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House Committee of the Legislative Council

**Minutes of the special meeting
held in the Legislative Council Chamber
at 2:30 pm on Friday, 18 May 2001**

Members present :

Hon Mrs Selina CHOW LIANG Shuk-ye, JP (Chairman)
Hon Fred LI Wah-ming, JP (Deputy Chairman)
Hon Kenneth TING Woo-shou, JP
Hon James TIEN Pei-chun, JP
Hon David CHU Yu-lin
Hon Cyd HO Sau-lan
Hon Albert HO Chun-yan
Ir Dr Hon Raymond HO Chung-tai, JP
Hon LEE Cheuk-yan
Hon Martin LEE Chu-ming, SC, JP
Hon Eric LI Ka-cheung, JP
Dr Hon LUI Ming-wah, JP
Hon NG Leung-sing
Prof Hon NG Ching-fai
Hon Margaret NG
Hon James TO Kun-sun
Hon CHEUNG Man-kwong
Hon HUI Cheung-ching
Hon CHAN Kwok-keung
Hon CHAN Yuen-han
Hon Bernard CHAN
Hon CHAN Kam-lam
Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP
Hon LEUNG Yiu-chung
Hon SIN Chung-kai
Hon Andrew WONG Wang-fat, JP
Hon WONG Yung-kan
Hon Jasper TSANG Yok-sing, JP
Hon Howard YOUNG, JP

Dr Hon YEUNG Sum
Hon YEUNG Yiu-chung
Hon LAU Chin-shek, JP
Hon LAU Kong-wah
Hon Mrs Miriam LAU Kin-yee, JP
Hon Ambrose LAU Hon-chuen, JP
Hon Emily LAU Wai-hing, JP
Hon CHOY So-yuk
Hon Andrew CHENG Kar-foo
Hon SZETO Wah
Hon LAW Chi-kwong, JP
Hon TAM Yiu-chung, GBS, JP
Dr Hon TANG Siu-tong, JP
Hon Abraham SHEK Lai-him, JP
Hon LI Fung-ying, JP
Hon Henry WU King-cheong, BBS
Hon Tommy CHEUNG Yu-yan, JP
Hon Michael MAK Kwok-fung
Hon Albert CHAN Wai-yip
Hon LEUNG Fu-wah, MH, JP
Dr Hon LO Wing-lok
Hon WONG Sing-chi
Hon Frederick FUNG Kin-kee
Hon IP Kwok-him, JP
Hon LAU Ping-cheung
Hon Audrey EU Yuet-mee, SC, JP

Members absent : Dr Hon David LI Kwok-po, JP
Dr Hon Philip WONG Yu-hong
Hon LAU Wong-fat, GBS, JP
Hon Timothy FOK Tsun-ting, SBS, JP

Public Officer : The Hon Donald TSANG Yam-kuen, JP
Attending Chief Secretary for Administration

Clerk in : Mrs Justina LAM
Attendance Assistant Secretary General 2

Staff in : Mr Ricky C C FUNG, JP
Attendance : Secretary General

Mr Jimmy MA, JP
Legal Adviser

Mr LAW Kam-sang, JP
Deputy Secretary General

Mrs Constance LI
Chief Assistant Secretary (2)5

Miss Betty MA
Senior Assistant Secretary (2)1

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On behalf of Members, the Chairman welcomed Mr Donald TSANG, Chief Secretary for Administration (CS), to the special meeting of the House Committee.

Introductory Remarks by CS

2. CS said that he welcomed the opportunity to meet with Members to talk about his priority areas of work as CS in the coming months. He also said that he was happy to have this opportunity of listening to the concerns of Members and to answer them as best as he could. He hoped to have similar opportunities in the future, with a view to strengthening communication with Members in a cordial and constructive manner, and sharing the common aim of rendering the best service to the people of Hong Kong.

3. CS said that he had three priority areas of work for the short to medium term. These priorities were improving the relationship between the Executive Authorities and the Legislature; establishing a system of accountability for principal officials; and maintaining the stability and neutrality of the civil service and enhancing its efficiency and accountability.

4. CS said that improving the relationship between the Executive Authorities and the Legislature was his most important task, and that improvements would be made in the following six aspects -

- (a) The Administration would adopt a more proactive approach to consult Members on policies and legislative/financial proposals through various channels at the earliest possible opportunity;

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- (b) To ensure that policies met community expectations and aspirations, the Government would, as far as practicable, present different options together with their merits and demerits for consultation with Members and the public;
- (c) The Government would make more use of the media to stimulate public discussion on policy and legislative/financial proposals;
- (d) Government officials would be encouraged to work in partnership with Members. Government officials would adopt a more positive attitude in communicating with Members and such communication should be two-way, objective and constructive;
- (e) To reduce unnecessary pressure on the Legislature and government officials, the Government would better prioritize and plan its work; and
- (f) The Administration would consider how the "hardware" could be improved to facilitate the work of the Legislative Council (LegCo), including a new LegCo Building, Members' remuneration and operating expenses reimbursement, etc.

5. As regards establishing a system of accountability for principal officials, CS said that the Administration would need to give careful consideration as this was an important matter and had far-reaching implications on the political structure and civil service system in Hong Kong. CS explained that under the present system, most principal official posts were held by pensionable civil servants. The advantages of the present system were that principal officials could focus on objective analyses of policies while maintaining high administrative efficiency and integrity. However, principal officials at the level of Secretaries and Directors of Bureaux also assumed an important role in policy formulation and implementation, and in explaining and promoting such policies following approval by the Chief Executive (CE) in Council. These principal officials therefore played a role similar to that of ministers. As such, it had become increasingly difficult for the public to accept that principal officials were politically neutral.

6. CS added that civil servants could be punished on grounds of misconduct or inefficiency under an impartial investigation system, but they, including principal officials, could not be held personally accountable for policy failures within their portfolios under the present collective accountability system. If principal officials were to be held accountable for the outcome of their policies, they should not be career civil servants, but "political appointees" and a suitable appointment system would need to be put in place, setting out clearly their

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powers, responsibilities and relationships with CE and with the permanent civil service.

7. CS informed Members that CE was discussing with the relevant policy bureaux and hoped to be able to provide a blueprint of a system of accountability for principal officials in his coming Policy Address. CS added that any such system should be consistent with the existing provisions in the Basic Law.

8. CS said that it was equally important to maintain the stability of the civil service structure and to preserve the principles of permanence and neutrality of the civil service, so that it would continue to serve with commitment, objectivity and with the long-term benefits of the community in mind. He pointed out that the civil service had undergone a period of transition and adjustment following the reunification in 1997. The civil service had also been working under unusual strain as a result of the Asian financial turmoil, the Enhanced Productivity Programme and "salary freeze". To maintain an efficient and stable civil service, it would be necessary to sustain staff morale and ensure that the civil service would keep pace with times and be responsive to the needs of the community through, for example, staff training and development. CS further said that civil servants at different levels should also be prepared that there would be greater public demand for increased accountability on the part of the civil service. He added that a highly efficient, professional and politically neutral civil service would be conducive to a constructive working relationship with LegCo.

Members' Questions to CS

Anti-cult law

9. Mr Martin LEE enquired whether there was a need to outlaw cult activities in Hong Kong and whether the Administration was considering introducing anti-cult legislation. He also asked whether the Administration had a definition of "evil cult".

10. CS said that there was currently no legal definition of "evil cult". He further said that the Administration was studying how cults were dealt with in other countries such as the United States of American, Japan, France and other developed economies, as well as the Mainland. He pointed out that the Government had to be prepared to deal with possible radical behaviours by certain groups and protect public interests as well as public order. He added that one of the lessons the Administration had learnt from the Asian financial turmoil was that Hong Kong should be concerned about what happened in other countries. The Administration would act prudently having regard to public views and the international image of Hong Kong.

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11. As regards the activities of Falun Gong in Hong Kong, CS assured Members that the Administration would handle them in accordance with the law. The Administration would also look at how the radical activities of Falun Gong were dealt with in other places. He reminded Members that approval of any legislative proposals rested with them.

12. Mr Martin LEE expressed concern that there was danger in defining "evil cult" in law. CS reiterated that in dealing with the activities of Falun Gong, the Administration would act in accordance with the law, and in an open and transparent manner.

13. Mr LEUNG Yiu-chung questioned the need for introducing anti-cult legislation. He said that so far the activities of Falun Gong in Hong Kong had not caused any problem to law and order and that existing legislation could adequately deal with their activities. He did not agree that Hong Kong would need to examine the way its trading partners, including the Mainland, dealt with cult activities. He stressed that the HKSAR Government should strictly adhere to the principle of "Hong Kong people running Hong Kong" and should not submit to pressure from the Central Government.

14. CS responded that the Central Government had not exerted any pressure on the HKSAR Government in the matter and there was no question of Hong Kong compromising its high degree of autonomy. He added that Hong Kong was not an isolated island and it needed to know the problems of its neighbours or trading partners. He reiterated that the Government would always act in accordance with the law and take into account public views, and that any legislative proposal would require the approval of LegCo.

Improving the relationship between the Executive Authorities and the Legislature

15. Mr James TIEN enquired about the arrangements for the Administration to consult Members on government policies and other issues. He said that at present when LegCo Panels were consulted on certain policies or issues, no concrete proposals were provided by the Administration. He asked whether the Administration would let the relevant LegCo Panels have more concrete proposals at an early stage, so that Members would be in a better position to form and give their views before the proposals were considered by the Executive Council.

16. CS responded that the Administration would explore the most effective means to consult Members at an early stage, with a view to obtaining a measure of consensus among Members on the policy directions. He believed that that might involve a change in culture and attitude among senior officials towards

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LegCo. A closer partnership between the Executive Authorities and the Legislature would emerge as more consultations took place.

17. Mr TIEN said that the improvements to the relationship between the Executive Authorities and the Legislature involved more than a change in attitude and culture. He considered that the relevant LegCo Panel(s) should be consulted at different stages in the formulation of a policy or legislative/financial proposal.

18. CS said that the Administration would consider what could be done to further improve the consultation process with Members. He said that any change in the process should not impede the Executive Council from exercising its powers and functions as stipulated in the Basic Law. He would focus on exploring ways to further improve communication with Members to gauge their views and those of the public. He added that as any legislation would require the approval of LegCo, Members would in any case have ample opportunities to give their views during the legislative process.

Political reform

19. Ms Emily LAU said that direct election of LegCo Members and direct election of CE were major concerns to the public and Members. In this connection, LegCo had passed two motions in the last term urging the Administration to expedite action on the development of the HKSAR political structure and to conduct public consultation on the election of CE and LegCo by universal suffrage. She asked when the Administration would start work on the political reform.

20. CS agreed that political reform was an important issue, although according to public opinion surveys conducted regularly by the Administration, the public was much more concerned about other livelihood issues, such as housing, the economy and transport matters. He said that the Basic Law had already set out the blueprint for constitutional developments, and the ultimate objective of electing all LegCo Members by universal suffrage. CS said that the Administration would proceed cautiously on this important subject, having regard to the experience of the coming election of CE in 2002 and the election of LegCo in 2004. He believed that Hong Kong should develop a model which suited its conditions and which had widespread support of the community. He added that the establishment of an accountability system for principal officials would also throw light on the community's expectations and aspirations of the future political structure.

21. Ms Emily LAU expressed dissatisfaction that the Administration had not responded seriously to the motions passed by LegCo on political reform. She questioned the Government's respect for LegCo and Government's sincerity in

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co-operating with Members. CS responded that the Administration would need time to examine the implications of various options for constitutional development as well as to gauge public views. He added that some people had already criticised the Government for trying to tackle too many problems at once and complained that too many different reforms had been introduced in the past few years.

22. Mr LAU Chin-shek pointed out that the former CS had said at the Asian Society luncheon in April 2001 that Hong Kong should not delay public debate on the pace of democratic reform. Mr LAU asked whether CS agreed that there was urgency in introducing universal suffrage in the HKSAR. He further enquired about the time-table for introducing political reform and whether there would be public consultation.

23. CS responded that as compared with developed countries where their political reforms took decades or even centuries to evolve, the HKSAR had to work within a relatively short time-frame to develop a mature constitutional framework. He stressed that a prudent and step-by-step approach was required in view of the far-reaching implications and the need to listen to different views in the community. In this regard, we could not afford to make serious mistakes or to overturn changes repeatedly. Constitutional changes could only succeed with widespread public support. He said that the Administration took constitutional review as a continuous commitment in the months and years ahead, having regard to the milestone events of the election of the CE in 2002 and the election of LegCo in 2004, in the lead up to 2007. The public and LegCo views would comprise the main ingredients of this continuous review.

Police security measures for the FORTUNE Global Forum

24. Dr YEUNG Sum expressed concern about the Police security measures for the FORTUNE Global Forum. He said that the demonstrators were kept too far away from the venue of the Forum and whatever message they were trying to put across failed to reach the participants of the Forum. Referring to a recent comment CS made in public about violent protests in Prague, Dr YEUNG pointed out that Hong Kong had a record of peaceful and lawful demonstrations in the past 20 years. He disagreed that the demonstrations at the Forum should be compared with the violence CS saw in Prague. He considered that the excessive use of Police force against the protestors would have an adverse impact on Hong Kong's international image. Dr YEUNG asked whether CS would set up an independent committee to investigate if the Police had abused its power in dealing with protestors at the Forum.

25. CS clarified that he was not comparing the protests in Hong Kong to the violence he saw in Prague. What he meant was that in making security arrangements for the Fortune Global Forum, Police must draw on the experience

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of overseas law enforcement agencies and be aware of the latest trends of demonstrations, peaceful or otherwise, in other parts of the world. CS further said that making security arrangements for large international events were often difficult, and the Hong Kong Police had to strike a balance between the right of individuals to express their views freely and the need to ensure the smooth progress of the Forum. CS added that the security measures for the Forum were similar to those for previous events of similar scope and nature.

26. CS recognised that the public had diverse views on the Police security measures for the Forum as reflected in survey findings. Referring to one survey, he pointed out that 60% of the respondents considered that the Police had taken the necessary and appropriate security measures while 20% of the respondents considered that excessive force had been used. He added that he did not see the need for an independent inquiry, but the Administration including the Police would review how certain aspects of the operational arrangements could be improved. For example, it might be necessary to explain to the public beforehand the purpose of holding the Forum and the benefits it would bring, as well as the need for traffic diversion arrangements. CS reiterated the need to respect individuals' right of expression on one hand, and to maintain public order on the other.

Civil service reform

27. Mr Howard YOUNG asked about the progress of the civil service reform and whether there had been adjustment in the pace of the reforms.

28. CS replied that Government had already implemented a number of civil service reforms as well as the Enhanced Productivity Programme in the past two years. He stressed that civil service reform was a long term mission. Continued efforts would be made to further enhance the efficiency and productivity of the civil service to meet the changing demands of the community and to deliver savings to minimise the need for tax increases.

29. As regards the increasing private sector participation in the delivery of public services, Miss CHAN Yuen-han said that the contracting out of services by government departments had resulted in a downward adjustment of wages in certain occupations, such as cleansing workers, car park attendants and hospital staff. Miss CHAN asked whether the Government had studied the impact of contracting-out of services on the employment situation in Hong Kong and whether Government would discontinue contracting out public services.

30. CS responded that wages were determined by the labour market and other factors, and that the downward adjustment of wages was not necessarily caused by the contracting-out of public services. He said that Government would pay

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particular attention to ensuring that there were no unfair employment terms imposed on workers employed by Government contractors.

31. CS further said that there were different views on the need for private sector participation in the delivery of public service. He added that some services had to be contracted out because there were insufficient staff in the departments concerned to provide such services. It was therefore not possible to put a halt to the contracting-out arrangements.

Hong Kong delegation to the western parts of China

32. Mr TSANG Yok-sing said that the delegation of top businessmen and officials to visit the western parts of China served to show support for China's mission of developing its western provinces. Mr TSANG further asked what benefits the visit would bring to Hong Kong.

33. CS said that the visit was one of the projects he had planned when he was the Financial Secretary (FS). He was asked by CE to follow through this project and lead the delegation, even though he was now CS. He further said that Hong Kong's largest markets were the Pearl River Delta and the eastern parts of the Mainland, in addition to North America, Japan and Europe. After the Asian financial crisis, it was necessary for Hong Kong to explore new business and investment opportunities such as those available in the western provinces. He added that such a delegation was also a demonstration of the cooperation between Hong Kong businessmen and government officials and their synergy in supporting the "one country" principle. He hoped there would be more delegations of this kind in the future.

34. Mr TSANG Yok-sing said that some people had expressed concern that seeking business opportunities in the western provinces would lead to reduced investment in Hong Kong and hence fewer jobs for Hong Kong people.

35. CS responded that at present many companies in Hong Kong already had businesses and investment in many parts of the world and Hong Kong was capable of further extending its trade and investment to other places. He pointed out that Hong Kong investment in the western provinces would create demand for services in Hong Kong, such as financial and banking services. It would also promote tourism in Hong Kong and bring about growth in economic activities in both Hong Kong and the Mainland.

Setting up an Economic and Trade Office in Guangdong Province

36. Mr HUI Cheung-ching enquired about the progress of setting up an Economic and Trade Office in the Guangdong Province to strengthen liaison with the local governmental trade and commerce authorities, and to provide

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assistance to Hong Kong businessmen who encountered problems when trading in Guangdong. CS said that the Administration was actively exploring a suitable site and hoped that the new office could be set up soon with the support of the Guangdong authorities. He added that the proposed office would be staffed by officials of appropriate ranking.

Small and medium enterprises

37. Mr Tommy CHEUNG said that he had an impression that some recent legislative proposals made by the Administration tended to "over-regulate", and that minor wrong-doings were made criminal offences. As this would pose difficulties to small and medium enterprises, such as those in the food business, Mr CHEUNG suggested that the Administration should consider imposing fines instead of prison terms for minor and inadvertent offences. He also asked what measures the Administration would take to boost the confidence of small and medium enterprises.

38. CS said that he agreed with Mr CHEUNG that there should not be over-regulation, and that criminal offences should only be introduced where it was absolutely necessary to do so. He added that Members should give their views on legislative proposals, particularly on those proposals which affected people's livelihood and economic activities, when they were presented to LegCo for scrutiny and approval. CS further said that it would not be appropriate for him to deal with questions on measures to assist small and medium enterprises as these were the business of FS.

Spending in Shenzhen

39. Mr David CHU said that it had been an increasing trend for people in Hong Kong to cross the border and spend money in Shenzhen. As such a change in consumer spending had adversely affected businesses in Hong Kong, he asked what measures the Administration would take to promote economic activities in Hong Kong.

40. CS said that Hong Kong was an open city and that it was normal for local people to travel outside Hong Kong or for visitors to come here. Although Hong Kong people going to Shenzhen to spend money might reduce local retail business, there was also an increase in the spending of Mainland visitors in Hong Kong. He further said that the business sector should respond positively to changes and make more efforts to increase their competitiveness and to attract more visitors to spend in Hong Kong.

International Covenant on Economic, Social and Cultural Rights

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41. Referring to the Concluding Observations of the Committee on Economic, Social and Cultural Rights of the United Nations (UN), Mr James TO said that the UN Committee had criticised the HKSAR for not implementing certain recommendations made by the UN Committee in 1996. For instance, the HKSAR had been asked to extend the prohibition of race discrimination to the private sector but had failed to do so. Mr TO pointed out that the criticisms made by the UN Committee this year were more severe than those made previously. He urged CS to seriously study these comments and consider setting up a high level inter-departmental committee to monitor implementation of the UN Committee's recommendations which straddled the work of several bureaux.

42. CS responded that he had not read the Concluding Observations of the UN Committee, but he understood that the UN Committee had also commended HKSAR's achievements in other areas. He said that he would look into the matter.

Press freedom

43. Ms Cyd HO said that the proposal of the Law Reform Commission to criminalise stalking behaviour and the proposed Control of Obscene and Indecent Articles (Amendment) Bill would hamper press freedom. She asked whether the Administration would consider non-legislative means to deal with stalking behaviour and indecent/obscene publications.

44. CS assured Members that the Administration was strongly committed to upholding freedom of expression and freedom of the press. He said that the legislative proposals referred to by Ms HO were possible measures to address public concerns, and they were not related to press freedom. He added that Members should give their views on the proposals when they were introduced into the Council.

Review of the institutional framework for the provision of public housing

45. Mr CHAN Kam-lam asked when the report of the Working Group to review the institutional framework for the provision of public housing chaired by the former CS would be released for public consultation. He said that the problems in the construction of public housing units had an adverse impact on Hong Kong's image and had affected public confidence in the quality of public housing. Mr CHAN also asked whether the Administration had any plans to change the existing structure for the provision of public housing.

46. CS responded that he was at that moment studying the minutes of meetings and the initial views of the Working Group. He would need to discuss certain points with the relevant policy bureaux and hoped to be able to make public the Working Group's findings and recommendations as soon as possible.

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Health care reform

47. Mr MAK Kwok-fung asked whether the Administration would follow the practice of developed countries and allocate more resources for the provision of medical and health services in Hong Kong, instead of pursuing the health insurance proposal made in the Consultation Paper on Health Care Reform. He said that the proposed health insurance scheme would add financial burden to Hong Kong people who were already required to contribute to Mandatory Provident Fund schemes.

48. CS responded that the Secretary for Health and Welfare would carefully consider the views of the public and those of Members before deciding on the way forward. He said that the Government had already put substantial resources into the provision of medical and health services and he assured Members that additional resources would be allocated to such services each year. He pointed out that the practices in other countries might not be applicable to Hong Kong because Hong Kong adopted a simple tax regime and low tax rates.

Soccer betting

49. Mr YEUNG Yiu-chung asked about the Administration's position on the issue of soccer betting.

50. CS replied that Hong Kong had to face the reality that there was increasing interest in soccer betting within the community. However, it was difficult to take enforcement action against all those who placed illegal bets on soccer matches. It was therefore necessary to examine the case for providing a legal avenue for soccer betting so that people would not be criminalised unnecessarily for soccer betting. He added that the Secretary for Home Affairs would prepare a consultation paper to gauge public views and Members would have ample opportunities to express their views. He pointed out that any legislative measure concerning soccer betting would require LegCo approval.

Purchase of office by the Hong Kong Monetary Authority (HKMA)

51. Mr Albert HO sought clarification on CS's previous comment that the operation of the Exchange Fund should be free from any "political interference". Mr HO asked whether CS implied that LegCo Members should not comment on or query FS's recent decision to use the Exchange Fund to purchase office accommodation for HKMA. Mr HO pointed out that Members had never interfered with the currency and investment decisions of FS acting on the advice of the Exchange Fund Advisory Committee. He said that Members only queried the legal basis of FS's power to use the Exchange Fund to purchase office accommodation for HKMA.

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52. CS responded that in all developed countries, the Legislature did not have a role to play in the operation of their central banks. This was to ensure that the stability of the currency and foreign exchange reserves of a country would be free from any political interference. As regards the legal issue concerning FS's power to use the Exchange Fund to purchase office accommodation for HKMA, CS said that this was being dealt with by the lawyers concerned at the moment.

Filling Administrative Officer posts by professionals

53. Referring to the avian influenza incident in 1997 and chaos at the new airport when it opened in 1998, Ir Dr Raymond HO asked whether the Administration would consider appointing professionals instead of Administrative Officers to fill those posts which required professional expertise and knowledge. He cited the examples of senior posts in the Transport Bureau, Planning and Lands Bureau and Works Bureau. CS replied that the Administration would so consider.

Vision to boost the confidence of Hong Kong people

54. Ms Audrey EU said that Hong Kong people had become unhappy after 1997, and the Asian financial crisis might be one of the reasons. She asked whether the Administration had conducted any study to ascertain the cause of such unhappiness among Hong Kong people and whether it was due to mistakes made in Government policies or decisions. She wanted to know what visions the Administration would show to the people to boost their confidence in the future of Hong Kong.

55. CS responded that it was not possible to have a policy which could please everybody. He considered that the many challenges faced by Hong Kong people after 1997, such as the Asian financial crisis, did have an impact on the psychology of Hong Kong people. To enhance public confidence in the work of Government, more efforts would be made to ensure that decisions and policies were explained to the public in a clear and coherent manner. He added that the coming on board of a number of large-scale public works projects, such as the West Rail and Disney Theme Park, would have a positive impact on the economy of Hong Kong; this would in turn boost public confidence in the future of Hong Kong.

Avian influenza

56. CS informed Members that the avian influenza incident had become much more serious. The Secretary for the Environment and Food was meeting the press and explaining the measures that would be taken to contain the spread of the influenza. He appealed to Members to support the measures taken by Government.

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Concluding remarks

57. The Chairman thanked CS for attending the meeting and answering Members' questions.

58. There being no further business, the meeting ended at 4:00 pm.

Legislative Council Secretariat

6 June 2001