Clause 8.2, which was not there previously:

“8.2 GOSL / SLPA / CPC shall ensure that all bunkers / marine fuels handled and transported within the Port of Colombo would be handled and transported using the CUF”

The above acts have been **prior** to confirmation and notification of Cabinet Decision on **21.8.2002** and are therefore bad in law and invalid, null and void.

11. The Court of Appeal has held that the inclusion of the above ‘monopoly’ clause has been *ultravires* Petroleum Products (Special Provisions) Act, No. 33 of 2002.

12. Consequently, being confronted with the above monopoly clause, DFCC Bank reneged on their 'business valuation' of LMSL of Rs. 1,200,000,000 and confirmed in writing that on the basis of a 'monopoly' their 'business valuation' is **Rs. 2,400,000,000**, confirming that had they been required to give a 'net assets valuation' they would have engaged the services of a professional real estate valuer for the Land 8A 2R 21.44 P.
13. Central Bank's Annual Report 2004 stated:

"The high cost of bunkering fuel has been discouraging the fleet of vessels arriving at Colombo for bunkering. The privatisation of Lanka Marine Services Ltd., has not yielded the required low prices and competition, indicating the need for further reforms in this sector".
14. Though the RFP had disclosed the following Case and stated that the Government would not takeover Cases of LMSL, which had been confirmed by PERC Chairman, P. B. Jayasundera at the Pre-bid Conference, but in the Share Sale & Purchase Agreement signed with John Keells Holdings Ltd., the Claim by Oxford Jay International (Pte) Ltd., Singapore of US \$ 9.2 Mn had been takeover by the Government. The Government has paid advance costs of US \$ 170,000.
15. The draft Share Sale & Purchase Agreement issued with the RFP has stated:

"The Vendor (*i.e.* CPC) agrees to transfer freehold title of the premises located at No. 69, Walls Lane, Colombo 15 to the Company (*i.e.* LMSL) within a period of 1 year from the Closing Date.

The above could not by any means have committed the Government to transfer the Land in extent 8A 2R 21.44P 'free of valuable consideration' for the 'unjust enrichment' of a buyer of LMSL.

At the 'Pre-Bid Conference' PERC Chairman, P. B. Jayasundera had confirmed:

"Land – within one year of the closing date. PERC to revert by 7th May 2002 regarding the terms of the transfer including any payments that would have to be made by LMSL." – (*As per Item 5(b) of the Minutes*)
16. Secretary, Ministry of Power & Energy, P. Weerahandi has initiated action on **03.11.2004** to have this Land transferred to LMSL. Consequently by Letter dated **11.01.2005**, Addl. Secretary, Ministry of Lands, W. M. Jayathilake has stated that the Secretary to the President has informed the Land Commissioner that the President has approved the vesting of this Land to LMSL, **after recovering the purchase consideration of Rs. 1,199,362,500.**
17. Though the Instrument of Grant dated **19.01.2005** has stated that the Government **has received Rs. 1,199,362,500 from LMSL**, Director General, Department of Treasury Operations, by Letter dated **18.08.2006** has confirmed that the Government has not received any money for the transfer of this Land, in response to Letter dated **21.3.2006** addressed to the Secretary Treasury, P. B. Jayasundera by Chairman, PERC, W. M. Bandusena, seeking confirmation as to whether the Government has received the purchase consideration as stated in the Instrument of Grant.

LMSL Accounts for the Financial year Ended 31.3.2005 do not disclose that LMSL has made a payment of Rs. 1,199,362,500 to the Government for this Land in extent 8A 2R 21.44P.

In fact, the payment of Rs. 1,199,362,500 is the payment made in **August 2002** by John Keells Holdings Ltd., to CPC for the Sale of 90% Shares of LMSL, to be paid to the Secretary Treasury, and **this could not be interpreted or construed to be a payment made in January 2005 by LMSL to the Secretary to the Treasury for the Land.**

18. Therefore, this Government Land has been purported to be 'transferred' to LMSL **'without receipt of any consideration'**, in January 2005, for a 'purported payment' of Rs. 1,199,362,500.

Hence, the Instrument of Grant is a 'fraudulent document' and a 'fiction', in that, no payment had been made by LMSL and has been received by the Government, **as acknowledged in the Instrument of Grant** for the transfer of the Government Land at Bloemendal in extent 8A 2R 21.44P to LMSL. Therefore, there could not be a legal transfer of this Land, inasmuch this Instrument of Grant is *ex-facie* fraudulent and a 'fiction'.

19. A Valuation by the Chief Valuer and a professional private Valuer will disclose the Market Value of this Land in August 2002 i.e. when the Share Sale & Purchase Agreement was executed.
20. The 'business valuation' in June 2002 by DFCC Bank for LMSL on an 'earnings basis' reckoned for the Financial year 2002/03, at a multiple of 8 had been given as Rs. 1,405 Mn. and at a multiple of 10 had been given as Rs. 1,757 Mn.

However, LMSL's Net Profits after Tax for the following Financial Years have been:

	Rs.
Financial Year 2002/03	402,733
Financial Year 2003/04	235,876
Financial Year 2004/05	574,062
Financial Year 2005/06	1,089,393

The above Net Profits are after John Keells Holdings Ltd., having recovered whatever charges and costs from LMSL.

21. This transaction had been executed blatantly without Cabinet Approval, with several flaws causing loss and detriment to the Government, and demonstrating it to be a questionable 'fix', and is therefore *ab-initio* bad in law, null and void, and hence, should be cancelled, annulled and made void forthwith.

Sale of 90% shares of Sri Lanka Insurance Corporation (SLIC)

1. Steering committee to handle the sale of 90% shares of SLIC has been appointed on 21.01.2002 by the Hon. Minister Milinda Moragoda without a Cabinet approval.
2. Steering committee has appointed Price Waterhouse Cooper (PWC), Indonesia in collaboration with the PWC, Sri Lanka without a Cabinet approval on 10.04.2002 as consultant to the Government for a fee of US\$ 1.6 million (at present rate of Sri Lanka Rs. 172.8 million).

3. The Cabinet approval granted on 18.04.2002 to appoint a Technical Evaluation Committee (TEC) -By that time PWC had already been selected.
4. The Cabinet has approved the appointment of a TEC by the Secretary to the Treasury, but had rejected the request of the Secretary to the Treasury to appoint a Tender Board by himself and decided that the Tender Board shall be appointed by the Cabinet.
5. Disregarding the Cabinet disapproval the Secretary to the Treasury had caused the Deputy Secretary to the Treasury, Mr. N. Pathmanathan to appoint CATB including himself as Chairman.
6. After the evaluation of bids, the TEC has recommended the sale of 90% shares to the consortium comprising of Distilleries Co. Ltd., Aitkan Spence Insurance (Pvt.) Ltd. together with Technical Parties ING Institutional and Government Advisory Service BV (Holland) on 25.03.2003.
7. On the same day 25.03.2003 CATB recommended the TEC recommendations.
8. The Cabinet memorandum dated 27.03.2003 had recommended the sale of 90% shares of SLIC to the above consortium.
9. On 11.04.2003 shares sale and purchase agreement has been signed with Milford Holdings (Pvt.) Ltd., an offshore Company, Greenfield Pacific EM Holdings (Pvt.) Ltd., incorporated in Gibraltar on 28.03.2003. It was not in existence when the Cabinet approved it on 27.03.2003.
10. These two Companies were not bidders and they were strangers.
11. The said sale has been taken placed on unaudited accounts and thereby it was not possible to enter into any kind of share transaction. It also appeared the accounts have been surreptitiously and intentionally adjusted.
12. Earnst and Young auditors and PWC consultants were directly involved in the said fraudulent conduct.
13. Deva Rodrigo, Senior partner of PWC has been a member of the steering committee selecting PWC as consultants to the Government and continuing thereafter as a steering committee member supervising the work of PWC and approving payments to PWC.
14. Director, PERC and Secretary Steering Committee, who handled this transaction for PERC, Aneela de Soysa joined PWC as a partner in March 2003.
15. Earnst & Young, who had been auditors of SLIC, whilst the Government was 100% share holder, continued as SLIC auditors after the sale to the illegal buyers and had been compromised by them not to discharge their responsibilities to the Government.
16. The Ethics Committee of Institute of Chartered Accountants, coming under the purview of the Minister of Trade, after the preliminary investigation established a *prima facie* case, had decided that the Disciplinary Committee should be appointed into the professional misconduct by PWC and Earnst & Young.

17. Chairman, PERC who handled this SLIC transaction and later Secretary to the Treasury, Dr. P. B. Jayasundara has been a Senior Policy Advisor to Earnest & Young, and had failed and neglected to act in the interest of the Government in this matter.
18. In the facts and circumstances of the said transaction is null and void *ab initio* and frustrated. *Prima facie* the conduct of the responsible Officers is in violation of the provisions of Public Property Act and the Bribery and Corruption Laws. We await for the recommendations of the Sub Committee.

Second Session of the Sixth Parliament
COMMITTEE ON PUBLIC ENTERPRISES

Attendance Record of the Hon. Members
From July to December 2006
Total Number of Sitzings – 31

No	Name	Total	Percentage (%)
01	Hon. Wijeyadasa Rajapakshe (Chairman)	30	96.77
02	Hon. Hussain Ahamed Bhaila	29	93.55
03	Hon. Lasantha Alagiyawanna	28	90.32
04	Hon. Dilan Perera	23	74.19
05	Hon. Lakshman Kiriella	23	74.19
06	Hon. Ravi Karunanayake	23	74.19
07	Hon. Mahinda Amaraweera	22	70.97
08	Hon. Piyasiri Wijenayake	22	70.97
09	Hon. Mahindananda Aluthgamage	16	51.61
10	Hon. H. R. Mithrapala	16	51.61
11	Hon. Sunil Handunnetti	16	51.61
12	Hon. Anura Dissanayake	15	48.39
13	Hon Lakshma Yapa Abeywardena	13	41.94
14	Hon. Sarath Ranawaka	13	41.94
15	Hon. Chandrasiri Gajadeera	11	35.48
16	Hon. Anura Priyadharshana Yapa	10	32.26
17	Hon. (Dr.) Mervyn Silva	10	32.26
18	Hon. Sripathi Sooriyaarachchi	09	29.03
19	Hon. Navin Dissanayake	09	29.03
20	Hon. John Amaratunga	07	22.58
21	Hon. Muthu Sivalingam	07	22.58
22	Hon. Mavai S. Senathirajah	07	22.58
23	Hon. Hasen Ali	05	16.13
24	Hon. A. D. Susil Premajayantha	04	12.90
25	Hon. Gunaratne Weerakoon	04	12.90
26	Hon. (Ven.) Athuraliye Rathana Thero	04	12.90
27	Hon. Rohitha Bogollagama	03	09.68
28	Hon. Vadivel Suresh	02	06.45
29	Hon. Hemakumara Nanayakkara	01	03.23
30	Hon. Senathirajah Jeyanandamoorthy	00	00