

Does the 'Appropriation Bill' mislead Parliament & Public – Expenditure Rs. 1400 bn ?

Accountability to the public and right of the public to evaluate *vide* - Fiscal Responsibility Act No. 3 of 2003

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Appropriation Act No. 39 of 2005 approved by Parliament stipulated a total expenditure of Rs. 609 billion for 2006. However, as per the Financial Statements of government audited and published on September 9, 2007, the actual expenditure for 2006 has been reported to be Rs. 1073 billion ! Therefore, there had been an expenditure increase of Rs. 464 billion for 2006, over the original amount approved by the Appropriation Act No. 39 of 2005. This is an increase of 76% ! No doubt, costs escalated during 2006, due to factors, such as, defence expenditure, fuel prices and exchange rates. Nevertheless, the reality is that Rs. 1073 billion is reported to have been expended for 2006.

As per Appropriation Act No. 47 of 2006 approved by Parliament, Rs. 809 billion has been approved as expenditure for 2007. As per Central Bank Report released in March 2007, the estimated expenditure for 2007 has been given as Rs. 1273 billion, which is an excess over the amount provided by the Appropriation Act by also Rs. 464 billion, which is a 57% anticipated excess over the originally budgeted expenditure, as per Appropriation Act No. 47 of 2006 ! Here again, justifiable factors, for such significant increase, are prevalent, such as, defence expenditure, fuel prices and the exchange rates. Of course there is, in addition, a very large Cabinet, that too, necessitated by political realities and the aspirations of politicians, transcending the expectations of the poor masses !

Therefore, the ground reality is that the government's expenditure for 2006 was Rs. 1072 billion, whilst the estimated expenditure for 2007 is Rs. 1273 billion, as per the Central Bank Report. Given such factual ground realities, how could it ever be stated that the expenditure for 2008 is to be Rs. 925 billion ? Is it a realistic estimate and can it be justified by some miraculous cost cutting ? On the other hand, if that is not the case, given the levels of expenditure for 2006 of Rs. 1072 billion, and the estimated expenditure for 2007 of Rs. 1273 billion, is it not likely that the expenditure for 2008 is to be in the region of Rs. 1400 billion ? That is nearly Rs. 500 billion, above the Rs. 925 billion provided in the Appropriation Bill now before Parliament !

There are expenditures already chargeable to the Consolidated Fund in terms of the Constitution - *vide* the following Articles

Article 149 (2) – “The interests on the public debt, sinking fund payments, the costs, charges and expenses incidental to the collection, management and receipt of the Consolidated Fund shall be charged on the Consolidated Fund.”

Article 108 (1) – “The salaries of the Judges of the Supreme Court and the Court of Appeal shall determined by Parliament and shall be charged on the Consolidated Fund. 108 (2) – “The salary payable to and the pension entitlement of, a

- Judge of the Supreme Court and a Judge of the Court of Appeal shall not be reduced after his appointment.”
- Article 65 (2) – “The salary of the Secretary-General shall be determined by Parliament, shall be charged on the Consolidated Fund and shall not be diminished during his term of office.”
- Article 153 (2) – “The salary of the Auditor-General shall be determined by Parliament, shall be charged on the Consolidated Fund and shall not be diminished during his term of office.”
- Article 56 (6) – “A member of the Public Service Commission shall be paid such salary as may be determined by Parliament. The salary payable to any such member shall be charged on the Consolidated Fund and shall not be diminished during his term of office.”

In addition, Section 3 of the Foreign Loans Act No. 29 of 1957 provides for the repayment of Foreign Loans and charges in relation thereto to be charged to the Consolidated Fund. The question arises, as to under what statutory provisions, the repayment of local loans and charges in relation thereto are charged to the Consolidated Fund in the absence of ‘sinking funds’, as stipulated in Article 149(2) of the Constitution ?

Already, the Appropriation Bill had provided for borrowings of Rs. 740 billion during 2008. Hence, would not any excess expenditure in the region of Rs. 500 billion have to be raised by way of further loans and/or by way of further taxes imposed on the people ? In fact, approved borrowings for 2006 as per Appropriation Act No. 39 of 2005 had been Rs. 548 billion, whilst as per Appropriation Act No. 47 of 2006 the approved borrowings for 2007 has been Rs. 655 billion.

In the foregoing context, ought it not be taken into reckoning that the government revenue for 2006 had been Rs. 477 billion, and as per the Mid-Year Fiscal Position Report 2007, the government revenue for the first 4 months of 2007 has been reported to be Rs. 170 billion, giving a 12 month proportionate projection for 2007 of a revenue level of Rs. 510 billion, whilst expectancy may be to reach a level of Rs. 550 billion. These levels would indicate the likely revenue level for 2008, to be reckoned with the foregoing levels of expenditure and loans for 2008 !

In terms of Article 149(1) of the Constitution, funds of the government not allocated by law to specific purposes, in aggregate form the Consolidated Fund. Articles 150(1) & (2) enable the Minister of Finance to withdraw from the ‘Consolidated Fund’, only where Parliament has approved such funds for specified public services. Therefore, would not Parliament be prohibited from approving funds for unspecified public services, whilst in terms of Article 149 funds not allocated for specific purposes, in fact, form the ‘Consolidated Fund’ ? Would not the only exception be in terms of Article 151, which stipulates that, notwithstanding the provisions of Article 149 i.e. the prohibition, Parliament could however create a ‘Contingencies Fund’ for unspecified expenditure and/or unspecific public services, where after expending funds for such purposes, the Minister of Finance is required to obtain the approval of Parliament, through a Supplementary Estimate to the Appropriation Act ?

Fiscal Management (Responsibility) Act No. 3 of 2003

Fiscal Management (Responsibility) Act No. 3 of 2003 passed by Parliament and certified on January 9, 2003, and which came into operation on June 3, 2003, as per Gazette Extra-ordinary No. 1291/15 of June 3, 2003 states in its head note thus - "AN ACT TO ENSURE THAT THE FINANCIAL STRATEGY OF THE GOVERNMENT IS BASED ON PRINCIPLES OF RESPONSIBLE FISCAL MANAGEMENT; TO FACILITATE PUBLIC SCRUTINY OF FISCAL POLICY AND PERFORMANCE ; AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO".

Section 2 of Act No. 3 of 2003 stipulates – "The fiscal strategy of the government shall be based on the principles of responsible fiscal management hereinafter referred to. Section 3 of Act No. 2003 stipulates – "The objectives underlying responsible fiscal management which need to be adhered to, by the government in outlining the fiscal strategy of the government" - as given in **Box 1**, and particular attention is drawn to 'the statutory obligation cast upon the government to ensure that the policy decisions of the government have regard to the financial impact of such decision on future generations'.

As per Sections 4, 5 and 6 of Act No. 3 of 2003, the government has to release to the public and table in Parliament on the day fixed for the second reading of the Appropriation Bill, a Fiscal Strategy Statement to increase public awareness of the government fiscal policy and to establish standards for evaluating the government's conduct of its fiscal strategy. The contents of the Fiscal Strategy Statement are given in **Box 2**.

Also, for the purpose of providing information for the evaluation of government's fiscal performance as against its fiscal strategy set out in the Fiscal Strategy Statement, as per Section 7, 8 and 9 of Act No. 3 of 2003, the government has to also on the day fixed for the second reading of the Appropriation Bill table in Parliament a Budget Economic Fiscal Position Report, the contents of which are given in **Box 3**.

Thereafter, 10, 11 and 12 of Act No. 3 of 2003 by the last day of June of each year, the government has to release and table in Parliament a Mid-Year Fiscal Position Report the contents of which are given in **Box 4**, to enable the public to evaluate the government's fiscal performance, as against the fiscal strategy.

Not later than 5 months from the end of each Financial Year as per Sections 13, 14 and 15 of Act No. 3 of 2003 the government has to release to the public and table in Parliament a Final Budget Position Report to enable the public to evaluate the government's fiscal performance as against its fiscal strategy the contents of which are given in **Box 5**.

The foregoing amply demonstrates that the government's budgetary formulations and financial reporting must necessarily be in such simplified manner with clarity, devoid of meaningless economic jargon and ambiguity, where the public could scrutinise and evaluate easily the government's financial performance and financial position which in fact affects and has a bearing on every citizen of the country, and more importantly on the future generations. Both the Mid-Year Fiscal Position Report and the Final Budget Position Report, in terms of Sections 12 (2) and 15 (2) of Act No. 3 of 2003 have to give a comparison between the estimated and actual expenditure, revenue, cash-flow and borrowings, giving the reasons for 'excesses' and 'shortfalls'.

Nevertheless, the colourful and voluminous Report for 2006, has questionably failed to perform such statutory obligation by the public, except in page 70 thereof, in respect of a few selected items, namely, salaries & wages, pensions, interest payments, fertiliser and fuel subsidies,

Samurdhi, other subsidies, transfers to public corporations / institutions, other goods & services and total public investments, that too, in comparison to a 'revised budget' !

Is not what is required be a comparison of the original estimate, as per the Appropriation Act for 2006 and the actual expenditure incurred, classified under the different Heads, as per the Appropriation Act ? Would not the statutory requirement be to give the reasons for the increases in expenditure under the different Heads from the original total estimate of Rs. 609 billion to the total actual expenditure of Rs. 1073 billion ? Interested and affected parties have puerilely endeavoured to mislead in this regard, denying the statutory right to information of the public and the accountability to the public, as provided for in Act No. 3 of 2003 !

For instance in terms of Act No. 3 of 2003 would not the reasons be statutorily warranted to be disclosed for the difference between the approved amount of Rs 77.9 billion under 'Head' 'Department of National Budget' and the actual expenditure reported in the financial statements audited of only Rs. 4.5 billion ? Does not Act No. 3 of 2003 mandate the disclosure, as to what expenditure the balance funds had been diverted to ?

In terms of provisions in Act No. 3 of 2003 disclosure of any information, in the written opinion of the Minister of Finance, which would be prejudicial to national security, or which would compromise the country in a material way, in negotiation, litigation or commercial activity need not be made in terms of the said Act. Furthermore, Section 26 provides for the government, in exceptional circumstances, to depart from the requirements under the said Act, with the approval of Parliament, disclosing the reasons for such departure, steps to be taken to overcome causes necessitating such departure, and the period within which such departure would come to an end.

In addition, Sections 16, 17, 18 and 19 of Act No. 3 of 2003, cast a statutory obligation on the Minister of Finance to disclose all material, fiscal or economic implications within his knowledge and the Secretary, Ministry of Finance together with him to issue signed statements of responsibility, and to provide information in a Pre-election Budgetary Position Report, contents of which are given in **Box 6**, within 3 weeks of proclamation of a General Election. This would enable the public to be aware of the financial performance and position of the government prior to voting at a General Election, and which would also facilitate a new government being elected, to be aware of the financial performance and position of the country, before assuming office after elections, and also throwing open for public debate, the reality of the 'empty promises', hitherto made on political platforms !

Hence, would not the Financial Statutory Statement and the Budget Economic and Fiscal Report, as per Act No. 3 of 2003, be ancillary, supplementary, related to and dependant upon the Appropriation Bill ? Therefore, ought not the Appropriation Bill be formulated to support such position, unlike the years prior to 2004, when Act No. 3 of 2003 had not been enacted. Similarly, ought not the Appropriation Bill facilitate, the simple and meaningful preparation of the Mid-Year Fiscal Position Report and the Final Budget Position Report, in terms of Act No. 3 of 2003, in a manner that ordinary members of the public would be able to comprehend and evaluate ?

**OBJECTIVES UNDERLYING
RESPONSIBLE FISCAL MANAGEMENT**

- (a) reduction of government debt to prudent levels, by ensuring that the budget deficit at the end of the year 2006, shall not exceed five *per centum* of the estimated gross domestic product and to ensure that such levels be maintained thereafter ;
- (b) prudent management of the financial risks faced by the government, having regard to the changing economic circumstances ;
- (c) adoption of policies relating to spending which do not increase government debt to excessive levels ;
- (d) adoption of policies relating to spending and taxing, as are consistent with a reasonable degree of stability and predictability in the level of tax rates in the future ;
- (e) ensuring that the sum which is calculated as the guarantee and given as a percentage of the gross domestic product for the current financial year along with the two preceding financial years, does not in the aggregate exceed 4.5 *per centum* ;
- (f) ensuring that at the end of the financial year commencing on January 1, 2006, the total liabilities of the Government (including external debt at the current exchange rates) do not exceed eighty-five *per centum* of the estimated gross domestic product for that financial year ; and that at the end of the financial year commencing on January 1, 2013, the total liabilities of the Government (including external debt at the current exchange rates) do not exceed sixty *per centum* of the estimated gross domestic products for that financial year ; and
- (g) ensuring that the policy decisions of the Government have regard to the financial impact of such decision on future generations.

FISCAL STRATEGY STATEMENT

- (a) specify the Government's medium term fiscal policy, within which the Government's short term fiscal objectives will be formulated ;
- (b) explain the broad strategic priorities on which the budget is, or will be based ;
- (c) specify the key fiscal measures which the Government considers important in view of the strategy and the overall fiscal policy to be implemented ;
- (d) specify in respect of the next financial year and the three succeeding financial years in conformity with the fiscal policy –
 - (i) the Government's fiscal objectives and targets, in relation to expenditure, revenue, debt and other fiscal indicators, with special reference being made to the Government's debt, if any, to the Employees Provident Fund and the Employees Trust Fund ;
 - (ii) the expected outcome of the key measures specified in paragraph (c) ;
- (e) explain how the fiscal objectives and strategic priorities specified in paragraphs (a), (b) and (d) are consistent with the principles of responsible fiscal management ;
- (f) explain, if such objectives and priorities depart substantially from the principles of responsible fiscal management –
 - (i) the reasons for the departure ;
 - (ii) the steps that the Government is taking to return to those principles ;
 - (iii) the period of time within which the Government intends to return to these principles ; and
- (g) give reasons justifying the departure, where the Statement departs from the immediately preceding Statement.

BUDGET ECONOMIC FISCAL POSITION REPORT

- (a) estimates relating to the gross domestic product ;
- (b) estimates relating to consumer prices ;
- (c) estimates relating to employment and unemployment ;
- (d) estimates relating to the current account position of the balance payments ;
- (e) estimates relating to revenue expenditure ;
- (f) estimates relating to government borrowing ;
- (g) the basis, economic or otherwise which has been used in the preparation of the estimates specified in paragraphs (a) to (f) ;
- (h) a statement relating to the sensitivity of the estimates specified above, to the changes which may occur in connection with the economic or other basis used in the preparation of such estimates ;
- (i) a statement, quantified as far as practicable, of the risks that may have a material effect on the fiscal position, such as –
 - (i) contingent liabilities including guarantees and indemnities, granted by the Government under any written law ;
 - (ii) public announcement relating to proposals of the Government in connection with Government spending not included in the estimates referred to in paragraph (e) ;
 - (iii) on going negotiations of the Government which have not been finalized ; and
- (j) such other information which may be necessary to reflect fairly, the financial position of the Government, in respect of each such financial year.

BOX 4

MID-YEAR FISCAL POSITION REPORT

- (a) a statement of the estimated and actual expenditure for the first four months of that year ;
- (b) a statement of the estimated and actual revenue for the first four months of that year ;
- (c) a statement of the estimated and actual cash flows for the first four months of that year ;
- (d) a statement of the estimated and actual borrowings for the first four months of that year ; and
- (e) such other statements which may be necessary to reflect fairly, the financial position of the Government, in respect of the first four months of such financial year.

BOX 5

FINAL BUDGET POSITION REPORT

- (a) a statement of the estimated and actual expenditure for that year ;
- (b) a statement of the estimated and actual revenue for that year ;
- (c) a statement of the estimated and actual cash flows for that year ; and
- (d) a statement of the estimated and actual borrowing for that year ; and
- (e) such other statements which may be necessary to reflect fairly, the financial position of the Government, at the end of such financial year.

PRE-ELECTION BUDGETARY POSITION REPORT

- (a)* estimates of revenue and expenditure ;
- (b)* estimates of the Government borrowings ;
- (c)* the economic and other assumptions that have been used in preparing such estimates ;
- (d)* a statement of the risks, quantified where practicable that may have material effect on the fiscal position, such as –
 - (i)* contingent liabilities including guarantees and indemnities given by the Government under any Act ;
 - (ii)* publicly announced proposals for spending by the Government that have not been included in the estimates referred to in paragraph *(a)* ; and
 - (iii)* Government negotiations in progress and not finalized ; and
- (e)* such other information as may be necessary to reflect fairly, the financial position of the Government, as at the date of the said Report.