

立法會
Legislative Council

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Finance Committee of the Legislative Council

Minutes of the 2nd meeting
held at the Legislative Council Chamber
on Friday, 8 November 2002, at 2:30 pm

Members present:

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

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

Members absent:

Dr Hon David LI Kwok-po, GBS, JP
Hon LEUNG Yiu-chung
Hon Timothy FOK Tsun-ting, SBS, JP

Public officers attending:

Mr Frederick MA Si-hang, JP	Secretary for Financial Services and the Treasury
Mr Alan LAI Nin, JP	Permanent Secretary for Financial Services and the Treasury (Treasury)
Mr Stanley YING, JP	Deputy Secretary for Financial Services and the Treasury (Treasury)

Mr Thomas TSO, JP	Deputy Secretary for Housing, Planning and Works (Planning and Works)
Mr K K LAM	Principal Executive Officer (General), Finance Bureau
Mr Matthew CHEUNG Kin-chung, JP	Permanent Secretary for Economic Development and Labour (Labour)
Mrs CHOR CHAN Chui-yuk Jennie, JP	Assistant Commissioner for Labour
Mr M Y CHENG, JP	Assistant Director of Education

Clerk in attendance:

Ms Pauline NG	Assistant Secretary General 1
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Staff in attendance:

Miss Polly YEUNG	Chief Assistant Secretary (1)3
Mr Matthew LOO	Senior Assistant Secretary (1)3
Ms Caris CHAN	Senior Legislative Assistant 1
Mr Frankie WOO	Legislative Assistant 2

Action

The Chairman informed members that after the four items on the agenda had been dealt with, he would invite the Administration to give a short briefing on the arrangements relating to the preparation of the 2003-04 Budget. In this connection, the Secretariat had issued a circular to notify members of the meeting arrangements and the papers which should be brought along for the discussion. Members noted that the Secretary for Financial Services and the Treasury (SFST) and his colleagues were in attendance to answer members' questions on the subject.

Item No. 1 - FCR(2002-03)38

**RECOMMENDATION OF THE ESTABLISHMENT
SUBCOMMITTEE MADE ON 23 OCTOBER 2002**

2. Mr CHEUNG Man-kwong said that Members of the Democratic Party (DP) supported the present proposal in principle as it was in line with the agreement reached by Legislative Council's Cross Party Coalition that proposals for the creation of directorate posts should not incur any net increase in the overall directorate establishment of the civil service. However, they were gravely concerned about the bloated directorate structure of the Housing

Department (HD) with as many as over 20 posts at Assistant Directorate level and the little effort the Housing, Planning and Lands Bureau (HPLB) had made in streamlining the staffing structure. He noted that for the purpose of the current proposal, of the six posts to offset the creation of the new permanent posts, three were to come from the savings from the re-organization of the Housing Branch (HB) and HD. However, as revealed in the recent proposal about the re-organization, after discounting the three posts to offset the current proposal, the net number of directorate posts deleted from the reorganization was only one. Although he was informed that more directorate posts would be deleted in the second stage of the re-organization exercise, this second stage would not be completed until end 2003. Mr CHEUNG was not satisfied with the pace of the exercise as he considered the over-staffing problem at the directorate level of HD very serious and not compatible with the objective to streamline government structure in the context of the accountability system. He therefore strongly urged the Administration to expedite the second stage of the re-organization in order to further trim down HD's directorate establishment. Mr James TIEN said that Members of the Liberal Party (LP) supported Mr CHEUNG's views and asked the Administration to take heed of members' views.

3. In response, the Deputy Secretary for Housing, Planning and Lands (Planning and Lands) (DS(PL)) said that work on the second stage of the reorganization had already commenced. Although this work was scheduled for completion by end 2003, the Administration would put up its proposal for members' consideration as soon as it was finalized. While HPLB could identify the directorate posts for deletion in the first stage of the re-organization exercise, it was not possible at present to ascertain the exact number of directorate posts which could be further reduced in the subsequent stage. DS(PL) supplemented that among the six permanent directorate posts to be deleted to offset the creation of six permanent directorate posts in the present proposal, only three came from the proposed amalgamation of the HB and HD while the other three were deleted from the establishment of Lands Department and Planning Department.

4. Mr CHEUNG Man-kwong remarked that the arrangement would further prove his criticism that far too few directorate posts were deleted in the context of the proposed amalgamation of HB and HD. He asked to put on record his strong request for SHPL to expedite the organizational review of HB/HD and to submit details of the second stage of the streamlining exercise for members' consideration as early as possible.

5. Ms Emily LAU concurred with Mr CHEUNG Man-kwong's views. Notwithstanding the Cross Party Coalition's agreement to freeze the size of the directorate establishment of the civil service, Ms LAU pointed out that there were as many as 1 400 directorate posts in the civil service and hence, there was still plenty of room for downsizing the directorate establishment in the

context of the proposed amalgamation of bureaux and departments. She also called on members to urge the Administration to critically review and trim down its directorate establishment.

6. The Committee approved the proposal.

Item No. 2 - FCR(2002-03)39

**RECOMMENDATIONS OF THE PUBLIC WORKS
SUBCOMMITTEE MADE ON 16 OCTOBER 2002**

7. The Committee approved the proposal.

Item No. 3 - FCR(2002-03)40

LOAN FUND

NEW HEAD "PROTECTION OF WAGES ON INSOLVENCY FUND"

- ♦ **New Subhead "Bridging loan to Protection of Wages On Insolvency Fund Board"**

8. Members noted that the Panel on Manpower had been consulted on the present proposal on 31 October 2002.

9. Mr CHEUNG Man-kwong said that he would support the proposed bridging loan to the Protection of Wages on Insolvency Fund (PWIF) Board in the interest of workers who were owed wages by their insolvent employers. However, he was gravely concerned that the PWIF was being abused by unscrupulous employers who deliberately defaulted payment of wages in the winding-up process. Referring to the offence provisions under sections 273 and 275 of the Companies Ordinance (Cap.32), Mr CHEUNG enquired whether the Administration had enforced the said provisions and prosecuted any person for defrauding creditors (including employees who were owed wages) in the winding-up process.

10. In response, the Permanent Secretary for Economic Development and Labour (Labour) (PSL) pointed out that PWIF provided a safety net to workers who were owed wages by insolvent employers. On concerns about possible abuse, PSL assured members that a stringent vetting mechanism was in place for processing applications for ex-gratia payment from PWIF. Only 88% of the applications were screened in to be qualified for assistance. Moreover, the approved payments for such cases represented only 64% of the claimed amount. On enforcement action taken against company directors and directors of insolvent companies, PSL referred to the supplementary information note (issued vide LC Paper No. CB(2)314/02-03(01) dated 8 November 2002)

provided by the Administration in response to concerns raised at the Manpower Panel meeting and highlighted the prosecution action taken out by the Official Receiver's Office (ORO) and the Commercial Crime Bureau (CCB) of the Police, as well as the disqualification of directors by the Court on application by ORO. However, he confirmed that no prosecution had been taken out against directors for breaches of sections 275 and 273 of the Companies Ordinance due to a lack of sufficient evidence.

11. On new measures to step up monitoring so as to safeguard against abuse of the PWIF, PSL informed members that it had been agreed with ORO, the Labour Department (LD), CCB and representatives from the seven leading insolvency practitioners in the private sector that all departments concerned should strengthen cooperation and follow up proactively any signs of suspected deception or fraud. PSL further explained that vigorous prosecution against wage offences could help reduce recourse to and liability on the PWIF. In the first 10 months of 2002, LD had taken out 158 summonses as compared to 66 for the same period last year. In the month of October 2002 alone, a total of 20 summonses had been taken out as compared to only eight in October 2001. Apart from prosecution, LD had also mounted a promotion campaign in the form of TV and radio messages to encourage early reporting of non-payment of wages. Visits had been paid to all the 2 500 active construction sites in Hong Kong to remind workers of their rights and the need to lodge complaints early.

12. Mr CHEUNG Man-kwong remained deeply concerned about the lack of deterrence against unscrupulous employers or company directors for abusing the PWIF as no prosecution had ever been taken out under sections 273 and 275 of the Companies Ordinance. He also questioned the efficacy of the disqualification orders made by the Court as a disqualified director might easily find a family member to take up directorship of a company. In response, PSL reiterated that prosecution under sections 273 and 275 could only be proceeded with upon sufficient evidence. Nevertheless, apart from the aforesaid provisions imposing criminal liability, CCB of the Police had prosecuted 45 company directors for deception, theft and fraud since 2001. Another 98 cases were currently under investigation.

13. Mr Andrew CHENG Kar-foo shared Mr CHEUNG Man-kwong's concern and asked whether the Administration had any plan to review sections 273 and 275 of the Companies Ordinance with a view to introducing the necessary amendments to enhance their deterrent effect. He also requested the Administration to report the outcome of its review to the Panels on Financial Affairs and Manpower in due course. PSL said that in considering how best to further prevent possible abuse of the PWIF, the Administration intended to consult the Department of Justice on the adequacy of both sections in questions. SFST said that the Administration would follow up Mr CHENG's suggestion.

Admin

14. On whether CCB of the Police would adhere to the current arrangements and handle only those cases involving \$5 million or above, PSL informed members that a Senior Superintendent of CCB had been designated as the subject officer to whom the PWIF Board could refer suspected cases of deception/theft/fraud. Notwithstanding the current arrangements, the Senior Superintendent could initiate investigation into cases involving less than \$5 million if such cases were of a complex or serious nature.

15. Mr HUI Cheung-ching expressed support for the present proposal but urged the Administration to take action to safeguard against abuses. Ms Emily LAU and Mr Abraham SHEK also stressed the need to step up enforcement actions and guard against abuse of the Fund.

16. Mr James TIEN considered that the existing PWIF was subject to abuse by both unscrupulous employers and employees. He was particularly concerned about collusion by both employers and employees to obtain payment from the Fund and the lack of enforcement and prosecution to deter such malpractice. Mr Kenneth TING urged that employees who obtained payment from the PWIF by deceptive means should also be prosecuted. He also referred to overseas cases in which certain employees deliberately inflated their salaries prior to the company's winding-up with a view to filing a larger claim against the company.

17. In response, PSL agreed fully with the need to safeguard against abuse of the PWIF. Nevertheless, he said that collusion by both employers and employees, if any, was rare. Very often, employees who were owed wages had not lodged a complaint early for fear of losing their jobs or jeopardizing the employer/employee relationship.

18. Mr Andrew WONG enquired whether LD or the Police would take action upon receipt of complaints that the employer was in the course of removing the company's valuables or assets pending the commencement of winding-up proceedings. In reply, PSL advised that LD would make the necessary referral upon receipt of such complaints. CCB of the Police would take action if theft was committed. He stressed that each case would be followed up in the light of its circumstances.

19. Mr LEE Cheuk-yan highlighted the predicament of employees who were owed wages by their insolvent employers and the importance of PWIF as their safety net. On wage offences, Mr LEE referred to the difficulty in prosecuting wage offences under the Employment Ordinance as the Prosecution had to prove that the employer concerned had committed the offence "wilfully and without reasonable excuse". In response, PSL advised that conviction had been secured for about 80% of the wage offences prosecuted by LD. Regarding the standard of proof, apart from the employee giving evidence in court as the prosecution witness, it would be for the

defendant employer to prove any reasonable excuse on his part. PSL said that given the complexity of employer/employee relations, it would be necessary to provide in law a defense for the defendant before an offence could be substantiated. In this connection, the Chairman advised that issues relating to enforcement of the Employment Ordinance should be raised at the Manpower Panel, if members so wished.

20. Miss CHAN Yuen-han stressed that PWIF was a safety net for workers who were owed wages by insolvent companies. Whilst expressing support for the proposed bridging loan, Miss CHAN recapped that she had handled some cases earlier on involving IT companies which had strong back-up support from their overseas parent companies. These companies had taken advantage of the loopholes of the existing system to evade payment of wages and other statutory entitlements to their employees who ultimately had to approach the PWIF for assistance. Miss CHAN said that she had reflected her concerns about intentional abuse of the Fund to LD and the former Financial Services Bureau. She urged the Administration to critically review the current arrangements under the PWIF vis a vis related legislation such as the Companies Ordinance with a view to plugging possible loopholes. PSL took note of her concerns for consideration.

Admin

21. In reply to Ms Emily LAU's enquiry about the number of applications for payment from the PWIF, PSL advised that the number of applications in July and August 2002 was 4 181 and 2 102 respectively. The figure eased off to 1 711 and 1 795 in September and October 2002 respectively. PSL said that the estimated number of applications at 25 000 for 2002 was still on the high side as compared to the average yearly figure of 13 500. Hence, it was necessary to seek members' approval for the proposed bridging loan. On the 14 000 outstanding applications, PSL advised that under LD's existing performance pledges, an application had to be processed within 10 weeks from the filing of a bankruptcy/winding-up petition. Ms LAU considered that the Administration should expedite the processing of applications so as to provide timely assistance to affected workers.

22. Referring to the increase in new applications, Mr Tommy CHEUNG Yu-yan remarked that the substantial increase recorded between June and August 2002 was mainly attributable to the collapse of the Treasure Restaurant Group involving 2 100 employees. In this regard, PSL pointed out that the number of applications up to end October 2002 reached 19 435. When compared to the 14 499 applications received during the same period last year, the figure for 2002 represented a 34% increase. He said that the forecast 25 000 applications for 2002 was already a very conservative estimate.

23. Regarding Ms Emily LAU's query about the offsetting arrangements relating to the Mandatory Provident Fund (MPF) and whether workers would be disadvantaged, PSL clarified that payment from PWIF was ex-gratia and

was not meant to cover a worker's statutory entitlements in full. Payment which could be made from PWIF included outstanding wages, wages in lieu of notice and severance payment (SP) up to a certain maximum limit. The average payment a worker could receive under PWIF was about \$30,000. As regards the offsetting arrangement, it was stipulated in the Mandatory Provident Fund Schemes Ordinance that the SP paid by an employer could be offset against the employer's MPF contributions. According to the Administration's estimate, as the MPF contributions built up, some \$50 million in SP payable under the Fund could be met by MPF savings.

24. As an employee of an insolvent employer could claim up to four months' outstanding wages from PWIF, Mr Tommy CHEUNG asked whether consideration would be given to lowering the amount of outstanding wages payable from the Fund so as to encourage employees to report default payment of wages early, thus reducing the liability on PWIF for payment of outstanding wages.

25. Mr Kenneth TING remarked that the PWIF had all along been funded by employers by way of the Business Registration Certificate (BRC) levy. He shared Mr Tommy CHEUNG's view about lowering an employee's entitlement under the PWIF so as to reduce pressure on the Fund.

26. In response, PSL recapped that when the PWIF was first set up in 1985, the amount of outstanding wages payable from the Fund was \$8,000. The amount was raised to \$18,000 in 1993, and further increased to four months' wages or \$36,000 whichever was the less in February 1996. PSL cautioned that any proposed downward adjustment of the employee's entitlement under the Fund must be handled with great care, especially amidst the current economic climate. He nevertheless added that stringent vetting and enforcement measures were equally important. Both the Administration and the PWIF Board would closely monitor the operation of the Fund.

27. Referring to the increase in BRC levy from \$250 to \$600 per annum effective from May 2002, Mr Tommy CHEUNG asked whether the Administration had any plan to lower the levy to its original level. Mr Kenneth TING also did not agree with the increase in BRC levy as this was not conducive to creating a favourable business environment.

28. In response, PSL confirmed that in consulting the Manpower Panel early this year on increasing the BRC levy to \$600, the Administration had undertaken to review the level of BRC levy in one year's time. He pointed out that the proposed bridging loan of \$695 million would only be drawn down by instalments as and when necessary by 31 March 2006. Moreover, interest would be charged against the loan from the drawdown date at the Government's "no-gain-no-loss" interest rate which currently stood at 3.125%. He assured members that the Administration would review the need for adjusting the BRC

levy in future years in the light of the financial situation of the PWIF.

29. Mr James TIEN said that Members of LP had grave reservation over the existing mechanism whereby all employers alike had to pay a BRC levy of \$600, thus resulting in good employers subsidizing bad employers when the latter became insolvent. He considered the present arrangements unreasonable.

30. Referring to the cashflow projection of the Fund from 2002-03 to 2015-16 in Enclosure 1 to the paper, Mr TIEN queried the appropriateness of maintaining the level of BRC levy at \$600 throughout the projection period as the number of insolvencies might taper off if Hong Kong's economy picked up over time. He stated his view that the Administration should set a target level of accumulated funds in the PWIF and would only consider increasing BRC levy if the funds fell below the target level. Mr Tommy CHEUNG shared Mr TIEN's view.

31. In response, PSL said that it might not be practicable to set a target level of accumulated funds as suggested but pointed out that the Administration had already taken into account possible economic upturn in future years when making the cashflow projection. PSL reiterated the undertaking that both the Administration and the PWIF Board would keep the financial situation of the PWIF under constant review and confirm the way forward by 2006. The level of BRC levy would be adjusted where circumstances so permitted. The Administration would keep the Manpower Panel posted of developments.

Admin

32. Mr Abraham SHEK expressed support for the present proposal but questioned the need to seek approval for the new commitment of \$695 million in one go. In response, PSL confirmed that it was necessary to seek funding approval for the proposed bridging loan in its entirety. He nevertheless stressed that the loan would only be drawn down as and when necessary.

33. Regarding Mr Abraham SHEK's enquiry about the liability of the principal contractors for outstanding wages owed to workers of their subcontractors, PSL clarified that under the Employment Ordinance, principal contractors were vicariously liable for up to 60 days' wages owed to workers of their subcontractors. Regarding the payment of wages by direct employers, PSL advised that non-payment of wages seven days after the payment due date amounted to an offence under the Employment Ordinance. Upon conviction, the maximum penalty was \$200,000 and one year's imprisonment. Regarding concerns about the subcontracting system characteristic of Hong Kong's construction industry, PSL informed members that the Provisional Construction Industry Co-ordination Board was currently looking into the problems under the existing subcontracting system.

34. Drawing on the concept of collective insurance, Mr James TO queried the fairness of requiring all employers alike to pay BRC levy at the same rate of \$600 without differentiating the level of risk such as the number of employees employed. Referring to sections 273 and 275 of the Companies Ordinance, Mr TO pointed out that there were similar provisions under the Bankruptcy Ordinance which dealt with insolvency of individuals. He recalled that prosecution had been taken out under comparable provisions in the Bankruptcy Ordinance and queried why no prosecution had been taken out under sections 273 and 275 of the Companies Ordinance. He urged the Administration to review the relevant legislative provisions. Mr TO also opined that the tripartite relationship between employers, employees and the PWIF should be examined carefully as the arrangements for one party would likely impact on the other parties. In this connection, the Chairman advised that related policy issues should be pursued at the relevant Panel(s) if members so wished.

35. Mr Eric LI did not dispute the need to replenish the PWIF. However, he could not accept the current arrangement of seeking funding approval before reviewing the operation of the Fund. In his opinion, the PWIF was a relatively generous scheme by international standard. However, since the Fund had experienced serious cashflow problems for quite some time, Mr LI considered that under prudent accounting practice, the Administration should have reviewed the situation well in advance. He also cast doubt on whether the increase of BRC levy to \$600 per annum would have the effect of restoring the financial viability of the PWIF, given that overseas companies might no longer wish to register in Hong Kong due to high operating costs and numerous other requirements in the pipeline. Summing up, he said that he could not support the present proposal.

36. In response, PSL re-affirmed that the operation and financial situation of PWIF was subject to ongoing review. He also reiterated the Administration's commitment to strengthening safeguards against abuses.

37. The Committee approved the proposal. Mr Eric LI requested that his objection and views be recorded.

Item No. 4 - FCR(2002-03)41

HEAD 40 - EDUCATION DEPARTMENT

- ◆ **Subhead 300 Code of Aid for primary schools**
- ◆ **Subhead 305 Code of Aid for secondary schools**
- ◆ **Subhead 320 Code of Aid for special schools**

38. Members noted that the present proposal had been discussed by the Panel on Education on 28 October 2002.

39. Mr CHEUNG Man-kwong expressed concern about the impact of the reduction in the rates of Operating Expenses Block Grant (OEBG) on the salaries of administrative/clerical staff and janitors employed by aided schools. He pointed out that prior to the introduction of OEBG in the 2000-01 school year, the administrative/clerical staff were generally employed on the understanding or expectation that their future salary adjustment would follow that of the civil service. However, since the level of OEBG was adjusted annually in accordance with movements in the Composite Consumer Price Index (CCPI), the administrative/clerical staff and janitors in aided schools might have downward salary adjustment while their civil service counterparts had upward or zero adjustment. He considered the current arrangements unsatisfactory and urged the Administration to streamline the salary discrepancies through the review of the OEBG scheduled for completion in early 2003. Furthermore, Mr CHEUNG also remarked that the downward adjustment of OEBG had affected student-related activities and pointed out that some aided schools had reduced subsidies for extra-curricular activities such as student exchange programmes with the Mainland during Christmas holiday.

40. Mr CHEUNG Man-kwong said that the present proposal had put Members of DP in a dilemma. On one hand, they found it difficult to support any downward adjustment in the rates of OEBG. On the other hand, aided schools would have to cope with a downward adjustment of OEBG by 3.3% instead of the recommended 1.65% for the 2002-03 school year if the Finance Committee (FC) rejected the present proposal. Members of DP had therefore decided to abstain from voting.

41. In response, Assistant Director of Education (AD of E) said that the constituent grants of OEBG comprised a wide range of items for different types of schools. They covered 56 items for secondary schools, 25 items for primary schools, and 37 items for special schools. For most schools, about half of OEBG was for purchasing daily commodities the price adjustments of which could be reflected in CCPI while the remaining portion was spent on salaries and hiring of services. Hence, the Administration considered the current mechanism of adjusting OEBG in accordance with the movements of CCPI which was approved by FC in May 2000 an appropriate arrangement. AD of E further advised that having considered the salary-related constituent in OEBG and the problems faced by some aided schools in coping with a downward adjustment of OEBG by 3.3% in the 2002-03 school year, the Administration had put up the present proposal to adjust the rates of the OEBG downwards by 1.65% only and to defer the remaining 1.65% downward adjustment to later years by not making any upward adjustments in the grant rates until the outstanding reduction is fully offset.

42. Mr CHEUNG Man-kwong did not fully subscribe to the existing adjustment mechanism for OEBG rates in accordance with the movements of

CCPI. He pointed out that each constituent of CCPI would have its own weight in the calculation of CCPI and the movements in the price level of some of these constituents might not directly reflect the expenditure incurred by school operations. Noting that the Administration would conduct a review of OEBG, Mr CHEUNG asked to put on record his request for the Administration to devise an adjustment mechanism for OEBG which could take into account the expenditure pattern of schools. He also reiterated his request that the review should also address the issue of linking the salary adjustment of administrative/clerical staff and janitors working in aided schools to the civil service salary adjustment.

43. Mr LEE Cheuk-yan pointed out that the existing arrangement might easily force the school management to reduce the salaries of their administrative/clerical staff and janitors in order to meet shortfalls in other areas. He noted that some aided schools had reduced the salaries of their administrative/clerical staff and janitors by the same rates of downward adjustments in OEBG in successive years since 2001-02. On the top of these downward adjustments, some school management had further reduced the salaries of these staff according to the recent civil service salary adjustments or changed the terms of employment to contract terms to allow more flexibility in the use of fund. Mr LEE considered that employees had been disadvantaged. He asked whether the Administration would consider in the review to link salary adjustment of administrative/clerical staff and janitors working in aided schools to civil service salary adjustment.

Admin

44. Taking note of members' concerns, AD of E re-affirmed that the present proposal had taken into account the salary-related constituent in OEBG and the downward adjustment of only 1.65% was already a relief measure for aided schools. As regards the adjustment mechanism, AD of E said that the Administration would examine the accounts and expenditure patterns of aided schools and study whether CCPI was an appropriate reference for OEBG adjustments. The Administration would consult the relevant Panel upon completion of the review and seek the approval of FC if necessary.

45. Mr Tommy CHEUNG supported the present proposal which sought to defer the 1.65% downward adjustment of OEBG. He considered that as the rates of OEBG would be adjusted upwards during inflation, it would only be reasonable that the rates be adjusted downwards at times of deflation. He also said that the existing arrangement had provided greater funding flexibility to facilitate school-based management as schools might retain unused funds for up to 12 months' provision.

46. The Committee approved the proposal.

DISCUSSION SESSION -

Planning process in relation to the 2003-04 Budget

47. Having dealt with the four items on the agenda, the Chairman said that the Committee would proceed to discuss with the Administration the arrangements relating to the preparation of the 2003-04 Budget. He referred members to LC Paper No. FC9/02-03(01) and invited SFST to give members a brief introduction on the subject.

48. SFST highlighted the usual processes involved in the submission to LegCo of the annual estimates of the revenue and expenditure of the Government, including the internal Resources Allocation Exercise (RAE) to make tentative allocation of resources to directors of bureaux; consultation with LegCo Members and the public on expenditure and revenue proposals; the detailed work to reflect final expenditure proposals for existing and new activities in the Estimate of Expenditure, and finalization of revenue proposals. The Administration would follow this broad procedure every year with some adjustments to suit changing needs. For the RAE this year, the "envelope" approach was adopted under which an envelope of operating expenditure was allocated to each director of bureau who was given the flexibility to deploy resources among his various policy areas when preparing the Estimates of Expenditure. All directors of bureaux were crucial in the process. They would consult stakeholders including LegCo Members, and work with their Controlling Officers in determining how to direct resources according to their priorities.

49. Mr LEE Cheuk-yan expressed strong objection to the "envelope" approach and considered it unfair to require all directors of bureaux to achieve savings of 1.8% in operating expenditure on existing or new services for 2003-04 under their portfolios, and a further reduction of 1% in each of the following three financial years. He noted that on top of 1.8% savings, some departments such as the Leisure and Cultural Services Department might also need to bear an annual recurrent expenditure of around \$200 million arising from new capital projects. Noting that RAEs conducted in the past comprised three parts, namely, baseline review, "baseline-plus forecast" and allocation of uncommitted new money, Mr LEE was concerned whether uncommitted new money would be available for allocation for the coming financial year to fund the new initiatives proposed in the Policy Address.

50. In response, SFST pointed out that the "envelope" approach was one of the measures to contain the government's operating expenditure in the light of the serious deficit problem. The Administration considered it a good financial arrangement to request bureaux/departments to bear the recurrent expenditure arising from new capital projects as this would call for greater prudence on their part when putting up new proposals. In fact, some directors

of bureaux had already put up some constructive measures to effectively re-deploy resources in their envelope of operating expenditure. SFST also assured members that the 1.8% reduction was only an indicative figure for individual bureaux to explore how savings could be achieved. The Financial Secretary (FS) would review the overall financial situation and consider problems faced by individual bureaux/departments in the formulation of the 2003-04 Budget. SFST further advised that the availability or otherwise of uncommitted new money could not be confirmed at this early stage of preparing for the 2003-04 Budget.

51. Miss Cyd HO did not support the "envelope" approach which seemed to have shifted the responsibility for tackling the deficit problems onto the directors of bureaux. While considering that savings could be achieved by suspending certain projects of no urgency such as the New Identity Card Project, she was concerned that the 1.8% reduction in operating expenditure should not be applied across the board such as in the policy areas of medical services and education. She was of the view that the 1.8% reduction should be subject to variation in the light of the needs for different bureaux/departments and enquired whether funds would be available for new initiatives announced in the Policy Address. Miss HO also stressed the need for the Administration to canvass the community's views on how limited resources would be used to meet the needs of the public.

52. SFST responded that the role of FS was similar to the financial controller of a company responsible for overseeing the company's financial soundness. Directors of bureaux should be in a better position to understand and allocate resources to meet the respective needs of the policy areas under their purview. The "envelope" approach would in fact provide them greater flexibility in the overall deployment of resources. SFST also advised that the Administration had expended much resources to welfare services, medical services and education. Notwithstanding budgetary constraints in recent years, the Administration would continue to attach great importance to these policy areas. SFST also reiterated that the availability or otherwise of uncommitted new money for new initiatives in the Policy Address could only be confirmed at a later stage.

53. In connection with baseline funding, the Deputy Secretary for Financial Services and the Treasury (Treasury) (DS(Tsy)) supplemented that it had always been the government's financial management philosophy that baseline funding was not sacrosanct. The Government should not take baseline funding for granted, and always ask for additional resources to implement new initiatives. Some forms of baseline review had been a part of the Government's Resource Allocation Exercise. Through measures such as Enhanced Productivity Programme (EPP) in the past three years, bureaux/departments had been requested to achieve savings amounting to 5% of their baseline expenditure. The savings thus achieved were pooled for

central reallocation and this arrangement might not meet the imminent need of some policy areas. However, under the "envelope" arrangement, the savings achieved by individual bureaux on their operating expenditure could be retained by the bureaux concerned to fund new initiatives.

54. Mr Fred LI was concerned about the interface between the Policy Address and the 2003-04 Budget. He referred to the diagram illustrating the Government's annual financial cycle (Appendix I to LC Paper No. FC9/02-03(01)) and sought the Administration's explanation on the changes to be implemented for the coming Budget as a result of re-scheduling the delivery of the Policy Address from October 2002 to January 2003. Ms Emily LAU shared Mr LI's concern and pointed out that FS would only have less than three months to finalize the Budget after Chief Executive (CE) delivered the Policy Address in January 2003. In this regard, she recapped that the Committee on Rules of Procedure (CRoP) had studied this issue recently, and the Administration had indicated their intention to deliver the Policy Address in January each year in future. Ms Emily LAU took the view that the expenditure and revenue consultations conducted by FS would only be meaningful if Members were aware of the policy priorities set by CE in his Policy Address.

Admin

55. Regarding the diagram illustrating the financial cycle, DS(Tsy) said that the diagram was extracted from "Practitioner's Guide: Management of Public Finance" published by Finance Branch in 1995 and included in the paper prepared by the Secretariat for members' background information. At Mr Fred LI's request and with regard to his concern about how the planning of the Budget would interface with the Policy Address, DS(Tsy) undertook to update the diagram in question. SFST added that the arrangements for the Policy Address for 2004 and afterwards had not yet been confirmed. He also advised members that CE would frequently discuss different policy issues with the Chief Secretary for Administration (CS), FS and other Bureau Secretaries, and FS would convey Members' views to CE. Nevertheless, SFST undertook to convey members' concerns about the interface between the Policy Address and the Budget to CE and FS for consideration.

Admin

56. Noting that the CE's consultation plan for the 2003 Policy Address had not been confirmed, Ms Emily LAU and Miss Margaret NG queried whether the consultations conducted by FS were deemed to serve the dual functions of soliciting views on the Policy Address and the Budget. In response, DS(Tsy) advised that while he was not in a position to provide firm comments, he noted that as stated in paragraph 13 of the Administration's paper submitted to CRoP recently, the "annual Policy Address is related to the budgetary process, to the extent that the Policy Address contains measures with expenditure or revenue implications for the Budget. The Financial Secretary has begun his consultations with LegCo Members on their proposals for the Budget. The CE has also planned to meet LegCo Members to enlist their

Admin views on the coming Policy Address". SFST undertook to convey members' enquiries on the consultation arrangement for the Policy Address to CE.

57. In response to Mr Fred LI's enquiry about the "Star Chamber", DS(Tsy) advised that the Star Chamber was originally set up to review the baseline expenditures of bureaux/departments. SFST said that for the 2002 Resource Allocation Exercise, such discussions involved CE, CS, FS, Secretary for the Civil Service and SFST.

58. The Committee was adjourned at 4:30 pm.

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