

立法會
Legislative Council

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Legislative Council
Panel on Financial Affairs

Minutes of special meeting held on
Friday, 25 October 2002 at 8:30 am
in the Chamber of the Legislative Council Building

Members present : Hon Ambrose LAU Hon-chuen, GBS, JP (Chairman)
Hon Henry WU King-cheong, BBS, JP (Deputy Chairman)
Hon Kenneth TING Woo-shou, JP
Hon James TIEN Pei-chun, GBS, JP
Hon Albert HO Chun-yan
Hon LEE Cheuk-yan
Hon Eric LI Ka-cheung, JP
Dr Hon David LI Kwok-po, GBS, JP
Hon NG Leung-sing, JP
Hon James TO Kun-sun
Hon Bernard CHAN, JP
Hon CHAN Kam-lam, JP
Hon SIN Chung-kai
Dr Hon Philip WONG Yu-hong
Hon Jasper TSANG Yok-sing, GBS, JP
Hon Emily LAU Wai-hing, JP

Non-Panel members attending : Hon Cyd HO Sau-lan
Ir Dr Hon Raymond HO Chung-tai, JP
Hon Margaret NG
Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
Hon CHAN Kwok-keung
Hon CHAN Yuen-han, JP
Hon Andrew WONG Wang-fat, JP
Hon LI Fung-ying, JP
Hon LEUNG Fu-wah, MH, JP

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Dr Hon LO Wing-lok
Hon IP Kwok-him, JP

Members absent : Hon Abraham SHEK Lai-him, JP
Hon MA Fung-kwok, JP

Public officers attending : Agenda Item I

Ms Salina YAN
Principal Assistant Secretary for Financial Services
and the Treasury (Financial Services)

Agenda Item II

Mr Antony LEUNG
Financial Secretary

Mr Frederick MA
Secretary for Financial Services and the Treasury

Mr Stanley Y H YING
Deputy Secretary for Financial Services
and the Treasury (Treasury)

Attendance by invitation : Agenda Item I

Mr Eric K S CHENG
Senior Director of Enforcement
Securities and Futures Commission

Mr Laurence LI
Director of Corporate Finance
Securities and Futures Commission

Ms Karen LEE
Executive Vice President
(Listing, Regulation and Risk Management)
Hong Kong Exchanges and Clearing Limited

Mr Keniel WONG
Senior Vice President (Listing Division)
Hong Kong Exchanges and Clearing Limited

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Clerk in attendance : Ms Anita SIT
Chief Assistant Secretary (1)6

Staff in attendance : Ms Pauline NG
Assistant Secretary General 1

Ms Rosalind MA
Senior Assistant Secretary (1)9

Mr Joey LO
Assistant Secretary (1)1

I Procedures for vetting and approving companies incorporated in Mainland China and overseas jurisdictions for listing on the Stock Exchange of Hong Kong Limited, and the monitoring of compliance of these companies with the relevant listing agreements

(LC Paper No. CB(1)48/02-03(01) — Letter dated 10 October 2002 from Hon Henry WU King-cheong

LC Paper No. CB(1)127/02-03(01) — Paper provided by the Hong Kong Exchanges and Clearing Limited)

The Chairman advised that this item was proposed by Mr Henry WU at the Panel meeting on 10 October 2002. At the meeting, the Panel noted that the recent circumstances surrounding the Euro-Asia Agricultural (Holdings) Company Limited, a listed company on the Main Board of the Stock Exchange of Hong Kong Limited (the Stock Exchange), had aroused concerns about the procedures for vetting and approving companies incorporated in Mainland China and overseas jurisdictions for listing in Hong Kong, and the monitoring of compliance of these companies with the relevant listing agreements. Members had agreed that the discussion at the Panel should not focus on a particular listed company but the relevant procedures and mechanisms.

Presentation by HKEx

2. Ms Karen LEE, Executive Vice President (Listing, Regulation and Risk Management), Hong Kong Exchanges and Clearing Limited (HKEx), briefly explained the role and responsibilities of the Stock Exchange in vetting and approving listing applications and the subsequent monitoring of compliance of listed companies with the Listing Rules. She stressed that the principal function of the Stock Exchange was to provide a fair, orderly and efficient market for the trading of

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securities. In furtherance of this, the Stock Exchange made and enforced the Listing Rules. The relationship between the Stock Exchange and listed companies were contractual and the Stock Exchange did not have statutory powers. While the Stock Exchange could and would take disciplinary actions against listed issuers for breaches of the Listing Rules, cases involving possible breaches of statutory provisions would have to be referred to the Securities and Futures Commission (SFC) or other authorities for investigation and prosecution.

3. Ms Karen LEE said that protection for investors of securities listed in Hong Kong was provided at two levels, namely, the relevant statutes of the jurisdictions in which a listed company was incorporated and the company's Memorandum and Articles of Association, and the relevant rules, codes and regulations made and enforced in Hong Kong governing the listing and continuing compliance of listed companies in Hong Kong. The Listing Rules made by the Stock Exchange were designed to promote a level playing field among all issuers on the basis of the aforesaid legal framework. The focus was on ensuring the adequacy of disclosure and to prescribe the procedures for certain corporate actions in order to ensure that the interests of shareholders were adequately protected.

4. Ms Karen LEE then spoke on the procedures for vetting and approving the initial listing of companies, the mechanism for monitoring the compliance of listed companies with the Listing Rules, the actions to be taken in the case of a suspected or substantiated breach of the Listing Rules. Apart from the role of the Stock Exchange in the above processes, Ms LEE also explained the respective roles and responsibilities of other concerned parties including the sponsor to an issuer, the directors of an issuer, and other experts who were responsible for the accuracy and reliability of certain disclosures made in the prospectus and to the Stock Exchange.

Presentation by SFC

5. Mr Eric CHENG, Senior Director of Enforcement, SFC said that SFC was fully committed to enforcing the securities laws under its charge. It worked in partnership with other law enforcement agencies such as the Police's Commercial Crime Bureau (CCB) and the Independent Commission Against Corruption in cases of suspected corporate fraud and market manipulation. In the event where individual intermediaries or professional experts were found to have acted in breach of the relevant codes of conduct, SFC would take all necessary action, including engaging the respective self-regulatory organizations. If any investigation of SFC revealed that a corporate finance adviser had not acted with due diligence, SFC would take the appropriate licensing and disciplinary action according to SFC's "Corporate Finance Adviser Code of Conduct".

6. Mr Eric CHENG continued that SFC had developed very good relationships with the regulators of the securities market in other jurisdictions, including the China Securities Regulatory Commission (CSRC) in the Mainland. SFC had signed a Memorandum of Regulatory Co-operation with CSRC and held

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regular meetings with it. Mr CHENG then briefly described how the new Securities and Futures Ordinance would strengthen the regulatory regime and afford greater protection for investors. He also highlighted that subsidiary legislation would be made under the Ordinance for the dual filing of disclosure materials to SFC and the Stock Exchange concurrently. Enactment of the subsidiary legislation would enhance SFC's capability to investigate and prosecute, under its existing powers, listing applicants and listed companies who intentionally or recklessly provided false or misleading information to the investing public.

Presentation by the Administration

7. The Principal Assistant Secretary for Financial Services and the Treasury (Financial Services) (PAS/FS) said that in order to maintain Hong Kong as an international financial centre, the Government's role was primarily one to provide a free and fair business environment to allow trading development to take place with investors' interests duly safeguarded. To achieve this, the Government would need to review regularly the relevant legislation and the operation of the regulatory framework. For example, the newly enacted Securities and Futures Ordinance incorporated a series of enhancement measures with regard to corporate disclosure and the investigative powers of SFC, which together would strengthen the protection for investor. These enhancement measures included -

- (a) To enhance transparency of listed companies, the initial shareholding disclosure threshold for substantial shareholders of listed companies would be lowered from 10% to 5% and the disclosure notification period shortened from 5 days to 3 business days.
- (b) The scope of investigations into listed companies conducted by SFC would be widened. It would be able to look into and get explanations of the records not only of listed companies but also their auditors, banks and transaction counterparties. The SFC would thus be able to inquire more effectively into misconduct which prejudiced shareholders' interests.
- (c) Auditors of listed corporations would have statutory immunity when reporting suspected corporate misconduct to the SFC.
- (d) Under the market misconduct provisions, it was a criminal offence for a person to disclose, circulate or disseminate false or misleading information to induce transactions in securities or futures contracts. There would also be a new private right of action for investors who had suffered pecuniary losses as a result of market misconduct. They would be able to seek compensation from those responsible for the misconduct.

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- (e) Investors would also have a new private right of action to seek compensation for pecuniary losses arising from reliance on false or misleading public communications, including those issued by listed companies.

8. To sum up, PAS/FS assured members that the Administration would constantly review the regulatory framework to ensure that Hong Kong's position as a quality international financial centre be maintained.

(Post-meeting note: The speaking notes of Ms Karen LEE, Mr Eric CHENG, and PAS/FS were issued to members after the meeting vide LC Paper No. CB(1)199/02-03 dated 4 November 2002.)

Discussions with Members

9. Mr Henry WU said that the issue in question had far reaching implications on the local securities market and on Hong Kong's position as an international financial centre. He asked what mechanisms were provided in Hong Kong under the relevant statutes and rules whereby investors could seek compensation for financial losses incurred due to the default of a listed issuer incorporated in Mainland China or in an overseas jurisdiction, and how such mechanisms compared with those in other major overseas securities markets.

10. In response, Ms Karen LEE explained that basically the protection of investors' interests was afforded at two levels. At the first level, investors protection was afforded by the relevant statutes in the jurisdiction where the company was incorporated coupled with what was provided in the company's Memorandum and Articles of Association. The second level of investor protection was afforded by the relevant statutes and codes in Hong Kong and the Listing Rules of the Stock Exchange, which governed, among other things, information disclosure, corporate conduct and shareholders' rights etc. Mr Laurence LI, Director of Corporate Finance of SFC supplemented that SFC placed a high priority on combating improper corporate governance and that the newly enacted Securities and Futures Ordinance had lent tremendous support in this direction by way of reinforcing and enhancing SFC's regulatory role and functions.

11. Mr Henry WU said that his main concern was whether or not there was any mechanism available in Hong Kong for aggrieved investors to seek compensation in a case similar to the one involving the Euro-Asia Agricultural (Holdings) Company Limited, and whether there was any useful reference that could be drawn from overseas experience in dealing with similar cases.

12. In response, PAS/FS said that currently, channels were open for investors to lodge their views or complaints with HKEx and/or SFC. Under the newly enacted

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SFO, investors would have a new private right of action to seek compensation for losses arising from reliance on false or misleading information issued by listed companies. On this, Mr Laurence LI of SFC said that the situation was likened largely to that in the United Kingdom where investors had a right to institute civil proceedings against listed issuers incorporated in Continental Europe.

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13. In view of the complexity of the issue and that a complete answer was not readily available, the Chairman requested the Administration to study the matter with SFC and HKEx to provide a detailed answer to Mr Henry WU after the meeting.

14. Mr CHAN Kam-lam enquired about the mechanism whereby the information submitted by a company incorporated in Mainland China was duly verified for listing consideration, and whether the Stock Exchange's role and approach in this regard was consistent with the relevant practices of major overseas markets.

15. Mr Keniel WONG, Senior Vice President (Listing Division) of HKEx said that in the case of doubt, the Stock Exchange would seek additional information or assurances from relevant professional advisers or the management of the issuer and/or ask for additional disclosure in the listing prospectus. He stressed that the directors of an issuer, collectively and individually, were responsible for the accuracy of the information contained in the prospectus. The professional advisers to the issuer were responsible for the accuracy and reliability of certain disclosures made in the prospectus and to the Stock Exchange.

16. Mr CHAN Kam-lam said that the incident of Euro-Asia Agricultural (Holdings) Company Limited had been allowed to drag on since July 2002 and hitherto remained unresolved. He asked whether the incident revealed any problem with the role and approach of the Stock Exchange for vetting and approving listing applications and for monitoring the compliance of listed companies with the Listing Rules. Mr CHAN also asked whether SFC was ever involved in the incident, and if so in what way.

17. Mr Keniel WONG said that in the present circumstances, it was basically up to the management of the company to provide information to HKEx in response to the latter's various enquiries and to make necessary announcements in the interests of shareholders and for the maintenance of a fair market. HKEx would closely monitor the situation. It would take appropriate actions including disciplinary actions against the issuer if the management of the issuer did not make timely and adequate disclosure to address the concerns of the market about the company. Mr Eric CHENG said that SFC in fact had been working closely with HKEx in overseeing the matter but the detailed involvement could not be divulged at this stage.

18. Mr CHAN Kam-lam further enquired as to how HKEx could fulfill its regulatory duty in the absence of statutory powers, and whether there existed grey areas in respect of the division of responsibilities between SFC and HKEx. In

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response, Ms Karen LEE said that HKEx acted according to the provisions in the Listing Rules and could, if necessary, take disciplinary actions against a listed issuer in pursuance of the conditions laid down in the Listing Agreements. The impending review of the Expert Group appointed by FS to examine the existing regulatory framework for the securities and futures market in relation to listing matters would likely cover the issues raised by Mr CHAN.

19. Mr NG Leung-sing noted from the paper provided by HKEx that an issuer incorporated in Mainland China and listed on the Main Board was obliged to retain the services of a sponsor for at least one year following listing to provide advice on compliance with the Main Board Rules, and to act as the issuer's principal channel of communication with the Stock Exchange. He enquired about the responsibilities of the sponsor during this period. In response, Ms Karen LEE and Mr Keniel WONG advised that the sponsor was retained to serve as an agency to facilitate communication between the listed company and HKEx. The sponsor was also obliged to advise the company on its responsibilities under the Listing Rules and the related continuous compliance matters.

20. Mr James TO considered that the subject was complicated as it involved a number of parties each vested with different roles and responsibilities. He thus requested the Administration, SFC and HKEx to provide a co-ordinated response on the following issues after the meeting -

- (a) elaboration on the roles and responsibilities of each relevant party in the vetting and approving of issuers incorporated in Mainland China and overseas jurisdictions and in the monitoring of compliance of these issuers with the Listing Rules;
- (b) the responsibilities of each relevant party in respect of a substantiated breach of the Listing Rules by a listed issuer incorporated in Mainland China or an overseas jurisdiction, and whether there were possible circumstances under which no enforcement action or litigation could be taken in Hong Kong in respect of such a listed issuer;
- (c) in the above processes, the extent of reliance on the information and assurances from the relevant authority of Mainland China or an overseas jurisdiction, and whether there were possible circumstances under which the HKEx and/or the SFC could only rely on the information or assurances from such an authority; and
- (d) in view of the importance of the role and responsibilities of the sponsor of a listed issuer, whether the regulatory authorities were satisfied with the current arrangements for ensuring that the sponsor had the financial capability, competence, etc., to fulfill its responsibilities.

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21. There being no further questions, the Chairman thanked the representatives of the Administration, SFC and HKEx for their attendance at this discussion session.

II Fiscal deficits and the budgeting of Government expenditure for years from 2003-04 to 2006-07

- (LC Paper No. CB(1)127/02-03(02) — Paper provided by the Administration
- LC Paper No. CB(1)127/02-03(03) — Letter dated 16 October 2002 from the Chairman of the Public Works Subcommittee (PWSC) to the Chairman of the House Committee
- LC Paper No. CB(1)127/02-03(04) — Letter dated 17 October 2002 from the Financial Secretary to the Chairman of PWSC
- LC Paper No. CB(1)138/02-03(01) — Extract of minutes of meeting of the House Committee on 18 October 2002)

The Financial Secretary's presentation

22. The Chairman welcomed Mr Antony LEUNG, the Financial Secretary (FS), and other representatives of the Administration to the meeting to brief Members on the fiscal deficit situation and the budgeting of Government expenditure for the years from 2003-04 to 2006-07.

23. FS said that he welcomed the opportunity to discuss with Members various budgeting issues. He also looked forward to receiving more views and suggestions from Members in the series of consultative meetings on the 2003-04 Budget to be held between himself and LegCo Members from early to mid November 2002. With the aid of 30 charts (tabled at the meeting and issued to members vide LC Paper No. CB(1)150/02-03(01) dated 28 October 2002.), FS recapped the budgeting principles and the medium range forecast (MRF) covering the period 2002-03 to 2006-07 as already set out in his 2002 Budget Speech, and outlined the trends of government revenue and expenditure as well as the uncertainties for the 2002-03 fiscal outturn and the strategies to solve the fiscal deficit problem.

24. FS recapitulated that in his 2002 Budget Speech, he had set the following three targets for public finances to be materialized in 2006-07 -

- (a) to restore balance in the Consolidated Account;
- (b) to attain a balanced Operating Account; and

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- (c) to reduce public expenditure to 20% of the Gross Domestic Product (GDP) or below.

FS said that of the three targets above, the successful achievement or otherwise of the second target would probably have the greatest impact on the confidence of international investors and the public at large in the Government's ability of prudent financial management. Apart from the three targets, he also aimed to maintain the fiscal reserves at a level equivalent to 12 months of Government expenditure or above to meet Government's operating and contingency requirements.

25. On capital works, FS highlighted that the 2002 MRF estimated a total expenditure of \$147 billion for the five years up to 2006-07, or an average of \$29 billion per annum. This was higher than the average actual expenditure of \$27 billion for the past five years. FS said that there was no plan to cut back on the expenditure on capital works in the next five years.

26. FS continued that in the light of the fiscal performance since April 2002, it was estimated that total government expenditure in 2003-04 would unlikely exceed \$255 billion as originally estimated in the 2002 MRF. On the revenue side, there were major uncertainties over the land premium receipts and the proceeds from the second trench sale of the shares of the Mass Transit Railway Corporation (MTRC). The original estimate of land premium for 2002-03 was \$25 billion and the actual premium received over the first five months of the year was about \$6 billion. The budgeted \$15 billion proceeds from the sale of MTRC shares would probably not be realized in 2002-03 but FS considered that deferring the sale to future years would not have significant impact on Government's long-term fiscal position.

27. FS said that there was indeed a pressing need to address the deficit problem in order to maintain economic stability and sustain international confidence. The recent downgrading by the Standard & Poor's on the outlook of Hong Kong's local currency rating had reinforced this point. To reduce the fiscal deficit, three strategic approaches could be considered: reviving the local economy; reducing public expenditure and raising additional revenue. FS reiterated that the first and foremost strategy was to revive the local economy. Since April 2002, exports of services and goods had in fact registered a remarkably substantial year-on-year increase by 5.7% and 8.6% respectively, attributed partly to Government's relentless efforts to improve logistics facilities for both commodities and tourists. On the other hand, local spending and investment were registering a negative growth amidst a continuing deflation trend. Given this circumstance, the need to control public expenditure and to raise additional revenue were imminent to restore a balanced fiscal position by 2006-07. FS concluded that to ride out the challenge of the deficit problem, it required the concerted efforts of the Government, every sector of the community and in particular the unfailing backing of Members of the Legislative Council.

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Discussion with Members

Approaches to address the deficit problem

28. Mr James TIEN enquired about the relative priority attached to the three strategic approaches put forward by FS to solve the fiscal deficit. Whilst he agreed that the fundamental solution to the deficit problem was to revive the economy, he was concerned whether the Administration had the determination to cut public expenditure, which had been on the rise and exceeded 20% of GDP since 1998-99. He also pointed out that there were inherent conflicts between the three approaches. For instance, increasing Government revenue by raising Government fees and charges or tax rates would inevitably hamper economic recovery.

29. ES said that over the past year or so, the Administration had been focusing on how to revive the economy. Revitalizing the economy nevertheless took time. In view of the pressing deficit problem, it was necessary for Government to formulate and implement measures under the three strategic approaches in parallel, lest the delay in solving the deficit problem would undermine the confidence of both the local and international communities and ultimately jeopardize Hong Kong's economy. He concurred that to a certain extent, the three approaches might have a bearing on each other, but the situation was not uncommon in public administration. It was therefore important to strike the right balance among various considerations.

Fiscal reserves

30. Mr CHAN Kam-lam pointed out that apart from land premium and the proceeds from the sale of the second tranche of MTRC shares, the income on the fiscal reserves was also a major uncertain revenue element for the 2002-03 fiscal outturn. He enquired how far the outturn income on the fiscal reserves for the year would affect the fiscal position. Ms Emily LAU also expressed concern about the effect of the deficit situation on the fiscal reserves and vice versa, and enquired about the estimated level of the fiscal reserves by the end of the 2002-03 financial year.

31. In response, FS said that as shown in past records, the investment income on the fiscal reserves fluctuated fairly substantially from year to year, and it would be premature to predict how far the outturn revenue from this source would meet the original estimate of \$13.8 billion for 2002-03. However, comparatively the discrepancy in this area should be less significant than that of land premium and the estimated proceeds from the sale of MTRC shares. FS further explained that whilst the Government accounts for the first five months of 2002-03 had recorded a cumulative deficit of \$56 billion, it should be noted that it was in the last four to five months of the financial year that the bulk of salaries and profits tax payments were received and the investment income on the fiscal reserves appropriated from the investment return of the Exchange Fund. Hence, it would be inappropriate to make a direct projection of the full-year fiscal outturn simply on the basis of the financial

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results for the first five months.

Approach for consultation on budgetary measures

32. Ms Emily LAU, Mr LEE Cheuk-yan, Mr Albert HO and Ms CHAN Yuen-han expressed dissatisfaction with the lack of concrete plans on the part of the Administration to address the deficit problem.

33. Ms Emily LAU highlighted that FS had from time to time made remarks in the public, containing new but vague concepts which aroused wide public concern. Ms LAU cited the recent examples of FS's utterance of the need to review the priority of capital works projects based on "economic benefits" and his plan to reduce the civil service establishment to "a meaningful level". Ms LAU urged FS to provide concrete details about these new ideas of his.

34. Mr Albert HO opined that there was a general lack of concrete actions and strategies within the Government to steer the revival of the local economy. It would be advisable for FS to come up with concrete recommendations and kick off public discussion in the community before seeking Members' views in this respect. .

35. Mr SIN Chung-kai said that he appreciated that implementing the three strategic approaches concurrently would not be a straightforward matter as the relevant measures could be in conflict with one another and it would not be easy to obtain a common understanding among LegCo Members and within the Administration itself as to which areas of public expenditure should be scaled down and the means to increase revenue. On this token and in view of a common understanding among LegCo Members about the imminent need to address the deficit problem, he urged FS to alter the past approach of his consultation with LegCo Members on the Budget with a view to obtaining consensus among Members on certain measures, in particular, revenue measures in the course of the consultation.

36. FS said that it was of paramount importance to have Members' support and public understanding in mapping out the annual budget. He fully appreciated that there were bound to be different opinions among Members as they represented different sectors of the community. On some Members' comments about the lack of concrete plans for consultation, FS said that at this stage, it would be more appropriate for him to put forward only the broad approaches and hold an open mind in listening to Members' views and suggestions before formalizing any budget proposals. FS also pointed out that as Members' views and suggestions conveyed to him would also be made known to the media after the consultation meetings, he would thus be able to also benefit from the response of the community in the process. He therefore did not see a need to change the mode of his consultation with LegCo Members on the Budget.

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Reviving the economy

37. In response to Mr Albert HO's comment that FS had not made any discernable achievement in reviving the economy since he was in post, FS said that the Administration had been relentless on the work to revive the economy. The overall direction was to strengthen and reinforce Hong Kong's competitiveness in the region and to work in conjunction with local industry associations to promote the development of high value-added industries in Hong Kong. Some discernable achievements could be observed in inbound tourism and cross-border logistics development. The target of the Government's endeavors was to pave the way for Hong Kong to be recognized and maintained as a regional financial services and logistics centre, and essential to this development was further integration with the Mainland's economic development.

38. FS further said that for the strategies on raising revenue and reducing expenditure, it would be more appropriate for the Administration to listen to members' views first and to understand public demands and aspirations. In the face of the pressing fiscal deficit, he hoped that the Administration's appeal would not be regarded as another false alarm. He highlighted that there was greater understanding of the deficit problem amongst the public and a common understanding in the community that every sector should share the responsibility for solving the deficit problem.

Expenditure on capital works

39. Dr Raymond HO Chung-tai, Ms Emily LAU, and Ms CHAN Yuen-han expressed concern about FS's recent remarks reported in the press that in the face of a huge fiscal deficit, there was a need to review the funding priority for public works projects according to the benefits they could bring to the economy.

40. Dr Raymond HO said that the Public Works Subcommittee (PWSC) was perplexed by the remarks of FS, as all along, the Subcommittee had taken into account a number of factors apart from "economic benefits" in scrutinizing public works proposals. Dr HO also recalled that the Secretary for Financial Services and the Treasury had also remarked publicly that to control government expenditure, some planned maintenance and small-scale public works, would have to be withheld. He also understood that SFST had issued an internal circular to bureaux and departments advising that in putting up a capital works proposal, the department concerned should be prepared to absorb any recurrent consequence arising the project without additional resource provision. Dr HO said that these instances had aroused serious concern among LegCo Members as well as District Councils about the Government's commitment to the implementation of planned public works projects which were required to meet the needs of the community and were crucial to the creation of employment opportunities.

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41. Sharing these views, Mr LEE Cheuk-yan and Ms CHAN Yuen-han pointed out that comments made by FS would not be disposed of lightly by an ordinary citizen. FS's remark to dismount public works not considered economically beneficial was a blow to the public's confidence in Government's commitment to create employment opportunities and to improve the general living environment.

42. In response, FS re-affirmed that the Administration had no plan to cut back on funds already earmarked for capital works in the next five years up to and including 2006-07 nor to "dismount" any public works projects for which funds had already been approved. He also confirmed that funds had already been set aside for implementation of 64 outstanding projects of the former Provisional Municipal Councils, and these projects were pertinent to enhancing the provision of community facilities.

43. FS clarified that "economic benefits" had all along been an important criterion in determining the justifiability and priority of public works projects, and as he had made clear to the media earlier on, apart from "economic benefits", other factors such as whether there was an urgency to provide the facility in question to meet community needs, the cost-effectiveness of the proposed works etc. would also be taken into account in prioritizing public works projects. In this respect, he stressed that there was no ambiguity or inconsistency in the Administration's position.

44. FS continued that in the light of the pressing deficit situation, the Administration had the responsibility to exercise vigilance in determining whether and when a public work project should be taken on board. It was also appropriate and necessary for all bureaux and departments to regularly review their priorities in the light of changing community demands and resource limits. Capital works projects involved both non-recurrent and recurrent costs. Proponent bureaux/departments were therefore expected to take into account, among others, the recurrent consequence in making the cost-benefit analysis for each project.

45. Dr Raymond HO urged FS to take the initiative to improve his communication with Members with regard to the planning and implementation of public works projects, so that on the one hand, Members could have a better understanding of how the Administration determined the priority of different projects in the Public Works Programme and on the other hand, FS himself could understand Members' concerns and considerations in evaluating individual project proposals.

Containing Government's operating expenditure

46. Mr LEE Cheuk-yan sought elaboration on FS's directive issued to all Directors of Bureau requiring them to achieve efficiency savings at a rate of 1.8% in operating expenditure in 2003-04 and an additional 1% each year in 2004-05 to 2006-07. Mr LEE pointed out that this "magic figure of 1.8%" was determined unilaterally by FS without prior consultation. The practicability of this rate of savings was highly questionable as departments were expected to absorb essential

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expenditure items such as annual salary increments and the Government's Mandatory Provident Fund contributions for contract staff with no additional provisions. Mr LEE also criticised that imposing such a savings requirement across the board on all policy areas reflected that the top echelon of the Administration failed to recognize that some policy initiatives and public services were fundamental to the overall social and economic stability. Hence, the cutting of expenditure on these areas could have immense adverse implications.

47. FS clarified that the "1.8% savings" was a provisional guideline for Directors of Bureau to budget the operating expenditure of the policy areas under their respective purviews. The objective was to contain Government's overall operating expenditure for the year 2003-04 to \$210 billion, which was the estimate in the 2002 MRF put before Members in the context of 2002 Budget Speech. At this stage, the "1.8% savings" guideline was one for budgeting consideration and it would be up to the Directors of bureau to work out the priorities in consultation with their respective Controlling Officers to come up with their budget proposals after taking all relevant factors into consideration. The Chief Executive and FS himself would further discuss with the Directors of Bureau their respective budget proposals at a later stage.

48. In response to Mr LEE Cheuk-yan's further question on whether separate provisions for salary increments and MPF contributions would be made available to Government bureaux/departments, FS said that apart from these two expenditure elements, there were many other factors that had resource implications, and bureaux and departments were expected to take into account all relevant factors into consideration in drawing up their budget proposals.

49. On Ms Emily LAU's concern about FS's remark of downsizing the civil service to a "meaningful level", FS said that given that the personal emoluments of civil servants accounted for some two-thirds of Government recurrent expenditure, downsizing the civil service or adjusting downwards the salaries for civil servants or both were effective measures to reduce Government expenditure. The Administration would discuss with the staff side on the possible measures to trim the civil service and he would very much welcome views from Members in this regard. Hopefully, more concrete plans would be available nearer the time of the delivery of the 2003-04 Budget.

50. Hon Eric LI Ka-cheung cautioned that given the pressing structural fiscal deficit, the Administration should take decisive steps to solve the problem. He also highlighted that Hong Kong was an externally oriented economy and thus how overseas investors perceived Hong Kong's economic situation was of great importance to Hong Kong's overall economic stability. He also pointed out that where new taxes were to be introduced, the time-lag factor ought to be taken into account in budgeting for revenue returns. He asked what measures were in place to expediently restore public and international confidence in the local economy.

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51. In reply, ES said that it was undeniably the Government's responsibility to maintain a stable economic and financial system and to vitalize the economy expediently in the public interest. There would inevitably be objections from the community when measures to cut public expenditure or to raise revenue were to be introduced. In a democratic society, wide consultation was of paramount importance. He was confident that once the right path was taken, Hong Kong would move at full speed ahead. He affirmed that the Administration had the determination and confidence to resolve the current fiscal deficit but the support of the public and Members alike would be pivotal in riding out the challenges ahead.

52. At this juncture, the Chairman said that as the meeting had already overrun, he had to adjourn the meeting. Ms Emily LAU suggested that another session should be arranged to continue the discussion on the subject with FS.

III Any other business

53. There being no other business, the meeting ended at 10:55 am.

Council Business Division 1
Legislative Council Secretariat
12 December 2002