

**1. Financial Statements**

**Qualified Opinion**

The audit of the financial statements of the Marine Environment Protection Authority for the year ended 31 December 2021 comprising the statement of financial position as at 31 December 2021 and the statement of financial performance, statement of changes in net assets and cash flow statement for the year then ended, and notes to the financial statements, including a summary of significant accounting policies, 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 and Finance Act, No.38 of 1971. My comments and observations which I consider should be tabled in Parliament appear in this report.

In my opinion, except for the effects of the matters described in Paragraph 1.5 of this report, the financial statements give a true and fair view of the financial position of the Authority as at 31 December 2021, and of its financial performance and cash flows for the year then ended in accordance with Sri Lanka Public Sector Accounting Standards.

**1.2 Basis for Qualified Opinion**

My opinion is qualified based on the matters described in paragraph 1.5 of this report.

I conducted my audit in accordance with Sri Lanka Auditing Standards (SLAS). My responsibilities, under those standards 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 qualified opinion.

**1.3 Responsibilities of Management and Those Charged with Governance for the Financial Statements**

Management is responsible for the preparation of financial statements that give a true and fair view in accordance with Sri Lanka Public Sector Accounting Standards and for such internal control as management determine is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, management is responsible for assessing the Authority's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless management either intends to liquidate the Authority or to cease operations, or has no realistic alternative but to do so.

Those charged with governance are responsible for overseeing the Authority's financial reporting process.

As per Sub-section 16 (1) of the National Audit Act No. 19 of 2018, the Authority 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 of the Authority.

#### 1.4 Scope of Audit (Auditor's Responsibilities for the Audit of the Financial Statements)

My objective is to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report 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 and its materiality depends on the influence to the economic decisions taken by users 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 scepticism throughout the audit. I also:

- Appropriate audit procedures were designed and performed identify and assess the risks of material misstatement in financial statements whether due to fraud or errors in providing a basis for the expressed audit 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.
- An understanding of internal control relevant to the audit was obtained in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Authority's internal control.
- Evaluate the structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.
- Conclude on the appropriateness of the management's use of the going concern basis of accounting and based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Authority's ability to continue as a going concern. If I conclude that a material uncertainty exists, I am required to draw attention in my auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify my opinion. My conclusions are based on the audit evidence obtained up to the date of my auditor's report. However, future events or conditions may cause the Institute to cease to continue as a going concern.
- Evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.

The scope of the audit also extended to examine as far as possible, and as far as necessary the following;

- Whether the organization, systems, procedures, books, records and other documents have been properly and adequately designed from the point of view of the presentation of information to enable a continuous evaluation of the activities of the Authority, and whether such systems, procedures, books, records and other documents are in effective operation;
- Whether the Authority has complied with applicable written law, or other general or special directions issued by the governing body of the Authority;
- Whether the Authority has performed according to its powers, functions and duties; and
- Whether the resources of the Authority had been procured and utilized economically, efficiently and effectively within the time frames and in compliance with the applicable laws

## 1.5 Audit Observations on the Preparation of Financial Statements

### 1.5.1 Accounting Deficiencies

	<b>Audit Observation</b>	<b>Comment of the Management</b>	<b>Recommendation</b>
(a)	According to the Authority's final progress report for the year under review, the amount to be recovered from the insurance company for the damage caused to the marine environment as a result of accident to the foreign ship called M.T. New Diamond in the year 2020 had been estimated for Rs.18.6 million. Nevertheless, that value was not disclosed in the financial statements.	Although the report including the estimated value prepared by the Expert Committee appointed to estimate the damage caused to the marine environment of this country by the MT-New Diamond ship has been handed over to the Sri Lankan law firm of the relevant ship through the Attorney General, response has not so far been received therefor and it will be possible to recover that amount at the end of a trial. Action will be taken to account for the compensation to be received for the environmental damage after the delivery of the judgement.	The civil responsibility should be disclosed transparently in the final accounts for the parties who are interested in the affairs of the Authority.
(b)	Without being recognized and brought to account a sum of Rs. 704,396 which had been credited to the bank during the period from 27 April 2018 to 31 December 2021, it was stated under the current liabilities as an unidentified balance.	The persons responsible for making the relevant deposits have not been recognized. Action will be taken to account for that amount as an income of the year 2022 under the approval of the Board of Directors.	The money directly credited to the bank should be identified and correctly adjusted in the accounts.

<p>(c) Having capitalized the recurrent expenditure of Rs. 1,215,299 incurred on 26 December 2019 for the repair of atomic absorption spectrophotometer of the Authority, it was being depreciated annually. As a result, the cost of non-current assets amounting to Rs. 1,215,299, accumulated depreciation of Rs. 364,589 and depreciation expenses of Rs. 121,529 had been overstated in the financial statements of the year under review.</p>	<p>Action will be taken to correct this in the year 2022.</p>	<p>Action should be taken to correctly adjust the repair cost in the accounts.</p>
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### 1.5.2 Transactions Without Authority

<b>Description on the transaction without authority</b>	<b>Comment of the Management</b>	<b>Recommendation</b>
<p>Without obtaining the approval from the Department of Management Services, the officers employed in the harbour for waste services acceptance facilities had been paid an allowance totalling Rs. 19,515,500 at Rs.750 per day from the year 2017 to 2019. Although the Audit and Management Committee held on 28 December 2021 recommended conducting a preliminary investigation related to this payment, no action was taken to conduct such an investigation and recover the dues from the responsible persons up to 14 February 2023.</p>	<p>On the instructions given by the audit committee of the Authority, the line ministry has already been informed to conduct a preliminary enquiry into this matter.</p>	<p>Action should be taken to conduct an inquiry and recover the dues from the responsible persons</p>

**1.6 Non- compliance with laws, rules, regulations and management decisions etc.**

	<b>Reference to laws, rules, regulations etc.</b>	<b>Non- compliance</b>	<b>Comment of the management</b>	<b>Recommendation</b>
(a)	Section 14 of Marine Pollution Protection Act No. 35 of 2008	Action has not be taken to establish a Marine Environment Council for the year 2021	Although the members of the Environment Council are appointed by the Minister in terms of the Act, due to the fact that the Authority was under the purview of four severe line ministries from time to time during the period of past 3 years, members for the Council could not be appointed. The Environmental Council has now been nominated and action will be taken to appoint members and assemble Environment Committee.	Necessary action should be taken to implement the Environment Council
(b)	Financial Regulations of the Democratic Socialist Republic of Sri Lanka			
	i. Financial Regulation 135	Payments for 33 overtime vouchers worth Rs.412,089 had been made on the approval of the Management Assistant (Administration)	After obtaining approval from the General Manager/Chairman to pay special overtime for the officers performing duties in the MV Xpress Pearl ship, the Management Assistant (Administration) has approved the payment.	Disciplinary action should be taken against the officers who surpass the financial control authority.
	ii. Financial Regulation 136	The Authority had paid hospital charges for the officers amounting to Rs.3,283,838 on	These expenditures that had to be incurred due to hospitalizing the officers who were contracted Covid 19 while performing operational	Disciplinary action should be taken against the officers who have incurred expenditure without

	17 occasions without being granted the authority to incur commitments for expenditure.	duties in the MV X Press Pearl ship have been submitted for the reimbursement from the insurance company.	due authority.
iii. Financial Regulations 138(8) and 139 (4)	The Authority had paid a total of Rs.13,891,140 to seven hotels on 43 occasions in 2021 and 2022 for accommodating its officers, without obtaining proper receipts for the transactions.	Due to the Covid-19 pandemic and transportation difficulties, officers involved in shore cleaning activities were accommodated in nearby hotels. We have submitted these expenses to the insurance company of the ship for reimbursement.	All the payments should be confirmed by receipts.
iv. Financial Regulation 138	Although the certifying officer should ensure that the voucher is accurate and complete in every respect, it was observed at the sample test that sums totalling Rs. 9,102,629 were made without proper recommendations for 03 vouchers, 04 vouchers lacking signatures of the officers who prepared and checked them, 07 vouchers without proper reference to the files, three vouchers without value written in letters and 10	Necessary steps have been taken to prevent such deficiencies from occurring in the future. The Internal Audit Division is currently conducting a special investigation into unacceptable receipts. It is informed that action will be taken in accordance with the Establishments Code Financial Regulations if any errors are found.	Relevant action should be taken regarding the responsible officers.

	vouchers without acceptable receipts.		
v. Financial Regulation 156 (2)	Following the accident involving the MV XPress Pearl ship, transport facilities were provided to the Marie Environment Officers in Puttalam and a Management Assistant at a cost of Rs. 834,000 for a period of 140 days from 08 June 31 December 2021 on verbal authority granted.	On exigencies of service, the officers were provided with the transport facilities to alleviate the transport difficulties caused due to Covid pandemic situation.	Regulations should be followed in providing transport facilities.
vi. Financial Regulation 264	Receipts for the hotel bills worth Rs. 27,850,447 paid by 53 vouchers in 2021 and 2022 had not been obtained from the payment recipients.	It is noted that once the completion of payment activities, action will be taken to obtain a receipt and get a voucher signed from the relevant institution in the future.	All the payments should be confirmed by receipts.
vii. Financial Regulation 237 (e) (ii)	Even though Rs. 1,051,500 had been paid for 169 hotel rooms to provide accommodation facilities to the officers, there was no confirmation regarding the officers who received accommodations and the duties performed by such officers.	These expenditures incurred for providing accommodation to the officers engaged in operational duties on the MV X Press Pearl ship during the Covid pandemic situation in the country have been submitted to the insurance company for reimbursement.	The necessity for receiving accommodation and the duties performed should be confirmed.

viii. F.R. 625 (a) and (b)	Equipment worth £ 9,391.39 (Rs. 2,610,806) grated to the Marine Environment Protection Authority by the Centre for environment, Fisheries & Aquatic Science- CEFAS in UK to provide basic facilities to carry out micro plastic analysis in Sri Lanka had not been documented and brought to account even by the end of the year under review.	Owing to the duties of the MV X-Press Pearl ship, these details have not been adjusted in the necessary accounts. After the assets are properly assessed, action will be taken to include relevant values in the final accounts of the year 2022.	Action should be taken to document and account for the assets.
(c) Public Finance Circular No.01/2020 dated 28 August 2020. 9(1)(b)	Although ad hoc sub-imprest should be given to the Staff Grade officers subject to maximum of Rs.100,000 at a time for specific purposes, five Staff Grade officers had been granted ad hoc sub-imprest in values ranging from Rs.109,600 to 1,000,000 on 20 occasions.	Approval of the Board of Directors of the Authority has been obtained to receive advances exceeding the limit where it was necessary to maintain uninterrupted service of the operational activities of the MV X-Press Pearl ship and the duties of the regional offices amidst the prevailing situation.	Advance should be granted subject to the provisions in the circular and the Treasury should be consulted when exceeding the prescribed limits.

## 2. Financial Review

### 2.1 Financial Results

Operating result of the year under review was a deficit of Rs. 98,304,624 as against the surplus of the preceding year amounting to Rs. 50,000,017, thus observing a deterioration of Rs. 148,304,641 in the financial result. Although the revenue of the Authority had increased by Rs. 174,706,049 as against the preceding year, this deterioration had mainly been attributed by the increase in the total expenditure by 150 per cent from Rs. 214,089,055 for the preceding year up to Rs. 537,099,745 by the year under review.



### 3. Operating Review

#### 3.1 Uneconomic Transactions

##### Audit Observation

Due to delay in transporting pollutants pertaining to the Xpress Pearl Container Ship from the temporary yard in Wattala to warehouse in Pamunugama for storage, an overpayment of Rs. 17,934,000 had been paid with respect to 40 containers as retention charges.

##### Comment of the Management

Pollutants initially released in to the marine environment following the accident caused to the Ship, had been stored in those containers. Those hazardous pollutants were tested by the CEFAS laboratory before being transported from Wattala to Pamunugama in October, thus necessitating the payment of such charges. Part of the said charges has already been settled to the Treasury by the insurer. Consent has been given for settlement of the balance.

##### Recommendation

Delays should be minimized, and action should be taken to recover the amount in full from the insurer.

#### 3.2 Management Inefficiencies

##### Audit Observation

- (a) A national level plan had not been prepared to be followed in the event of exposure of chemical spill. As such, it could not be verified that the damage caused by the chemical spill substances in the accident caused by the X Press Pearl, had been managed properly.

##### Comment of the Management

The Authority is taking action to integrate and update the National Oil and Hazardous Substances Pollution Contingency Plan with respect to accidents causing chemical spill into the territorial waters of Sri Lanka, risks of impending accidents, and giving consent to the international statutes on the spilling of chemicals.

It is further expected to present the said National Plan to the Cabinet approval after being improved by conducting workshops with the relevant parties, institutions, and expert groups; and include legal provisions relating to the exposure of chemicals when amending the Marine Pollution Prevention Act.

##### Recommendation

A plan should be formulated on the national level preparedness and it is necessary to act accordingly.

- (b) Following a Cabinet approval, waste management committees had been established at 84 local authorities within the coastal line including the fishery harbors since the year 2018 under the waste management programme. Nevertheless,

Establishing committees delayed owing to Covid-19 outbreak. At present, committees have been established, and field inspections/observations and meetings are underway.

Incinerating the fibre-based waste existing around the fishery harbors is the solution currently in use in Sri

Action should be taken to ensure efficiency of the waste management committees and find a solution for the fiber-based waste mostly existing around the fishery harbors.

objectives expected from those committees could not be achieved due to inefficiency and non-functioning of such committees. The Authority could not find a solution for fibre-based waste mostly existing around the fishery harbors.

Lanka. Nevertheless, the only incinerator for that purpose is owned by the Incee Cement Corporation of Puttalam, and heavy costs are incurred in that connection. As such a cost is unaffordable to the Fishery Harbors Corporation, the Authority is continuously searching for a solution in that connection.

### 3.3 Operating Inefficiencies

Audit Observation	Comment of the Management	Recommendation
<p>(a) According to Section 34 (a) of the Marine Pollution Prevention Act relating to civil liability, a case should be filed before 20 May 2023 to recover from the shipping company the environmental damages caused by the accident involving the Xpress Pearl amounting to US \$ 6,483,416,430 that had been assessed as per the second interim report prepared on 09 January 2023. Otherwise it was observed that the claim would be subject to time-bar. Nevertheless, the case had not been filed up to the date of audit on 15 February 2023.</p> <p>Furthermore, a total value of US \$ 44.528 million had been presented for reimbursement in terms of Section 34 (b) of the Act as being expenses incurred by the Government of Sri Lanka relating to this accident up to 15 February 2023 whereas only a sum of US \$ 6.725 million had been received. The Audit had been informed that a sum of US \$ 5.989 million remained further receivable and the balance being the estimated</p>	<p>According to Section 34 of the Act relating to civil liability, the expenses in respect of cleaning the areas of coast where pollution had occurred, damages caused on economic activities, loss of properties, restoring the environment, and follow-up action on environmental pollution, could be recovered either from the owner of the ship or the insurer. The interim reports (1) and (2) prepared by the expert committee appointed to evaluate the environmental damage caused by this accident, had been provided for the Attorney General's Department for necessary action. The civil case should be filed within a period of 02 years since the date of accident. As the ship remains at the location where it had sunken and the environmental pollution continues, a final report cannot be prepared in this connection.</p>	<p>A case should be filed under civil liability before being subject to time-bared, and prompt action should be taken to reimburse the expenses from the insurer.</p>

expenses, had been rejected by the insurer.

- (b) In terms of Section 26 of the Act, the Authority had filed a case under criminal liability relating to the accident involving MV Xpress Pearl. However, a verdict had not been returned in that connection even up to 03 January 2023.

In the aftermath of the accident, the Authority had lodged a complaint to the Pamunugama Police and all the necessary information had been furnished to the Attorney General's Department. Furthermore, action had been taken in terms of the Act to authorize the Criminal Investigation Department to conduct investigations on the accident. Nevertheless, the Attorney General's Department filed the indictments against the relevant respondents after a lapse of 11 months since the accident. The case is being heard at present.

Assistance should be given to end the case favourably as soon as possible.

- (c) In order to settle the sum of Rs. 3,332,910 paid to foreign laboratories for testing the samples relating to evaluation of environmental damage caused by the accident involving the Xpress Pearl, reimbursements of US \$ 554,045 and US \$ 470,614 had been requested in 02 instances from the insurer of the ship. However, a risk in obtaining those funds was observed as the insurer had not accepted such payments.

Reimbursement of expenses incurred on laboratory tests had been delayed by the insurer until relevant data is furnished. The Authority had been informed by the Attorney General's Department that the laboratory data and reports should not be furnished to the insurer on legal grounds. It is possible for the Authority to recover those expenses in terms of Section 34 of the Marine Pollution Prevention Act if data and reports are not made available.

Expenses should be expeditiously recovered from the insurer of the ship.

### 3.4 Delays of Projects or Capital Works

#### Audit Observation

The Authority had identified 09 policies to strengthen the institutional structure by conserving, restoring and improving the marine eco system, and in order to

#### Comment of the Management

It is informed that the targeted performance could not be achieved due to reasons beyond scope of the Authority such as, inadequacy of provision received from the

#### Recommendation

Activities of the Authority should be executed by reviewing the Action Plan in a

implement those policies, 38 activities valued at Rs. 6,665,000 had been scheduled under 15 projects in the Action Plan of the year under review. Nevertheless, the Authority had not taken action to execute 11 of those activities whereas the progress of 08 activities remained less than 50 per cent.

Treasury, restrictions on receivable provision, increase in market prices, and difficulties in calling the public owing to Covid-19 pandemic.

timely manner.

### 3.5 Management of Procurement

Audit Observation	Comment of the Management	Recommendation
A premises in Sarakkukanda had been obtained on lease with effect from 29 May 2021 without a written agreement for facilitating and providing accommodation for the persons involved in cleaning the coastal line following the accident caused by Xpress Pearl, and a sum totalling Rs. 1,193,500 at Rs. 5,500 per day had been paid until 31 December 2021.	The said hotel had been obtained on daily rent in view of safety of equipment and accommodating the officers of the islandwide offices of the Authority who had been summoned to clean the plastic pellets in the coastal area of Sarakkukanda in Pamunugama where the marine pollution had severely taken place.	The Procurement Guidelines should be followed.

## 4. Accountability and Good Governance

### 4.1 Tabling of Annual Reports in Parliament

Audit Observation	Comment of the Management	Recommendation
Annual Report of the Authority for the year 2020 had not been presented to Parliament.	The Annual Report of the year 2020 has been prepared.	The Annual Report should be presented to Parliament on time.

### 4.2 Sustainable Development Goals

Audit Observation	Comment of the Management	Recommendation
Considering the reasons with respect to the sustainable development goals planned in the year 2017 by the Authority, such as, only 1,500 of 6,000 square meters of coral reefs scheduled to be restored by the year 2025, had been restored; progress of identifying 04 new conservation	Coral reefs in extent of 1,300 square meters had been restored by the year 2021. However, it is informed that achievement of those goals depends on the provision received from Treasury and the supply of necessary raw materials	Measures should be taken to fulfil the goal by the year 2025.

areas of marine ecosystems stood at 01; and, failure in ratifying 06 conventions identified to be confirmed by the year 2030 with regard to international conventions relating to the marine environment, it was observed that the progress thereof remained low by the end of the year under review.