

立法會
Legislative Council

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(These minutes have been
seen by the Administration)

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Finance Committee of the Legislative Council

**Minutes of the 10th meeting
held at the Legislative Council Chamber
on Friday, 25 April 2003, 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
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 Bernard CHAN, JP
Hon CHAN Kam-lam, JP
Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP
Hon LEUNG Yiu-chung
Hon SIN Chung-kai
Hon Andrew WONG Wang-fat, JP
Hon WONG Yung-kan
Hon Jasper TSANG Yok-sing, GBS, JP
Hon Howard YOUNG, JP
Dr Hon YEUNG Sum

Hon YEUNG Yiu-chung, BBS
Hon LAU Kong-wah
Hon LAU Wong-fat, GBS, JP
Hon Miriam LAU Kin-ye, JP
Hon Ambrose LAU Hon-chuen, GBS, 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 Fred LI Wah-ming, JP
Hon CHAN Kwok-keung
Hon CHAN Yuen-han, JP
Hon LAU Chin-shek, JP
Hon Emily LAU Wai-hing, JP
Hon Timothy FOK Tsun-ting, SBS, JP

Public officers attending:

Mr Frederick MA Si-hang, JP	Secretary for Financial Services and the Treasury
Mr Stanley YING, JP	Deputy Secretary for Financial Services and the Treasury (Treasury) 1
Mr Stephen IP, GBS, JP	Secretary for Economic Development and Labour

Mr Matthew CHEUNG, JP	Permanent Secretary for Economic Development and Labour (Labour)
Ms Eva CHENG, JP	Commissioner for Tourism
Mr Raymond YOUNG	Deputy Secretary for Commerce, Industry and Technology (Commerce and Industry)
Mr Edmond LAU	Principal Assistant Secretary for Financial Services and the Treasury (Financial Services)
Mr TSANG Kin-woo, JP	Assistant Commissioner for Labour
Mr Philip CHOK, JP	Deputy Secretary for Education and Manpower
Mr Tony CHENG	Principal Assistant Secretary for Education and Manpower

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 Joey LO	Assistant Secretary (1)1
Ms Caris CHAN	Senior Legislative Assistant 1
Mr Frankie WOO	Legislative Assistant 2

Action

Item No. 1 - FCR(2003-04)6

**Head 157 – GOVERNMENT SECRETARIAT :
ECONOMIC DEVELOPMENT AND LABOUR BUREAU
(LABOUR BRANCH)**

◆ Subhead 700 General other non-recurrent

New Item “Loan Guarantee Scheme for Severe Acute Respiratory Syndrome Impacted Industries”

Members noted that the Administration had briefed the Panel on Financial Affairs on the package of relief measures, including the present proposal, to help the community tide over the difficulties in the wake of the outbreak of the Severe Acute Respiratory Syndrome (SARS) at the Panel meeting on 23 April 2003.

2. As the FCR paper was only tabled at the meeting, the Chairman invited the Secretary for Economic Development and Labour (SEDL) to briefly introduce the salient points in the financial proposal for the benefit of those

members who had not attended the briefing. SEDL highlighted that members' approval was being sought for a commitment of \$3.5 billion for the Government to provide guarantee under a loan guarantee scheme for four sectors which were most badly hit by SARS to enable them to effect payment of wages to employees.

Scope of the proposed Loan Guarantee Scheme

3. Whilst expressing support for the Loan Guarantee Scheme (the Scheme), Ms Miriam LAU pointed out that there were far more SARS-impacted industries than the four industries included under the current proposal. Referring to the transport trade, Ms LAU highlighted the hardship of schoolbus and nanny van operators whose business had been at a stand-still since the Administration's decision to suspend classes in late March 2003. Taxis, vessels plying between Hong Kong and Guangdong Province and tour launches (both Western and Chinese styles) also experienced a sharp drop in business. Ms LAU urged the Administration to consider extending the scope of the proposed Scheme to include transport operators in addition to waiving the relevant licence fees. She also called on the Administration to explore other measures to help the trade tide over the current difficulties such as exploring the feasibility of special mortgage arrangements for taxis/vans with banks and finance companies. She also suggested that the Administration should consider abolishing the \$18 passenger embarkation fee so as to boost patronage of the vessels.

4. In response, SEDL said that it would not be possible to extend the scope of the Scheme to cover all trades impacted by SARS. As far as the taxi trade and other transport modes were concerned, other forms of relief measures were available, such as relaxation of the general stopping restrictions. He pointed out that it would be more appropriate for individual bureaux to work out industry specific relief measures to address specific problems. Regarding Ms Miriam LAU's concern about the hardship faced by operators of schoolbuses and nanny vans, SEDL undertook to refer the matter to the Secretary for the Environment, Transport and Works and the Secretary for Education and Manpower for further consideration.

Admin

5. Mr LEE Cheuk-yan questioned the criteria for selecting the four sectors in question and urged that schoolbus operators should also be eligible for assistance as the drop in their business was directly attributable to the Government's decision to suspend classes. He considered that the \$3.5 billion earmarked for the Scheme would still be sufficient even if extended to schoolbus operators given their small employment size. Mr LEE also reiterated his suggestion that employers who had been granted loans under the Scheme should be prohibited from requiring their employees to take no-pay leave.

Admin

6. Dr LAW Chi-kwong and Mr LEUNG Yiu-chung were of the view that schoolbuses, kindergartens and nurseries should be included under the Scheme as their loss in income was a direct result of the Government's policy decision to suspend classes. Dr LAW further said that many parents would not pay school fees to the kindergartens and nurseries as classes were suspended in the past month or so. In response, SEDL took note of members' concerns for further consideration in conjunction with the relevant bureau(x).

7. Noting that the declared objective of the Scheme was to provide immediate cashflow relief to industries badly hit by the outbreak of SARS, Mr Frederick FUNG considered that assistance should be granted as long as a particular industry could prove that its business had been hard hit by the outbreak of SARS, instead of limiting such assistance to four sectors only. Mr FUNG also urged the Administration to negotiate with the utility companies for one-off concessions on electricity and gas charges.

8. SEDL recapped the Financial Secretary's remarks when announcing the package of relief measures and said that apart from the currently proposed Scheme which had a defined scope and objective, he would be prepared to discuss with property developers/landlords and utility companies on possible concessions to help affected industries tide over difficult times. He nevertheless stressed that the fundamental solution to the current crisis lied in the success in controlling the SARS disease.

9. Mr LAU Ping-cheung expressed support for the present proposal. He nevertheless pointed out that even before the outbreak of SARS, the unemployment rate in the construction industry stood at about 15.6%. He urged the Administration to consider extending the Scheme to cover the construction industry as well.

10. Mr NG Leung-sing supported the Scheme in principle and was concerned whether the Administration had any plans to expand the scope of the Scheme on an incremental basis to provide assistance to needy industries. Mr YEUNG Yiu-chung and Mr MA Fung-kiok was also of the view that the Administration should consider expanding the scope of the Scheme where necessary.

11. While stating his support for the present proposal, Mr CHAN Kam-lam referred to the downturn in business of the restaurants in Lei Yue Mun. As some of them had already laid off their employees, the Scheme might be of little help to these restaurants. To alleviate their hardship, Mr CHAN asked whether financial assistance under the Scheme could be used to pay utility bills and whether the loan size should cover six, instead of only three, months of an applicant's salary payment. He pointed out that seafood stalls in Lei Yue Mun had also suffered as a result of the poor business of the restaurants and enquired whether assistance could be extended to these stalls.

12. In response, SEDL noted Mr CHAN's concern about Lei Yue Mun being a popular tourist attraction. He reiterated the objective of the Scheme which was to help save employment opportunities in the four designated sectors, instead of offering a comprehensive solution to all their problems. As salaries accounted for about 30% of a restaurant's operating expenditure, the Administration believed that the Scheme had struck a balance between the needs of employers and the Government's financial constraints. He believed that this was the right approach under which both the Government and the employers would join effort in tackling the current difficulties.

13. Mrs Selina CHOW agreed with the need to target the Scheme at those industries most hard hit by SARS. She was nevertheless concerned that the Scheme might not be able to benefit small retailers as their cashflow problems might not be due to the need to pay salaries. She urged the Administration to keep track of small retailers and consider allowing them to use part of their loans to defray other operating expenses. Mrs CHOW also drew the Administration's attention to the difficulty faced by estate agents due to the sharp fall in property transactions after the outbreak of SARS. As salaries formed a major component of the agents' operating expenditure, Mrs CHOW urged the Administration to monitor the situation and provide assistance where appropriate.

Admin

14. SEDL undertook to closely monitor the operation of the Scheme, and stressed that while the Scheme had its defined purposes and scope, the Administration would make the best endeavour to assist other industries through other appropriate measures.

15. Mr SIN Chung-kai said that Members of the Democratic Party would not object to the present proposal. However, it appeared to him that only those sectors which were represented in the legislature had been included under the Scheme. Other affected establishments such as licensed massage parlours would not qualify for assistance. Mr SIN asked whether the Administration would consider expanding the scope of the Scheme on a need basis from time to time and seek the Finance Committee's approval accordingly. In response, SEDL pointed out that the Scheme served a specific purpose and had a defined scope. Revising its scope from time to time would change the nature of the Scheme in question.

16. Mr SIN Chung-kai and Mr James TO questioned the rationale for including only cinemas and karaokes under the category of entertainment industries. In this connection, the Deputy Secretary for Commerce, Industry and Technology (Commerce and Industry) (DS(CI)) confirmed that due to resources constraints, the Scheme could only target at selected industries. The business of most cinemas and karaokes had experienced a sharp drop as customers tended to avoid going to these places amidst the fear of SARS

infection. Although the Administration had not conducted any comprehensive study into the needs of different sectors of the entertainment industries, DS(CI) said that the views of relevant trade associations and the general patterns of local consumption had been taken into account. Mr James TO requested the Administration to consider reducing the licence fees of karaokes and cinemas to relieve the financial burden of these establishments.

Assistance under the Scheme

17. Given the large employment size of hotels, Mr James TIEN conveyed the view of the industry that the proposed guarantee ceiling of \$1 million for each application should be raised. In response, SEDL was aware that the Scheme might not be able to meet the needs of the four sectors in full. However, having taken into consideration all relevant factors, the Administration believed that the Scheme would be effective in providing the necessary relief.

18. Referring to the nature of the catering trade, Mr Tommy CHEUNG asked whether the salaries payable by the holding company to managerial/supervisory staff responsible for overseeing the operation of several chain outlets would be covered under the Scheme. He also sought confirmation on whether the Scheme would cover the salaries payable in cash to casual workers for whom the employers had to make contributions to the Mandatory Provident Fund Scheme (MPFS).

19. In reply, SEDL said that where a statement of the employer's contributions to MPFS was available to prove the employment relationship, the Scheme would be applicable to the salaries of these employees. The Secretary for Financial Services and the Treasury (SFST) also confirmed that statements of the employer's contributions to a recognized retirement scheme set up under the Occupational Retirement Schemes Ordinance (Cap.426) could also serve as documentary proof of the employment relationship. For casual workers, consideration could be given to effecting the payment of wages by cheque. To facilitate administration of the Scheme and vetting of applications by the lending institutions, whether an applicant entity would qualify for assistance under the category of restaurants would mainly be determined by the type of licence it held. Regarding self-employed persons, SFST advised that if the self-employed person concerned ran a business and held a valid Business Registration Certificate, he would be eligible to apply for assistance under the Scheme.

20. Mr Howard YOUNG reported that travel agents on the whole welcomed the Scheme. Referring to the practical difficulties faced by travel agents and noting that the Government would enter into an agreement with each participating lending institution (PLI), Mr YOUNG asked whether certain flexibility would be provided to enable the applicants to use the loan amount to

meet other operating expenses such as payment of rent to the landlord direct and making contributions to MPFS.

21. In response, SFST confirmed that as loans granted under the Scheme must be used for payment of staff salaries, it was undesirable to build in too much flexibility, lest the administration of the Scheme would be hampered. On the availability of more detailed information for the guidance of applicants, SFST informed members that more detailed guidelines on application for assistance under the Scheme would be made available to the PLIs on 2 May 2003 and application would be open from 5 May 2003.

Eligibility criteria

22. In reply to Mr Bernard CHAN 's enquiry on the eligibility criteria relating to the loss of business, SFST explained that under the Administration's initial proposal presented to the Panel on Financial Affairs, applicants would need to submit to lending institutions clear statements confirming, inter alia, loss of at least 30% business in March this year as compared with the monthly average of the previous six months. However, after further consultation with the banking sector, the Administration had decided to change the reference month from March to April in order to reflect more realistically the drop in business. As feedbacks had also indicated that applicants might have difficulty in making available the requisite documentary proofs for the past six months, the Administration had shortened the reference period to three months to facilitate the processing of applications within a tight timeframe of seven days. SFST further confirmed that no handling fees would be charged by PLIs under the Scheme.

23. In reply to some members' enquiry about the requirement of "no double borrowing", SEDL clarified that under the said requirement, the applicant could not apply for the same loan at two or more lending institutions.

24. Mr Tommy CHEUNG enquired about the entitlement of karaokes under the Scheme as some karaokes held a General Restaurant Licence while some held a Club Licence. In response, SEDL advised that the nature of business of the establishment would be determined with reference to the type of business as stipulated in its licence. Hence, a licensed restaurant providing karaoke service should be distinguished from a karaoke which only offered refreshments to customers. In this connection, the Deputy Secretary for Commerce, Industry and Technology (Commerce and Industry) informed the meeting that about 80% of the existing karaokes were licensed under the Public Health and Municipal Services Ordinance (Cap. 132) and hence, were eligible for assistance as restaurants.

25. Mr TAM Yiu-chung referred to cases in which certain services in a company had been contracted out and enquired whether the employees of the

contractor, who were not the direct employees of the establishment in question, would fall within the scope of the Scheme. In response, SEDL noted that there existed different employment patterns. However, the Scheme might not be able to cater for all possible scenarios if its intended objective was to provide assistance in a timely manner while minimizing the risk of abuse.

Security requirement

26. Mr Tommy CHEUNG noted that for security purpose, each application under the Scheme would require personal guarantee from the establishment's shareholder, or in the case of more than one shareholder, joint and several guarantee executed by shareholders holding 90% or more of the equity interest in the business. Referring to the shareholding structures of establishments in the catering trade, Mr CHEUNG asked whether the Administration would consider lowering the relevant percentage of equity interest held by the shareholders from 90% to about 70%.

27. Mr Frederick FUNG Kin-kee shared Mr CHEUNG's view as he understood that some catering establishments had difficulties in meeting the requirement. Mr Eric LI also pointed out that some shareholders holding a minority share of the equity interest might be financially capable of acting as guarantors. He therefore considered that the Administration should discuss further with the PLIs on whether the requirement that the guarantors should hold 90% or more of the equity interest could be relaxed.

28. Mr LAU Ping-cheung also remarked that the 90% requirement was too stringent, and enquired whether consideration would be given to accepting personal guarantee from third parties instead of only from shareholders who were the ultimate beneficiary owner of the applicant entity.

29. In response, SEDL stressed that as public money amounting to \$3.5 billion was involved and the Government was providing 100% guarantee for loans approved by PLIs to establishments in the four sectors, the Administration would need to provide sufficient safeguards against possible abuse. The requirement on personal guarantee as proposed under the Scheme had struck a right balance between assisting the industries and safeguarding the use of public funds. SFST also highlighted the need for personal guarantee by shareholders as they had a stake in the business, rather than third parties. He also cautioned that allowing too much room for discretion by PLIs might lead to ambiguity and might not be conducive to the administration of the Scheme.

30. Having expressed his worry earlier on that individual employers might choose to cease their business rather than apply for assistance under the Scheme, Mr James TIEN informed members that he had further consulted members of the Hong Kong General Chamber of Commerce. Many private companies, notably chain restaurants, jewelry and electrical appliance shops,

reacted favourably to the Scheme because each of the shops in the chain company holding a valid Business Registration Certificate could qualify for application. However, listed companies did not consider the Scheme helpful because personal guarantee was required for each application. Mr TIEN therefore asked the Administration to seriously consider accepting corporate guarantee for applications involving listed companies. In this regard, Mr James TO Kun-sun also remarked that the shareholders of an applicant company might all be corporate shareholders.

31. In reply, SFST confirmed that personal guarantee would be required for each application and corporate guarantee would not be accepted. The shareholders acting as guarantors must be the ultimate beneficiary owner of the applicant. He also pointed out that the Scheme aimed at assisting small and medium enterprises (SMEs) rather than large listed companies, which usually had a stronger financial position.

32. Mr MA Fung-kwok stated his support for the present proposal as the relief measures were target-specific. On whether the shareholder(s) of the holding company of the applicant could provide the requisite guarantee, SFST confirmed that each application would require personal guarantee and not corporate guarantee. The guarantors should be the ultimate beneficiary owner of the applicant.

Operation of the Scheme

33. Mr Henry WU remarked that the impact of SARS on the securities industry might surface in due course. On the loans to be granted under the Scheme, he enquired about the forecast take-up rate and the repayment of interest. In reply, SFST said that it was not possible to forecast the take-up rate under the Scheme as this would depend on a variety of factors. He also informed members that repayment of principal and interest would start after the six-month grace period. Regarding the arrangements in which the applicant employer made payment of salaries by cheque, the Administration would re-consider whether it was necessary to require the employee to maintain an account with the bank used by the employer for the purpose of the cheque payment.

Admin

34. Mr Eric LI said that he would not object to the Scheme as it could serve the purpose of providing short-term relief and would alleviate the pressure on payment from the Protection of Wages on Insolvency Fund. He also considered the personal guarantee by shareholders an essential safeguard against abuse. Nevertheless, referring to the Director of Audit's report on the Special Finance Scheme for SMEs which had been looked into by the Public Accounts Committee, Mr LI enquired about the forecast default rate under the Scheme. He was of the view that if the forecast default rate exceeded 50%, then, the Scheme would become a de facto subsidy scheme, and not a loan

scheme.

35. In response, SFST confirmed that the Administration had not made an assessment on the projected default rates under the Scheme as the financial position of the Scheme would be very much subject to the success or otherwise in controlling the SARS disease. Nevertheless, as public funds was involved, the Administration had exercised great care in designing the Scheme with a view to preventing abuse.

36. In reply to Mr Henry WU about the Government's priority in recovering the default amount from the guarantor who also incurred other debts, SFST advised that the Government's priority vis-à-vis other creditors would be determined with reference to the relevant legislation on liquidation.

37. Mr Eric LI remarked that given the low interest rate on loans under the Scheme, PLIs would likely resort to file a claim with the Government upon default of the borrower. He enquired how the Government would discharge its obligations as the guarantor and how it would seek to recover the guaranteed amount from the shareholder(s) providing the requisite personal guarantee. Mr NG Leung-sing also enquired about the assistance which PLIs would be required to provide to the Government in recovering the debt and the circumstances under which the PLI and Government would share the costs for loan recovery.

38. In response, SFST said that the interest rate of the average best lending rate of the note-issuing banks minus 3% was proposed with a view to helping SMEs obtain loans at a low interest rate. Regarding the recovery mechanism, SFST advised that under the Scheme, PLIs should offer a six-month grace period plus a maximum of 24 months for repayment starting from the seventh month after the initial draw-down. PLIs were expected to take all reasonable steps to recover the debt in accordance with their usual commercial practice. Failing this, the PLI might file a claim with the Government within six months of the default by the borrower. The PLI was still required to provide any assistance which the Government might reasonably require in recovering the debt such as freezing the accounts of the shareholder acting as guarantor. In case the Government had paid the guaranteed amount to the PLI, it would still take steps to recover the amount from the guarantor of the borrower in accordance with commercial practice. As the Financial Services and the Treasury Bureau (FSTB) did not have the necessary expertise or manpower resources to recover the guaranteed amount, it would have to enlist the service of PLIs in the recovery of bad loans. The Government was still in the course of discussion with PLIs on detailed arrangements on the sharing of costs for loan recovery including whether a maximum limit should be set.

39. Referring to the steps to recover debts, Mr James TO noted in the paper that the PLI was allowed to file a claim with the Government within, and not

after, six months of the default by the borrower. He enquired if lending institutions would file claims as soon as there was a default of repayment. SFST clarified that the Government expected the PLIs to take all reasonable steps to recover the debt before filing a claim with the Government. It was envisaged that the PLIs would only file a claim when approaching the end of the six-month period.

Admin 40. Mr Eric LI was keen to ensure that a proper mechanism was in place to monitor the administration of the Scheme, in particular the need for high-level authorization to write off bad debts. In response to Mr LI's concern about policy responsibility for the Scheme, SFST said that as far as the role of FSTB was concerned, he was accountable. At the Chairman's request, the Administration undertook to report the operation of the Scheme to the Panel on Financial Affairs one year after its implementation; and to submit progress reports at, say, six-month intervals thereafter.

Admin 41. Mr HUI Cheung-ching supported the present proposal and welcomed the improvements to the Scheme following consultation with the Panel on Financial Affairs on 23 April 2003. He agreed that the Administration should report to the Panel and include information such as default payments and bad debts.

42. The Committee approved the proposal.

Item No. 2 - FCR(2003-04)3

Head 90 – LABOUR DEPARTMENT

◆ Subhead 700 General other non-recurrent

New Item “Re-employment Training Programme for the Middle-aged”

43. Members noted that the present proposal had been discussed at the Panel on Manpower on 28 March 2003.

44. The Committee approved the proposal.

Item No. 3 - FCR(2003-04)4

HEAD 156 – GOVERNMENT SECRETARIAT :

EDUCATION AND MANPOWER BUREAU

◆ Subhead 700 General other non-recurrent

Item 027 Project Yi Jin and Website on Continuing Education

45. Members noted that the present proposal had been discussed at the Panel on Manpower on 28 March 2003.

46. Mr LEE Cheuk-yan remarked that in order to provide more financial incentives to students of Project Yi Jin (PYJ), the Administration should reconsider a suggestion on the offer of 50% fee reimbursement for the PYJ, in addition to the non-means tested 30% reimbursement and the full reimbursement under means test.

47. The Deputy Secretary for Education and Manpower advised that the Administration had examined the proposal. As PYJ already provided arrangements for 30% or 100% reimbursement of tuition fees for eligible students, who might also apply for financial assistance under the Non-means-tested Loan Scheme, and in view of the prevailing financial stringency, the Administration considered it more desirable to use the fund to provide more training places than to enhance the benefits for selected students. Given that there was still room for enhancing the level of recognition of the Project after three years of implementation, and because the existing scope of the approved commitment for supporting PYJ only covered admissions to the programme in three academic years from 2000/01 to 2002/03, the Administration proposed to support admissions to the programme for two more academic years, using resources available under the approved commitment.

48. The Committee approved the proposal.

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