

立法會
Legislative Council

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by the Administration)

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Panel on Financial Affairs

Minutes of meeting
held on Monday, 6 June 2005 at 9:00 am
in the Chamber of the Legislative Council Building

- Members present** : Hon Bernard CHAN, JP (Chairman)
Hon Ronny TONG Ka-wah, SC (Deputy Chairman)
Hon Albert HO Chun-yan
Hon LEE Cheuk-yan
Dr Hon David LI Kwok-po, GBS, JP
Hon James TO Kun-sun
Hon CHAN Kam-lam, JP
Hon Emily LAU Wai-hing, JP
Hon Abraham SHEK Lai-him, JP
Hon Jeffrey LAM Kin-fung, SBS, JP
Hon Andrew LEUNG Kwan-yuen, SBS, JP
Hon CHIM Pui-chung
Hon Albert Jinghan CHENG
Hon TAM Heung-man
- Member attending** : Hon WONG Kwok-hing, MH
- Members absent** : Hon James TIEN Pei-chun, GBS, JP
Hon SIN Chung-kai, JP
Hon WONG Ting-kwong, BBS

**Public officers
attending**

: Agenda Item IV

Mr Henry TANG, GBS, JP
Financial Secretary

Mr KWOK Kwok-chuen, BBS, JP
Government Economist

Mr Martin GLASS, JP
Deputy Secretary for Financial Services and the Treasury
(Treasury)²

Mr Eddie YUE Wai-man
Executive Director (Monetary Management &
Infrastructure)
Hong Kong Monetary Authority

Miss Shirley YUEN
Administrative Assistant to Financial Secretary

Agenda Item V

Mr Martin GLASS, JP
Deputy Secretary for Financial Services and the Treasury
(Treasury)²

Mr CHOW Kwong
Assistant Commissioner (Administration and Excise)
Customs and Excise Department

Mr CHAN Juck-sum
Senior Treasury Accountant
Customs and Excise Department

Miss LAU Ming-sum
Chief Assessor (3)
Inland Revenue Department

Mr TSE Yue-keung
Chief Assessor (Profits Tax) C
Inland Revenue Department

Miss Christina YIM Wai-man
Acting Assistant Commissioner (Administration)
Rating and Valuation Department

Miss Elizabeth WONG Yau-yee
Senior Treasury Accountant (Accounting and Billing
Division)
Rating and Valuation Department

Agenda Item VI

Miss Amy TSE
Deputy Secretary for Financial Services and the Treasury
(Treasury)³

Mr Tommy YUEN Man-chung
Deputy Director of Government Logistics

Clerk in attendance : Miss Salumi CHAN
Chief Council Secretary (1)⁵

Staff in attendance : Ms Pauline NG
Assistant Secretary General 1

Ms Connie SZETO
Senior Council Secretary (1)⁴

Ms May LEUNG
Legislative Assistant

Agenda Item VI

Mr KAU Kin-wah
Assistant Legal Adviser 6

I. Confirmation of minutes of meeting

(LC Paper No. CB(1)1677/04-05 — Minutes of meeting on 4 April 2005)

The minutes of the meeting held on 4 April 2005 were confirmed.

II. Information papers issued since the last meeting

2. Members noted the following information papers issued since the last regular meeting held on 6 May 2005:

- (a) Proposal for deletion of six directorate civil service posts in the Hong Kong Monetary Authority (LC Paper No. CB(1)1516/04-05(01));
- (b) Letter dated 18 May 2005 from the Chief Executive of Hong Kong Monetary Authority enclosing a press release on the three refinements to the operation of the Linked Exchange Rate (LER) System (LC Paper No. CB(1)1585/04-05(01)); and
- (c) Information paper on “Establishment of the Deposit Protection Scheme” (LC Paper No. CB(1)1666/04-05(01)).

III. Date of next meeting and items for discussion

(LC Paper No. CB(1)1678/04-05(01) — List of outstanding items for discussion

LC Paper No. CB(1)1678/04-05(02) — List of follow-up actions)

3. Members agreed to discuss the following items at the next regular meeting of the Panel on Monday, 4 July 2005:

- (a) Proposed introduction of a new category of “travel insurance agents”; and
- (b) Rewrite of the Companies Ordinance.

4. On paragraph 3(a) above, members noted that the Administration would brief the Panel on the details of the proposal of a new category of “travel insurance agents”, its background, the responses from the insurance and travel industries to the proposal, and the proposed timetable for the implementation. As the subject matter fell within the purview of this Panel and the Panel on Economic Services (the ES Panel), it was agreed at the last meeting that the ES Panel be invited to hold a joint meeting with this Panel for discussing the subject. The Chairman informed members that the Chairman

of the ES Panel subsequently suggested that the subject be discussed by this Panel and members of the ES Panel be invited to join the discussion. Members had no objection to this arrangement.

5. As regards paragraph 3(b) above, members noted that the Administration would report to the Panel on the progress of the rewrite exercise of the Companies Ordinance. The Administration planned to submit the financial proposals relating to the rewrite exercise to the Establishment Subcommittee and the Finance Committee in due course.

6. Ms Emily LAU referred to the three refinements to the operation of the LER System introduced by the Hong Kong Monetary Authority (HKMA) on 18 May 2005 and suggested that HKMA be invited to brief the Panel at the next regular meeting on the details and impact of the refinements. Mr Abraham SHEK supported Ms LAU's suggestion. After discussion, members agreed that the item on "Briefing on the three refinements to the operation of LER System" be placed on the agenda for the next regular meeting and that the starting time of the meeting be advanced to 10:00 am.

(Post-meeting note: At the request of members and with the concurrence of the Chairman, the item on "Protection of credit cardholders' personal data" was subsequently added to the agenda for the regular meeting on 4 July 2005. The starting time of the meeting was advanced to 9:00 am.)

IV. Briefing by the Financial Secretary on Hong Kong's latest overall economic situation

(LC Paper No. CB(1)1645/04-05 — First Quarter Economic Report 2005 and the press release

LC Paper No. CB(1)1678/04-05(03) — Paper provided by the Administration

LC Paper No. CB(1)1678/04-05(04) — Background brief on "The use of the accumulated surplus of the Exchange Fund" prepared by the Legislative Council Secretariat

LC Paper No. CB(1)1708/04-05(01) — Motion on "Investment income of the Exchange Fund" passed at the Council meeting of 1 June 2005

LC Paper No. CB(1)1708/04-05(02) — Speech delivered by the Financial Secretary on "Investment income of the Exchange Fund" at the Council meeting of 1 June 2005)

7. The Chairman pointed out that given members' concern about the use of the accumulated surplus of the Exchange Fund (EF), the Financial Secretary (FS) was invited to discuss with the Panel on the subject. As agreed by FS, the subject would be discussed under this agenda item.

Briefing on the latest overall economic situation of Hong Kong

8. Upon invitation of the Chairman, the Government Economist (GE) briefed Members on the latest overall economic situation of Hong Kong, and the updated economic forecasts by the Government for 2005 as a whole. GE highlighted the following points:

- (a) The solid growth momentum of the Hong Kong economy continued into the first quarter of 2005, marked by sustained notable growth in consumer demand, renewed increase in investment, and a generally brisk export performance. The Gross Domestic Product (GDP) grew solidly further by 6% in real terms in the first quarter over a year earlier, following a strong growth of 8.1% in 2004 as a whole.
- (b) Total exports of goods attained notable growth at 9.2% in real terms in the first quarter of 2005. Exports of services attained a further notable growth at 8.6% as offshore trade continued to surge and inbound tourism was buoyant.
- (c) In the domestic sector, local consumer spending sustained solid growth in the first quarter of 2005 as consumer confidence held up well amidst the improvements in the job market and a strong property market. Private consumption expenditure went up further by 4.6% in real terms in the first quarter over a year earlier.
- (d) Overall investment spending reverted to a 2.2% increase in real terms in the first quarter of 2005, having temporarily suffered a 1.4% drop in the fourth quarter of 2004. Not only that investment in machinery, equipment and software resumed positive growth in the quarter, building and construction activities also turned around to a modest increase after nine straight quarters of fall-off.
- (e) The labour market improved notably further along with the economic upturn with total employment rising to an all-time high of 3.35 million in the first quarter of 2005. The seasonally adjusted unemployment rate fell to 6.1% in the first quarter, and further to a 41-month low of 5.9% in the three months ending April 2005. The underemployment rate held steady at 3.1% in the first quarter. Overall labour earnings remained soft in the fourth quarter of 2004, down by 0.6% in money terms (0.9% in real terms) over a year earlier.

- (f) The property market remained buoyant in early 2005. Flat prices rose further by an average of 7% in the first quarter of 2005. Flat rentals edged up steadily, by an average of 3% over the same period, following an average 6% increase in 2004.
- (g) Consumer price inflation had been running at a moderate pace in recent months. From a business cost perspective, rents had been rising but labour costs remained generally soft. The pace of upturn in the Consumer Price Index (CPI) continued to be kept down by the low housing cost due to the earlier fall-off in private housing rentals. The Composite CPI edged up by 0.4% in the first quarter of 2005 over a year earlier, following a 0.2% increase in the fourth quarter of 2004. Consumer price inflation remained modest in April 2005, at 0.5%.
- (h) While the economy performed well in the first quarter of 2005, the trade outlook was increasingly overshadowed by a number of risks in the external environment. The surge in oil prices had led to a regional slow-down and a general moderation in countries' import intake. The Mainland economy might settle back to a more moderate growth pace in the light of the government's recent tightening measures to cool down the overheated property market. Moreover, lately the United States (US) had taken steps to institute safeguard measures against seven categories of textile imports from China, and there was a risk that the European Union (EU) would follow suit. It was thus likely to see the negative impact on Hong Kong's export growth emerging more visibly in the coming months.
- (i) Along with the improvement in the labour market and a still generally upbeat sentiment, local consumption was expected to hold up well in the year. The opening of the Hong Kong Disneyland later this year should give a strong boost to inbound tourism and lift consumer sentiment further.
- (j) With the downside risks from the external front broadly balanced by the upsides from the domestic sector, the forecast GDP growth in real terms for 2005 was maintained at 4.5%-5.5% in the current update. As to the forecast consumer price inflation, the outturn so far was broadly in line with the earlier expectations. The forecast rate of change in the Composite CPI for 2005 was thus maintained at 1.5%.

Discussion

Economic development of Hong Kong

9. Mr Andrew LEUNG was pleased to note that Hong Kong's economy performed well in the first quarter of 2005. However, he expressed concern about the

risks in the external environment, such as recent disputes between the Mainland and the US and the EU over textiles exports from the Mainland and possible changes in the renminbi (RMB) exchange rate, and their impact on Hong Kong's economic growth.

10. Recognizing that the risks in the external environment would add uncertainties to Hong Kong's economic outlook, FS said that the Administration had been closely monitoring the development of the relevant issues and would take appropriate measures to address the problems where necessary. On the disputes about textile exports from the Mainland, FS was confident that the Mainland authorities would resolve the problem within the framework of the World Trade Organization. As regards possible changes in RMB exchange rate, FS said that while there was renewed speculation about appreciation of RMB, it was envisaged that the Mainland authorities would consider the need to introduce changes to the RMB exchange rate regime as and when appropriate, taking into account the practical economic situations in the Mainland. FS added that the impact of changes in RMB exchange rate on Hong Kong's economy would depend on the extent of the changes.

11. Mr Andrew LEUNG and Mr Jeffrey LAM pointed out that shortage of labour and energy in the Pearl River Delta (PRD) region had made it difficult for Hong Kong enterprises to operate in the region. Given that Hong Kong products could be imported to the Mainland tariff-free under the Closer Economic Partnership Arrangements (CEPA), Mr LEUNG and Mr LAM enquired about the measures to be taken by the Administration to attract Hong Kong enterprises which had already moved northward to return to Hong Kong.

12. In response, FS stressed that the Administration was committed to creating a more business-friendly environment by cutting red tapes and streamlining procedures, and to attracting new investments from Hong Kong and overseas enterprises. Views and suggestions from Members and the business community were welcomed to improve the Administration's work in this area. Given that the prices and rentals for industrial premises remained low in Hong Kong, FS believed that this should provide incentive for industrial undertakings to establish in Hong Kong.

13. To enable Hong Kong enterprises to capitalize on the opportunities created by CEPA, Mr Jeffrey LAM said that the business community had urged the Administration to consider relaxing the importation of skilled workers to Hong Kong. Given the relatively high unemployment rate in Hong Kong, FS said that the issue of whether the importation of skilled workers should be relaxed was controversial. While the Economic and Employment Council (EEC) had discussed the subject, a conclusion had yet to be reached. FS stressed that it was essential to obtain tripartite consensus among the employees, employers and the Government before any proposals could be implemented. In this connection, he called on the business community to join hands with the Administration to provide training and re-training opportunities for local workers to enhance their skills and competitiveness in meeting the needs of the development of the economy.

14. Noting that the growth in total export in early 2005 was mainly contributed by robust growth in re-exports of goods and exports of services, Mr CHAN Kam-lam expressed concern that the local manufacturing industries were not able to benefit from the growth. FS remarked that the PRD region, with the advantages of low-cost labour and cheap land, had emerged as the world's largest production factory. Such development had brought about the relocation of manufacturing processes to the Mainland, thus aggravating the unemployment problem of the workers with low education attainment or low level of skills in Hong Kong. To meet the challenges posed to this segment of the workforce, the Administration would continue to develop the tourism industry to promote employment in the sector and related industries. With a view to enhancing Hong Kong's competitiveness vis-à-vis the Mainland, the Administration would step up efforts to develop high-value added and creative industries in Hong Kong.

15. Mr CHAN Kam-lam pointed out that services industries in Hong Kong were also undergoing restructuring. He stressed the need for the Administration to remove unnecessary restrictions to facilitate the development of the industry. In response, FS advised that the subcommittees under the EEC were finalizing reviews of existing regulatory and licensing regimes for certain industries and would submit their reports to the EEC shortly.

16. Mr Albert HO enquired about the benefits of the growth of offshore trade activities on Hong Kong's economy, such as the impact on government revenue. GE pointed out that Hong Kong adopted a territorial source principle of taxation under which only profits arising in or derived from Hong Kong were taxed. Whether offshore trade activities carried out in Hong Kong were subject to profits tax was determined by the facts of individual cases. GE undertook to provide statistics quantifying the benefits of the growth of offshore trade activities on Hong Kong's economy.

17. On Government's work to promote structural economic adjustment in Hong Kong, Mr Albert HO was of the view that the Administration had not set clear objectives and formulated comprehensive policies and strategies to cater for the change. In order to facilitate the development of the knowledge-based economy, Mr HO considered it important for the Administration to continue making investments in education programmes to upgrade skills of the local work force, and to provide incentives for high-value added industries to develop in Hong Kong.

18. FS pointed out that increasing globalization and competition from the Mainland had impacts on Hong Kong's competitiveness and necessitated the economic re-positioning of Hong Kong. FS stressed that the Administration's broad principles in economic development were to leverage on the Mainland, reinforce Hong Kong's strengths and enhance competitiveness of its key industries. Hong Kong was already a major asset management centre in Asia. In 2003, total assets managed by the local fund management business amounted to over \$2,900 billion

with the majority sourced from overseas investors. In 2004, Hong Kong ranked third in the world in terms of capital raised. To enhance Hong Kong's position as an international financial centre, the Administration would further promote asset management business in Hong Kong with two major initiatives, namely the abolition of estate duty and exemption for offshore funds from profits tax. The relevant bill for implementing the former proposal was being studied by a bills committee of the LegCo. As regards the latter proposal, the Administration would introduce the relevant bill into the LegCo within the 2004-05 session. The Administration would continue to improve Hong Kong's business environment and regulatory regime, enhance corporate governance and market quality with a view to attracting more local and international investors, and further consolidating its position as an international capital formation centre. Recognizing the importance of talents to Hong Kong's economic development, FS said that the Administration would continue to invest heavily in education to upgrade human resources and meet the needs of Hong Kong in its transition to a knowledge-based economy.

19. On the development of high-value added and creative industries, FS pointed out that the Administration had been providing financial support to the Hong Kong Science and Technology Parks Corporation (HKSTPC) and universities for development projects in fields including information technology and creative media. To strengthen efforts in this area, the Administration would enhance the protection for intellectual property rights, provide funding to the HKSTPC and relevant parties for setting up a one-stop centre which aimed to encourage the creation and clustering of high value-added activities among design professionals and companies, and provide incubation services to these companies.

20. Mr LEE Cheuk-yan expressed concern that the interests of the workers with low education attainment or low level of skills, who accounted for the majority of the local work force, had not been taken care of in the economic restructuring process. He pointed out that the proposed measures to enhance Hong Kong's position as an international financial centre would have little direct benefit for the majority of local workers. FS re-iterated that during the economic restructuring process, the Administration would not lose sight of the needy in the community including the unemployed and the poor. To this end, the Administration would further promote the tourism industry so as to provide the workers with low education attainment or low level of skills with job opportunities.

21. Mr Ronny TONG enquired about how far the recent economic revival had helped address the fiscal deficit problem. FS said that while Government's revenue had increased and that the forecast GDP growth for 2005 was maintained at 4.5% - 5.5%, the actual impact of the economic revival on Government's financial position could be seen when the 2005-06 outturn was released in the Budget for 2006-07.

Measures to address the problems of unemployment and poverty

22. Noting that the unemployment rate for the construction sector stood at 15.4% for the first quarter of 2005 (Table 5.2 of the First Quarter Economic Report 2005), Mr WONG Kwok-hing expressed concern about the unemployment problem in the construction sector and enquired whether the Administration would consider expediting the implementation of public works projects to create jobs for the sector.

23. In response, FS re-iterated the Administration's commitment of setting aside an average of \$29 billion per year on capital works projects for the period up to 2008-09. However, he pointed out that as building projects in the private sector were more labour intensive than the infrastructural projects in the public sector, expansion in building activities in the private sector would be essential in resolving the unemployment problem in the construction sector. While the unemployment rate of the construction sector remained high, the situation had been improving as building and construction activities turned around to a modest increase in the first quarter of 2005 after nine straight quarters of fall-off. FS envisaged that buoyant development in the property market in recent months would contribute to further growth in building and construction activities, thus helping to address the unemployment problem in the construction sector.

24. Mr WONG Kwok-hing pointed out that despite improvement in the seasonally adjusted unemployment rate in recent months, unemployment rates for workers with low education attainment or low level of skills remained high. For example, the unemployment rates for "craft and related workers" and "workers in the elementary occupations" stood at 12.6% and 7.2% respectively in the first quarter of 2005 (Table 5.3 of the First Quarter Economic Report 2005). Overall labour earnings also fell by 0.6% in money terms (0.9% in real terms) in the fourth quarter of 2004 over a year earlier. Mr WONG was concerned that the majority of people in Hong Kong were not able to benefit from the economic recovery, and that workers with low education attainment or low level of skills were receiving very low wages. Mr Ronny TONG expressed similar concerns. He was also concerned that the poverty problem in Hong Kong had become worse. In this connection, he enquired about the reasons for the fall in the overall labour earnings in the fourth quarter of 2004.

25. On the overall labour market situation, GE said that notable improvement had been made with seasonally adjusted unemployment rate fell distinctly from 6.5% in the fourth quarter of 2004 to a 41-month low of 5.9% in the three-month period from February to April 2005 along the recent economic upturn. The improvement had been broad-based covering workers of different economic sectors, occupation categories, age groups and levels of education attainment. On the reasons for the fall in the overall labour earnings, GE pointed out that overall labour earnings might be influenced by a number of factors. For instance, the level might fall with the increase in the proportion of workers engaged in part-time jobs. Nevertheless, statistics revealed that since end of 2004, the declining trend had stabilized for workers in the middle and lower segments of the occupational hierarchy. Indeed, there was a recent upward trend in earnings and wages in the higher-skilled segment of the occupational

hierarchy and it was envisaged that the trend would extend to the lower segment in due course with continuous robust economic growth.

26. FS pointed out that increase in labour earnings and wages often lagged behind economic recovery. Nevertheless, since he was appointed as FS in August 2003, over 140 000 new jobs had been created. Total labour force also grew with the economic upturn as more workers re-entered the job market. The fall in the overall labour earnings might be the result of more employed workers engaging in part-time jobs.

27. To facilitate members' understanding of the phenomenon of the declined overall labour earnings in the fourth quarter of 2004, Mr Ronny TONG requested the Administration to provide the following information:

- (a) The relevant statistics for working out the overall labour earnings for the said period;
- (b) The reasons for the decrease in the overall labour earnings over the period (e.g. more workers engage in part-time work); and
- (c) In connection with item (b) above, to provide the average hourly wage rate of the part-time workers.

28. On measures to address the problems of unemployment and poverty, FS considered that promotion of economic development was the most effective way to tackle the problems. Apart from promoting economic development to create more jobs, the Government would continue to allocate resources to support various retraining and skill-upgrading programmes to enhance workers' competitiveness and help them to find jobs. For instance, the implementation of various youth employment and training programmes had been successful in easing the unemployment problem for the youth. As compared with other places which faced similar problems, such as Ireland, efforts of the Government in tackling the problems of unemployment and poverty had been effective as evidenced by the much lower unemployment rate in Hong Kong. FS added that the Administration had provided submissions to the United Nation (UN) on measures taken to address the two problems in Hong Kong and positive comments were received from the UN Secretary-General, Mr Kofi ANNAN. In this connection, Ms Emily LAU requested the Administration to provide the submissions to the UN and the related comments by Mr ANNAN for members' reference.

29. Mr WONG Kwok-hing and Mr LEE Cheuk-yan urged that the Administration should consider imposing minimum wages and maximum working hours to protect the interests of workers with low education attainment or low level of skills. In this connection, Mr Ronny TONG noted that the LegCo had started discussion with the Administration on the two issues since 1999 and that the new Chief Executive (CE) had agreed to further examine the issues. Mr TONG enquired about the Administration's timetable in following up the matter. FS stressed that given the

far-reaching impact of the issues on Hong Kong's economy, the Administration considered that it was of paramount importance to obtain tripartite consensus among employees, employers and the Government before introducing changes to the existing policy.

Impact of interest rate rises in the United States

30. Responding to Miss Mandy TAM's enquiry about the impact of the upward trend of interest rates in the US on Hong Kong's economic growth, FS remarked that a stable monetary environment would be conducive to economic growth in Hong Kong. FS said that with a view to enhancing monetary and financial stability in Hong Kong, HKMA introduced three refinements to the operation of the LER System on 18 May 2005. The exchange rate for Hong Kong dollar remained stable and the interest rate differential between the Hong Kong dollar and the US dollar narrowed after the implementation of the three refinements, thus helping to reduce risks of abrupt adjustments in Hong Kong dollar interest rates.

Impact of the development of the property market

31. Miss Mandy TAM expressed concern that the wealth effect created by the recent robust growth in property prices might increase the risk of a bubble market. FS said that the Administration had not seen a clear sign indicating the development of a bubble property market at the present stage. He assured members that the Administration would continue to monitor developments in the market.

32. Ms Emily LAU expressed concern about the drastic increase in rentals for retail shops, which had forced some small business to close. She also enquired whether the phenomenon revealed any imbalance in the demand and supply of commercial property in the market.

33. In response, FS said that the substantial increase in rentals for retail shops in recent months only happened in some districts. It reflected the normal operation of market forces and the Administration did not consider that there was any imbalance in the demand and supply of commercial property in the market. FS stressed that it was inappropriate for the Administration to intervene the operation of the market. GE supplemented that according to the statistics released by the Census and Statistics Department, notwithstanding the strong pick-up in rentals in major tourist shopping areas, such as Tsim Sha Tsui and Causeway Bay, the overall rental level of retail shops remained stable in recent months. As for rentals of residential property which was a major component of the Composite CPI, GE said that there was noticeable decrease in fresh letting housing rentals by 12% in 2003. However, there was moderate increase beginning from early 2004 and a notable year-on-year growth of 10% was recorded in the first quarter of 2005. It was expected that the gradual picking up in residential rentals would be reflected in the moderate rises in Composite CPI in 2005.

Admin

34. Ms Emily LAU clarified that she did not suggest that the Administration should intervene the operation of the market. However, she considered that rentals for retail shops had gone up to an unreasonable high level in recent months and that the revival of the property market had only benefited the large property developers. In this connection, Ms LAU urged that more information and analyses on the performance of the property market, including the movement in rentals for commercial and retail property and its impact on Hong Kong's economy should be included in the economic reports in future.

Use of accumulated surplus of the Exchange Fund

35. Ms Emily LAU and Mr LEE Cheuk-yan referred to the motion on investment income of the Exchange Fund (EF) passed at the LegCo meeting on 1 June 2005 urging the Administration to review the existing methodology for sharing EF's investment income and allocate more investment income to the Government. They expressed disappointment that despite Members' consensus on the subject, FS had not taken on board Members' views.

36. FS advised that Article 113 of the Basic Law provided that EF should be managed and controlled by the Government primarily for regulating the exchange value of the Hong Kong dollar. The Exchange Fund Ordinance (Cap. 66) provided that EF was under the control of FS and should be used primarily for affecting the exchange value of the currency of Hong Kong dollar and other purposes incidental thereto. EF also had a secondary and subsidiary role of maintaining the stability and the integrity of the monetary and financial systems in Hong Kong with a view to maintaining its status as an international financial centre. FS said that the Government began to transfer the fiscal reserves to EF in 1976 with the purposes of increasing investment returns of fiscal reserves and strengthening the resources of EF for maintaining the stability of the Hong Kong dollar. Before 1 April 1998, fiscal reserves placed with EF received fixed rate of investment return. In order to achieve a higher long term real rate of return for the fiscal reserves, the then FS decided that with effect from 1 April 1998, the annual rate of return of fiscal reserves placed with EF should be linked to the rate achieved by the entire EF.

37. On the motion passed at the LegCo meeting on 1 June 2005, FS pointed out that while Members were of the view that more investment income of EF and part of the accumulated surplus of EF should be transferred to the general revenue, there was no consensus among Members as to how the transferred income should be used. While some Members suggested that the EF's investment income should be used to finance more capital works projects, some suggested that it should be used for implementing more welfare programmes or tax reduction. FS stressed that while the investment return of the fiscal reserves placed with EF had been a source of income for the Government, the investment return of EF was volatile and unpredictable. The Administration therefore considered it inappropriate to contemplate making the transfer arrangements as suggested by Members at present.

38. Ms Emily LAU and Mr LEE Cheuk-yan considered that while Members had different suggestions on the use of the accumulated surplus of EF, it was clear that there was a consensus among Members that part of the accumulated surplus should be transferred to the general revenue. Ms LAU and Mr LEE urged FS to respect Members' consensus and seriously consider Members' views before deciding on the way forward. Ms LAU suggested that FS should discuss the subject with the new CE.

39. FS pointed out that there was no consensus between Members and the Administration on the subject. Re-iterating the Government's stance summarized in the last paragraph in his speech on the motion at the LegCo meeting on 1 June 2005, FS assured Members that the Administration would constantly review the arrangements of sharing EF's investment income with due regard to the needs of maintaining the resources of EF for safeguarding the stability of the Hong Kong dollar and ensuring a reasonable and stable investment return for the fiscal reserves. He stressed that the Administration would continue to maintain the fiscal discipline in managing public finance as enshrined in Article 107 of the Basic Law by keeping expenditure within limits of revenues and ensuring the effective use of the public financial resources.

(Post-meeting note: The information provided by the Administration in response to members' request mentioned in paragraphs 16, 27 and 28 above was issued to members of the Panel and non-Panel Members vide LC Paper No. CB(1)2013/04-05(01) on 8 July 2005.)

V. Proposal to revise fees and charges for services not directly affecting people's livelihood under the purview of the Treasury Branch
(LC Paper No. CB(1)1678/04-05(05) — Paper provided by the Administration)

Briefing by the Administration

40. At the Chairman's invitation, the Deputy Secretary for Financial Services and the Treasury (Treasury)2 (DS/FST(T)2) briefed members on the Administration's proposal to revise fees and charges for certain public services under the purview of the Treasury Branch of Financial Services and the Treasury Bureau (FSTB(TsyB)) which did not directly affect people's livelihood or general business activities. He highlighted the following points:

- (a) The Government had frozen most fees and charges since 1998 as an exceptional measure to alleviate the financial burden on the public in times of economic difficulty. In both the 2000-01 and 2004-05 Budget Speeches, the Financial Secretary indicated the need to resume the revision of government fees and charges, starting with those that did not directly affect people's livelihood or general business activities.
- (b) The Administration's current proposal was to revise 35 fees and charges under the purview of the FSTB(TsyB) that had little impact on the daily life of the general public or the running cost of general business activities. The relevant fee items were set out in paragraph 4 and Annex to the Administration's paper.
- (c) Costing exercises at the 2005-06 price level had been carried out to review the costs of the fee items. Based on the outcome of the costing review, 35 fees were proposed to be revised, with 30 increases and 5 reductions in the first year. The fees that were recovering at a rate below the full cost level were proposed to be brought to the full-cost recovery level gradually in accordance with the Government-wide general guidelines for fee increases as set out in paragraph 5 of the Administration's paper. For fee reductions, it was proposed to reduce the fees to the full cost level in one go. The proposed adjustments for the first year ranged from -44% to +20%. Details of the proposals were set out in the Annex to the Administration's information paper. If the proposed fees and charges adjustments were implemented, there would be a net decrease of revenue of about \$5.4 million in the first year.

Discussion

Fee adjustment proposals

41. Ms Emily LAU was pleased to note that as a result of the implementation of efficiency initiatives and the use of information technology, the Inland Revenue Department (IRD) and the Rating and Valuation Department (RVD) were able to reduce fees for five items in the range from 23% to 44% (items 27 to 30 and 34 in the Annex to the Administration's paper). However, she expressed concern about the proposed fee increases for 30 items in the range from 7% to 20% by the Customs and Excise Department (C&ED), RVD and FSTB(TsyB). Ms LAU enquired about the reasons for the proposed increases and the efforts made by the relevant departments in reducing their costs.

42. On the proposed increases for 26 fee items under the purview of C&ED, the Assistant Commissioner (Administration and Excise) of C&ED advised that existing fees for all of the items were below the full-cost recovery level. It was therefore proposed that the fees be increased gradually to achieve full-cost recovery in accordance with the Government-wide general guidelines for fee increases. He emphasized that C&ED had been streamlining its work procedures and conducting constant reviews on its licence fees. Indeed, in the 2001 fee adjustment exercise, the Department had reduced fees for two licences, namely the import and export licence from \$1,060 to \$950; and the special import licence from \$1,330 to \$950.

43. The Acting Assistant Commissioner (Administration) of RVD advised that the three fee items proposed for increases were related to provision of information in the Valuation List and Government rent roll, and handling of enquiries on rates and/or Government rent accounts. She explained that as these services involved comparatively more manpower support, there was not much room for enhancement in the use of information technology to achieve fees reduction in the services. Nonetheless, RVD would continue to review and streamline work processes.

44. As regards proposed fee reduction for four items under the purview of IRD, the Chief Assessor (3) of IRD advised that due to enhanced use of information technology, IRD was able to streamline work processes and reduce manpower requirements involved in providing the services. These efforts had resulted in substantial savings and room for reduction of fees.

45. Ms Emily LAU pointed out that it was the expectation of the general public that the Administration should exercise vigorous control on costs for provision of public services. She urged the Administration to strengthen its efforts in this area by enhancing the use of information technology with a view to creating more room for reduction of fees for public services. In reply, DS/FST(T)2 stressed the Administration's commitment to conducting costing exercises and fee reviews in regular intervals. However, he remarked that given the nature of some public services,

there might be lesser scope for application of information technology for lowering the costs in provision of the services.

46. Ms Emily LAU enquired whether the Administration had consulted the public on its current proposal. DS/FST(T)2 pointed out that the Government had been upholding the principles of “users pay” and “cost recovery” in revising its fees and charges. These principles, which served to ensure fairness and avoid undue burden on taxpayers, were accepted by the general public and reiterated in the Budget Speech. If the public wished to introduce changes to these principles, they were welcomed to forward their views to the Administration during the public consultation on the Budget.

Measures to contain costs for provision of public services

47. Miss Mandy TAM noted that the main reason for the proposed fee increases was to achieve recovery of costs for provision of the services. She enquired about the measures taken by the Administration to reduce or contain costs for providing public services so as to keep the increases in moderate level or reduce the pressure for fee increases.

48. DS/FST(T)2 advised that various bureaux and departments had been implementing efficiency initiatives, such as enhancing the use of information technology, reprioritizing service provision and streamlining procedures over the past years with a view to improving their efficiency. These efforts had led to a general de-layering in government processes and resulted in substantial lowering of the costs of providing certain services, thus providing room for reduction of some fees covered in the current proposal. DS/FST(T)2 stressed the Administration’s commitment to reducing and containing costs for provision of public services and assured members that the Administration would continue to identify savings in this area.

49. Noting that some of the fee items covered by the current proposal had not been revised for some years, Miss Mandy TAM expressed concern that these fees had been below or above the full-cost recovery levels for a long period of time. She enquired whether any mechanism was in place for revising fees of public services to ensure that their levels were up-to-date.

50. DS/FST(T)2 advised that it was the Administration’s policy to conduct full costs assessment of public services every four years and to adjust the level of fees and charges in line with inflation or deflation as the case might be during the intervening period. However, the moratorium on government fees and charges introduced since 1998 had suspended fee revisions in general. As a result, some of the fee items covered by the current proposal had not been revised for several years.

Revision of fees in other bureaux and departments

51. Mr CHAN Kam-lam indicated that the LegCo Members of the Democratic Alliance for Betterment and Progress of Hong Kong supported the current proposal in principle. He enquired about the Administration's timetable for conducting a comprehensive review of other fee items not covered by the current proposal.

52. In reply, DS/FST(T)2 advised that bureaux and departments conducted reviews of fees and charges for services on an on-going basis and were required to brief the relevant LegCo Panels on the results in good time. As for FSTB, the Financial Services Branch was actively scrutinizing the fees and charges revision proposals under its purview and would present the proposals to the Panel in due course. As regards other bureaux, DS/FST(T)2 undertook to provide information on their up-to-date position in conducting the review of fees and charges for services under their purviews and the timetable to brief the relevant Panels on the results of the review.

(Post-meeting note: The information provided by the Administration was issued to members of the Panel and non-Panel Members vide LC Paper No. CB(1)1967/04-05(01) on 4 July 2005.)

Conclusion

53. There being no other questions from members, the Chairman concluded that the Panel supported in principle the proposal of revising the fees and charges set out in the Annex to the Administration's paper.

54. Responding to Ms Emily LAU's enquiry, DS/FST(T)2 said that the Administration would proceed with the necessary amendments to implement the adjustments for the first year. He added that implementation of fee revisions for some of the 35 items involved amendments to subsidiary legislation subject to negative vetting of the LegCo. The Administration planned to arrange the tabling of the relevant amendments at the LegCo in the 2005-06 session.

VI. Proposal to write off a judgement debt

(LC Paper No. CB(1)1678/04-05(06) — Paper provided by the Administration)

Briefing by the Administration

55. At the invitation of the Chairman, the Deputy Director of Government Logistics (DD/GL) briefed members on the Administration's proposal to write off an irrecoverable debt owed to the Government by an auctioneer hired by the former Government Supplies Department (GSD) (now the Government Logistics

Department) to conduct commercial disposal of unserviceable or obsolete government stores and confiscated goods. He highlighted the following points:

- (a) The irrecoverable debt amounted to \$16,797,419.83 was owed to the Government by the Hong Kong Auctioneers and Estate Agency Ltd. (HKAEAL). The amount comprised a judgement sum of \$10,742,838.17, being principally the default payments of sale proceeds from disposal of unserviceable or obsolete government stores and confiscated goods, costs of action and interest of \$6,059,581.66, calculated up to 24 June 2005, less \$5,000 in contract deposit;
- (b) HKAEAL had been GSD's contracted auctioneer for the sale of unserviceable or obsolete government stores and confiscated goods since the 1970s. In 1996, HKAEAL was again awarded a contract for providing the service for two years from 1 April 1996 to 31 March 1998. The contract was subsequently extended for five months and expired on 31 August 1998. In August 1998, GSD discovered that of the 58 auctions conducted during the period of the contract from 1 April 1996 to 31 August 1998, HKAEAL had only reimbursed to the Government the proceeds from the first 43 auctions. The amount in default, inclusive of net sale proceeds and interest for late payments, was about \$15.8 million at the time;
- (c) A Deed of Settlement was concluded with the Managing Director (MD) of HKAEAL on 31 March 1999 with a schedule of payment for full settlement of the outstanding amounts. After making several repayments totalling \$6 million towards the debt, HKAEAL and the MD were unable to deliver further. The Administration instituted legal proceedings in the High Court for recovery of the remaining amount. In November 1999, the Court ordered that HKAEAL and its MD paid the Government the sum of \$10,742,838.17 plus interest from the date of judgement. The Court also awarded costs to the Government;
- (d) Due to failure of HKAEAL to settle the judgement debt ordered by the Court, a winding-up order was then made against the company in June 2000. The Official Receiver (OR) was appointed liquidator. Meanwhile, however, the MD left Hong Kong in February 2000 and had not returned since then. Upon the application of the OR, a Warrant of Arrest against the MD was granted by the Court in June 2000;
- (e) Investigations and searches were made to locate the MD, but all such attempts were futile. The Warrant of Arrest was discharged in March 2004. While the liquidation process had yet to be fully concluded, the OR had advised that it was unlikely that any dividends would be paid. The Administration therefore considered that the debt had become irrecoverable and should be written off;

- (f) GSD had conducted internal investigation into the case. The Independent Commission Against Corruption (ICAC) was also invited to look into the possibility of corruption. These investigations revealed that the case did not involve fraud or corruption but there were inadequacies in the performance of some staff in performing their duties. Formal disciplinary proceedings were instituted against a Senior Accounting Officer (SAO) and several other officers involved in the case. The relevant officers were punished having regard to the division of responsibilities and the degree of their involvement in the matter; and
- (g) For cases not involving fraud or negligence, the Financial Secretary (FS) was empowered under section 38 of the Public Finance Ordinance (Cap. 2) to write off losses of public moneys, stores, etc. without financial limit. For cases involving fraud or negligence, FS might only exercise his power of write-off subject to such conditions, exceptions and limitations the Finance Committee (FC) of the LegCo might specify. The current limit of delegated authority was \$500,000 in each case, or in respect of any one cause. Since staff negligence was involved in the current case and the amount exceeded the financial limit, the approval from FC to write off the irrecoverable debt was required. The Administration intended to seek FC's approval for writing off the debt at its meeting on 24 June 2005.

Discussion

Actions taken to recover the outstanding payments

56. Mr Albert HO pointed out that HKAEAL was the trustee for the auction proceeds and that the case involved theft of public moneys by the company, which was a criminal offence. He enquired why GSD had not referred the case to the Police when the default payment was discovered in August 1998.

57. DD/GL believed that the prime concern of GSD in August 1998 was to recover the default payment from HKAEAL as soon as possible. Indeed, GSD, after consulting the Department of Justice (DoJ), had negotiated with the company and subsequently concluded with its MD a Deed of Settlement in March 1999 for full settlement of the outstanding amounts in accordance with a schedule. However, after making payments totaling \$6 million, the auctioneer and the MD failed to deliver further. GSD through DoJ then instituted legal proceedings in the High Court for recovery of the remaining amount.

Admin

58. Mr Albert HO and Mr Ronny TONG were not satisfied with the Administration's response. They requested the Administration to confirm whether GSD had, before reaching the Deed of Settlement with the MD in March 1999, consulted DoJ on whether the default in payment by HKAEAL involved any criminal offence, and whether criminal proceedings should be instituted against the company or its MD. In this connection, Mr TONG requested the Administration to provide the advice given by DoJ on the matter. If GSD had not consulted DoJ, the Administration was requested to provide the reasons for having not done so.

Admin

59. Mr Ronny TONG pointed out that while HKAEAL had collected the auction proceeds for the Government, the proceeds were assets of the Government and not the company. Any proceeds owed by the company to the Government should be regarded as a liability of the company or its directors including its MD both under common law as well as under the Companies Ordinance (Cap. 32), instead of a debt. In this connection, whether the auctioneer had gone into liquidation was irrelevant because the Government was not its creditor. Mr TONG opined that the Government should take appropriate actions (including legal actions) to recover the proceeds, and should not seek approval to write off the sum involved unless all possible means had been exhausted. If the MD took away the proceeds, he should be held liable for the offence. The Government should pursue its tracing claim to recover the proceeds from the directors including its MD and consider whether criminal proceedings should be instituted against him. Mr TONG further requested the Administration to provide the advice given by DoJ on its legal rights. If GSD had not consulted DoJ in this regard, the Administration was requested to provide the reasons for having not done so. DD/GL undertook to provide written response to Mr TONG's views and questions mentioned above.

Admin

60. Given that the liquidation process in respect of HKAEAL had yet to be fully concluded, Miss Mandy TAM and Mr CHAN Kam-lam questioned whether it was appropriate to write off the debt at this stage. With the discharge of the Warrant of Arrest against the MD in March 2004, Mr CHAN was concerned whether the MD might return to Hong Kong and would be free from any liability (criminal or civil) for the case, and whether the Administration would conclude the case after seeking FC's approval to write off the debt and take no further action to recover the proceeds. In this connection, Mr CHAN requested the Administration to confirm what other legal actions the Administration would take to recover the proceeds, and if the MD was subsequently located in other jurisdictions, whether the Administration would make arrangement to extradite the MD back to Hong Kong.

61. DD/GL advised that the Administration had conducted investigations and searches to locate the MD and to search for his assets in countries where he had previous connections. However, all these efforts were in vain. The Administration had sought the OR's view on whether there would be assets from HKAEAL to satisfy the debt. As the OR had confirmed in writing that it was unlikely that any dividends would be paid, the Administration considered that the debt had become irrecoverable

Admin

and therefore proposed to write it off. As regards concern about the discharge of Warrant of Arrest against the MD, DD/GL said that it was a decision made by the Court. He undertook to provide written response to members' concerns raised in paragraph 60 above.

62. The Chairman enquired whether the proposed amount of debt to be written off should include interest (\$5,869,619.66 calculated up to 24 June 2005). In response, the Deputy Secretary for Financial Services and the Treasury (Treasury)3 (DS/FST(T)3) said that the amount of debt owed by HKAEAL to the Government was calculated in accordance with the terms of the contract entered with the auctioneer. The amount, which included the default proceeds, interest and costs of action, was a debt outstanding to the Government.

Remedial actions taken and responsibilities of the staff concerned

63. Mr Albert HO, Ms Emily LAU and Mr LEE Cheuk-yan were concerned whether there were loopholes in the accounting procedures relating to sale of government properties by auction and the requirements for GSD's staff to report to the senior management on the collection of proceeds from the auctioneer. They opined that there should be rules and procedures for the staff to report the payment of auction proceeds to the senior management and for the latter to monitor the payment situation of the auctioneer.

64. On the arrangement for collection of proceeds from HKAEAL, DD/GL said that according to the contract between GSD and the company made in 1996, the latter was required to collect the auction proceeds from successful bidders for the Government and reimbursed the sum after deducting the expenses incurred in an auction within 14 days after the auction. As regards concern about the reporting requirements on HKAEAL's payment of proceeds, DD/GL said that disciplinary proceedings against the SAO involved in the case revealed that he had not complied with the requirements of ensuring prompt collection of proceeds from the company and reporting late payments to the senior management of GSD.

65. Ms Emily LAU enquired about the details of the internal investigation conducted by the Administration on the case, including the responsibilities of the senior management of the GSD, and the disciplinary actions taken against the staff concerned.

66. DD/GL responded that formal disciplinary proceedings were instituted against the SAO who was punished with a severe reprimand, together with a fine equivalent to reduction in salary by two increments for 12 months and a caution of removal from the service in the event of further misconduct. In addition, several other officers who were involved, namely, one Accounting Officer I, one Principal Supplies Officer, two Chief Supplies Officers and one Senior Supplies Officer were given either verbal or written warnings having regard to the division of responsibilities and the degree of their involvement in the matter.

67. Upon further enquiry by Ms Emily LAU, DD/GL advised that the range of punishment that might be imposed under formal disciplinary action included reprimand, severe reprimand, financial penalty, reduction in rank, compulsory retirement, and dismissal. The disciplinary proceedings on the case had been undertaken in accordance with the established disciplinary procedures for the civil service. During the process, the staff concerned had been given opportunities to make representation on the misconduct they alleged to have committed and the right of appeal against the disciplinary decisions taken on them. The formal disciplinary proceedings had taken about a year to complete. DD/GL confirmed that the staff concerned had not appealed against the disciplinary actions and that all the actions had been implemented after the proceedings were concluded in May 2002.

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68. Ms Emily LAU and Mr LEE Cheuk-yan expressed concern about the role and responsibilities of the senior management of GSD in the case, including the then Director, Deputy Director of GSD and the immediate supervisor of the SAO concerned. They were concerned whether there were procedures and requirements for the concerned staff to report to the senior management of GSD on the payment of auction proceeds during the period from 1996 to 1998 when the default happened. They requested the Administration to provide information in this regard, as well as the date on which the problem was brought to the attention of the senior management, the reasons for the senior management being not able to identify the problem before then, and the remedial actions taken by the senior management for the case since the default was brought to its attention in 1998.

69. DD/GL said that the internal investigation on the case revealed that the default in payment involved proceeds from 15 auctions conducted by HKAEAL during the period from January to August 1998. DD/GL pointed out that according to the procedures in 1998, the Accounts Section of GSD, headed by the SAO concerned, was responsible for receiving payments from auctioneers. There were rules for the Accounts Section to ensure prompt collection of the proceeds and report problem of collection to the senior management. Indeed in 1996, the Accounts Section introduced a late payment clause to impose interest charge on the auctioneer's outstanding proceeds which had not been paid to the Government within 14 days of the relevant auctions. The SAO was primarily responsible for the failure in monitoring the receipt of the auction proceeds from the auctioneer and to apprise the senior management of the late payment situation. There had been no report of any problem in collection of proceeds before the late payment situation was brought to the attention of the senior management after the expiry of the contract with the auctioneer on 31 August 1998. DD/GL added that HKAEAL had been GSD's contracted auctioneer since the 1970s and that its performance had been satisfactory. This might have influenced the concerned SAO in handling the late payment problem. DD/GL advised that after the case was brought to the attention of GSD's senior management, they had taken immediate action to try to recover the debt, including referral of the case to DoJ for assessment and recovery action, to conduct internal investigation and to implement a number of measures to forestall recurrence. Both the internal

investigation and the investigation undertaken by the ICAC on the case did not reveal any problem relating to the senior management.

Admin

70. Mr LEE Cheuk-yan and Ms Emily LAU were not convinced of the Administration's response which implied that the senior management of GSD had no responsibility for the case. They requested the Administration to address their concerns and questions raised in paragraph 68, and confirm whether the Administration considered that there were inadequacies in the senior management in handling the case. Ms LAU further requested the Administration to provide the report of the internal investigation on the case, including the report(s) of the disciplinary proceedings taken against the civil servants involved in the case, the dates on which the disciplinary proceedings commenced and concluded, and the outcome of the investigation on the responsibilities of the senior management of GSD in the case, in particular the responsibilities of the then Director, Deputy Director and the immediate supervisor of the SAO concerned. DD/GL responded that as the internal investigation report involved personal data of the officers concerned, the Administration would consider to what extent the report could be disclosed.

Admin

71. Miss Mandy TAM enquired about the measures taken by the Administration to improve the existing arrangement relating to sale of government properties by auction and whether it would consider inviting the Director of Audit to recommend on improvement measures.

72. DD/GL advised that to avoid recurrence of the case, GSD had taken various improvement measures to guard against late payments. Between 1998 and 2002, the auctioneer was required to advise GSD of the gross auction value not later than one working day after the auction date, based on which the Accounts Section would immediately issue demand notes to the auctioneer for the gross sale proceeds. Demand notes outstanding by the due dates, if any, were immediately reported to the senior management and warning letters would be issued to the auctioneer in the event of late payments which could lead to termination of contract. No late payments by the auctioneer were found ever since. To further strengthen controls, GSD had taken over the auction function since November 2002. The auctions were now held with an auctioneer hired to provide the professional service of conducting the auction only. The auctioneer was no longer responsible for collecting any auction proceeds from the successful bidders who were required to pay the proceeds directly to the Government by 4:30 p.m. on the auction day. A release note was only issued to the successful bidders upon confirmation of receipt of the proceeds or upon clearance of the cheque.

Follow-up actions

73. Ms Emily LAU considered that the Administration had not provided sufficient information on the case for members to consider the proposal of writing off the judgement debt. She urged the Administration to withhold its plan of submitting the proposal to the FC on 24 June 2005 and requested the Administration to provide information addressing members' questions and concerns raised at the meeting. Members agreed that the Panel should further discuss the proposal in due course after the Administration had provided the supplementary information.

74. Responding to Ms Emily LAU's enquiry, DS/FST(T)3 confirmed that there was no urgency for the Administration to write off the debt.

(Post-meeting note: The Administration was invited to provide information requested by members in paragraphs 58, 60, 68 and 70 above and to respond to members' views and questions in paragraph 59 above.)

VII. Any other business

75. There being no other business, the meeting ended at 12:10 pm.

Council Business Division 1
Legislative Council Secretariat
24 August 2005