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Legislative Council

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Panel on Financial Affairs

Meeting on 1 December 2008

Background brief on the arrangement for seeking funds on account

Purpose

This paper provides background information and highlights certain issues in connection with the arrangement for seeking funds on account.

Background

2. Under section 7(1) of the Public Finance Ordinance (PFO), the Legislative Council (LegCo) may, in advance of an Appropriation Ordinance, by resolution authorizes expenditure for the services of the Government in respect of a financial year. Such a resolution is commonly known as the Vote on Account which covers expenditure to be charged to the General Revenue Account. Other expenditure charged to the Capital Works Reserve Fund and other Funds are not covered. The purpose of the resolution is to seek funding for the Government to carry on existing services from the start of the financial year on 1 April to the enactment of the Appropriation Ordinance¹ later in the same financial year.

3. As a long established practice, the funds on account sought under each subhead of expenditure are calculated in percentage terms by reference to the provision shown in the "draft" Estimates of Expenditure of each financial year, and determined in accordance with the percentages stipulated in the proposed resolution. Currently, except where there is a different percentage stipulated in the Schedule to the proposed resolution, the maximum percentage in respect of an Operating Account Recurrent subhead² is 20% and in respect of an Operating Account

¹ From 1975 onwards, the Appropriation Ordinance has normally been enacted in April or May each year. Hence, there is a need to provide funds on account to enable the Government to carry on existing services in the interim period prior to the enactment of the Appropriation Ordinance.

² Recurrent subheads cover regular payments, such as personal emoluments, operational expenses,

Non-Recurrent subhead or Capital Account subhead, 100%. For any head, the expenditure shall not exceed the aggregate of the amounts to be expended in respect of the subheads under that head. It is also stipulated in the proposed resolution that the Financial Secretary (FS) is empowered to vary the fund on account in respect of any subhead, provided that the varied amount does not exceed the provision shown in respect of that subhead in the "draft" Estimates of Expenditure. Under section 7(3) of PFO, upon the Appropriation Ordinance coming into operation, the expenditure charged on the general revenue pursuant to the Vote on Account resolution shall be set off against the amounts respectively provided in the Appropriation Ordinance.

4. When the House Committee considered the Government's motion on the proposed resolution under PFO to seek funds on account prior to the enactment of the Appropriation Ordinance 2008 at the meeting on 22 February 2008, Members observed that there was a significant increase in the amount of funds on account being sought³ and raised concerns about the funding formula and related arrangements. Members therefore decided to form a subcommittee to examine the proposed resolution to be moved by the Secretary for Financial Services and the Treasury (SFST) on 5 March 2008.

Issues relating to the arrangement for seeking funds on account

5. In principle, there is no objection on the part of Members to providing funds on account to enable the Government to carry on existing services prior to the enactment of the Appropriation Ordinance. Nevertheless, in the course of scrutiny, members have identified a number of issues which may have longer-term implications. They have therefore urged the Administration to look into these issues in connection with the future arrangement for seeking funds on account.

Scrutiny period

6. In the case of the Vote on Account for the 2008-2009 financial year, the Subcommittee had to carry out its work against an extremely tight time-frame from the formation of the Subcommittee on 22 February 2008 to the moving of the proposed resolution on 5 March 2008, bearing in mind that the Estimates of Expenditure 2008-09 were only tabled before LegCo on 27 February 2008. Members had only seven days to examine the proposed resolution with reference to the information presented in the Estimates. A comparative study has revealed that the time-gap between the gazettal of the Appropriation Bill and the passage of the Vote on Account resolution narrowed from 21 days in 1975 to 14 days between mid 1970s and the 1980s, and further to 12 days in the 1990s and seven days in recent years. This means that there was a longer scrutiny period between 1975 and 2001.

subvention and social security payments.

³ The total sum being sought for 2008-2009 was \$90,989,010,000 while the amount sought for 2007-2008 was \$55,269,264,000.

7. Members also recalled that at least from 1975 to about 1989, the "draft" Estimates of Expenditure were actually available when the Administration gave notice to move the Vote on Account resolution. For the 2008-2009 financial year, notice to move the Vote on Account resolution was given by SFST on 13 February 2008, while the Estimates of Expenditure 2008-09 were only tabled before LegCo on 27 February 2008. Members have noted from a comparative study that the governments of Canada and New Zealand introduce their respective bill on interim budgetary arrangement after tabling the "draft" Estimates of Expenditure to the legislature. The Administration was urged to review the current arrangement with a view to providing a longer scrutiny period.

Computation of the interim funding required

8. Under the existing arrangement, Members are not in a position to ascertain the details of the monetary amount of funds being sought under the Vote on Account, and the purpose/nature of the expenditure in respect of the subheads until the Estimates of Expenditure have been tabled. To enhance transparency and facilitate consideration, there was a suggestion that the amount of funds on account should be calculated on the basis of the "approved" Estimates of the current year as in the case of the practice adopted by the United Kingdom and Australia. However, it is noted that pursuant to section 7(2) of PFO, expenditure charged on the General Revenue under the resolution has to be arranged in accordance with the heads and subheads shown in the Estimates of Expenditure of the following financial year. Besides, making reference to the approved Estimates of Expenditure may not accurately reflect the funding requirement arising from changes such as government reorganization in the new financial year.

9. The appropriateness of the existing funding formula has also been examined. The 20% funding formula for recurrent items has been relaxed over the years to cover all Operating Account Recurrent subheads, i.e. inclusive of funding for new posts in both directorate and non-directorate ranks. As regards non-recurrent expenditure subheads, there has been a change from seeking funds on account in respect of approved commitments to the current practice of seeking funding for 100% of the provision for all non-recurrent expenditure subheads which also include provisions to meet funding for initiatives under planning. According to the Administration's explanation, due to the irregular and lumpy nature of the Non-recurrent and Capital Account subheads, 100% of their provisions as shown in the draft Estimates was sought. Given that not all the new initiatives are to be implemented during the initial months of a new financial year, there is a suggestion for the Administration to consider seeking funds on account for only those urgent or essential non-recurrent items, instead of applying the 100% funding formula invariably on all non-recurrent subheads.

Use of funds on account

10. On the legal aspect, the Administration has clarified that FS is not required to seek FC's approval for expenditure of the funds on account in accordance with PFO after the passing of the resolution and before the enactment of the

Appropriation Ordinance, except where he proposes to make any change to the expenditure approved under the resolution. By virtue of section 7(2) of PFO, the estimates approved under a resolution are regarded as though they were the approved estimates of expenditure. Hence, section 8 of PFO is applicable and FC's approval is required for any change to the aforesaid "approved" estimates.

11. On concerns that the Administration may bypass FC and utilize the funding from subheads under Head 106 Miscellaneous Services if provision has already been included as "Additional commitments" under the relevant subheads to fund new/planned initiatives, the Administration has confirmed that the expenditure cannot be charged to Head 106 direct. Instead, the Administration will need to transfer the required funding from Head 106 to the respective heads and subheads. Hence, the approval of FC is required for such changes.

12. It has been noted that for years, a Vote on Account resolution normally includes a provision which empowers FS to vary the fund on account in respect of any subhead provided that the varied amount does not exceed the provision shown in respect of that subhead in the Estimates. Question has been raised about the need for and appropriateness of such an empowering provision as it may in effect render the percentage terms set out in the proposed resolution meaningless.

Subsequent development

13. During the debate on the motion on the Vote on Account resolution moved by SFST at the Council meeting on 5 March 2008, Members reiterated the concerns and suggestions put forth by the Subcommittee. In addition, there was a view that the Administration should examine the arrangement for interim funding to cater for the scenarios that the Chief Executive refuses to sign an Appropriation Bill, or that LegCo votes down the Appropriation Bill.

14. In response to concerns raised by the Subcommittee, the Administration has undertaken to consider the following suggestions and revert to the Panel on Financial Affairs at an appropriate time before the next financial year of 2009-2010:

- (a) to make reference to evolving past practice and critically review the existing arrangement for seeking funds on account, including the suggestion of giving notice to move the motion on the Vote on Account resolution after the Estimates of Expenditure for the coming financial year have been laid before the Council, and including in the proposed resolution as far as practicable information on the subheads for which funds on account are being sought;
- (b) to review the existing funding formula; and in respect of non-recurrent expenditure subheads, to consider seeking funds on account for urgent or essential items only and to examine whether a funding proportion of lower than 100% should be adopted;

- (c) to provide more detailed information on the background, purpose and effect of the clause in the Vote on Account resolution relating to FS's power to vary the funds on account in respect of any subhead and to consider the need or otherwise to retain the clause in future resolutions.

Latest position

15. The Administration will consult the Panel at its meeting on 1 December 2008 on arrangement for the Vote on Account Resolution for the 2009-2010 financial year.

References

16. A list of relevant papers is in the **Appendix**.

Council Business Division 1
Legislative Council Secretariat
26 November 2008

Appendix

Arrangement for seeking funds on account

List of relevant papers

Committee	Paper	LC Paper No.
Meeting of House Committee on 22 February 2008	❖ Minutes of meeting (paragraphs 44 to 58) http://www.legco.gov.hk/yr07-08/english/hc/minutes/hc080222.pdf	CB(2)1198/07-08
Meetings of Subcommittee on Proposed Resolution under Section 7(1) of the Public Finance Ordinance (Cap.2) on 29 February and 3 March 2008	❖ Administration's paper on the Proposed Resolution http://www.legco.gov.hk/yr07-08/english/hc/sub_leg/sc06/papers/sc060229cb1-925-1-e.pdf ❖ Proposed resolution to be moved by the Secretary for Financial Services and the Treasury under the Public Finance Ordinance (Cap.2) http://www.legco.gov.hk/yr07-08/english/hc/papers/hc0222cb3-387-e.pdf ❖ Background brief of the Subcommittee http://www.legco.gov.hk/yr07-08/english/hc/sub_leg/sc06/papers/sc060229cb1-926-e.pdf ❖ Administration's supplementary information to the Subcommittee http://www.legco.gov.hk/yr07-08/english/hc/sub_leg/sc06/papers/sc060229cb1-950-1-e.pdf	CB(1)925/07-08 (01) CB(3)387/07-08 CB(1)926/07-08 CB(1)950/07-08(01)

Committee	Paper	LC Paper No.
	<ul style="list-style-type: none"> ✧ Administration's response to issues raised at the meeting on 29 February 2008 http://www.legco.gov.hk/yr07-08/english/hc/sub_leg/sc06/papers/sc060303cb1-959-1-e.pdf ✧ Fact Sheet on the Provision of Funds on Account in Hong Kong prepared by the Research and Library Services Division http://www.legco.gov.hk/yr07-08/english/sec/library/0708fs14-e.pdf ✧ Minutes of meeting on 29 February 2008 http://www.legco.gov.hk/yr07-08/english/hc/sub_leg/sc06/minutes/sc060229.pdf ✧ Minutes of meeting on 3 March 2008 http://www.legco.gov.hk/yr07-08/english/hc/sub_leg/sc06/minutes/sc060303.pdf ✧ Report of the Subcommittee http://www.legco.gov.hk/yr07-08/english/hc/papers/hccb1-981-e.pdf 	CB(1)959/07-08(01) FS14/07-08 CB(1)1126/07-08 CB(1)1165/07-08 CB(1)981/07-08
Meeting of House Committee on 29 February 2008	<ul style="list-style-type: none"> ✧ Minutes of meeting (paragraphs 18 to 22) http://www.legco.gov.hk/yr07-08/english/hc/minutes/hc080229.pdf 	CB(2)1262/07-08

Committee	Paper	LC Paper No.
Council Meeting on 5 March 2008	<ul style="list-style-type: none"> ✧ Speech by the Secretary for Financial Services and the Treasury moving the vote on account resolution http://www.legco.gov.hk/yr07-08/english/hc/papers/hc0222cb3-387-e.pdf ✧ Footnote to the speech by the Secretary for Financial Services and the Treasury moving the vote on account resolution http://www.legco.gov.hk/yr07-08/english/hc/sub_leg/sc06/papers/sc060229cb1-925-2-e.pdf ✧ Hansard of Council Meeting on 5 March 2008 (pages 84 to 94) http://www.legco.gov.hk/yr07-08/chinese/counmtg/floor/cm0305-confirmed-ec.pdf 	CB(3)387/07-08 CB(1)925/07-08(02) --