

立法會
Legislative Council

LC Paper No. CB(1)1501/02-03

Ref : CB1/SS/6/02

**Paper for the House Committee meeting on
25 April 2003**

**Report of the Subcommittee on the motion to amend the Resolution of the
Land Fund under section 29 of the Public Finance Ordinance (Cap. 2)**

Purpose

This paper reports on the deliberations of the Subcommittee formed to study the motion to amend the Resolution of the Land Fund under section 29 of the Public Finance Ordinance (Cap. 2).

Background

2. The Government's fiscal reserves comprise the accumulated balances of the General Revenue Account (GRA), the Land Fund, the Capital Works Reserve Fund (CWRF), the Capital Investment Fund (CIF), the Loan Fund, the Civil Service Pension Reserve Fund, the Disaster Relief Fund, the Innovation and Technology Fund and the Lotteries Fund. The main purpose of holding these reserves is to meet operating and contingency requirements of public finance.

3. The Land Fund was set up under section 29 of the Public Finance Ordinance (Cap.2) by a resolution passed by the Provisional Legislative Council on 23 July 1997. As at end March 2003, the estimated balance of the Land Fund is \$259 billion, representing about 85% of the Government's fiscal reserves. On the provision for expending moneys from the Land Fund, the Resolution only provides that all expenses relating to the administration and management of the Land Fund are to be met at the expense of the Land Fund. There is no provision allowing the Administration to use the balance of the Land Fund to finance government expenditure.

4. The Administration has anticipated that as a result of the continued budget deficits, the balance of the fiscal reserves is projected to decline from \$303 billion in 2002-03 to \$202 billion in 2007-08 according to the latest

Medium Range Forecast. The balance of the GRA will consequently drop from an opening balance of \$87 billion by \$72 billion to a closing balance of \$15 billion during 2002-03, and will continue to have shortfalls in subsequent years of the Medium Range Forecast if there is no topping up by transfer of funds within the fiscal reserves. The CWRP and the CIF will similarly have shortfalls if there is no topping up.

5. To obviate the aforesaid anticipated shortfalls, the Administration has proposed to add a provision to the Resolution of the Land Fund to enable the transfer of the Fund balance to the GRA as and when needed to meet its cashflow requirements and to other Government Funds as necessary. The Administration has estimated that \$120 billion is required to be transferred from the Land Fund to the general revenue in 2003-04 to meet the cashflow requirements in the medium term. It has also highlighted the urgent need to effect the transfer as early as May 2003 to meet the cashflow requirements for the month of May 2003. Accordingly, the Secretary for Financial Services and the Treasury (SFST) gave notice to move a motion to amend the Resolution of the Land Fund at the Council meeting on 30 April 2003.

The Subcommittee

6. At the meeting of the House Committee on 11 April 2003, members agreed that a subcommittee should be formed to study the proposed amendment to the Resolution of the Land Fund. At the House Committee's request, SFST withdrew his notice previously given to move the motion at the Council meeting on 30 April 2003 in order to allow time for the Subcommittee to study the proposed amendment to the Resolution.

7. Under the chairmanship of Hon SIN Chung-kai, the Subcommittee has held two meetings with the Administration. The membership list of the Subcommittee is at **Appendix I**.

Deliberations of the Subcommittee

The transfer mechanism

8. Members of the Subcommittee support in principle the proposed transfer of funds in the Land Fund to the GRA to meet the Government's cashflow requirements in the medium term. Some members are also keen to ensure that the Government should be able to meet its cashflow requirements.

9. Referring to the Administration's proposed amendment to the Resolution of the Land Fund, some members have pointed out that in the absence of any specific provision relating to the amount to be transferred and

the circumstances under which a transfer can be made, the proposed resolution will confer unlimited powers on the Financial Secretary (FS) to transfer funds from the Land Fund to the general revenue. Noting that it is the Administration's intention to transfer \$120 billion from the Land Fund to the general revenue on this occasion, these members consider that this amount should be stipulated in the proposed resolution. Otherwise, the proposed resolution, as currently worded, will confer on FS much more power than necessary to effect the proposed transfer of \$120 billion from the Land Fund to the general revenue.

10. On the amount of funds to be transferred, the Administration has explained that according to the latest Medium Range Forecast up to 2007-08, there will be continued budget deficits from 2003-04 to 2005-06 before returning to a balanced budget in 2006-07. It is anticipated that a sum of \$120 billion is required to be transferred from the Land Fund to the general revenue in 2003-04 to meet the cashflow requirements and to cope with the budget deficits from 2003-04 to 2005-06. Thereafter, the Administration does not envisage any major requirement for further transfers in the remaining years of the Medium Range Forecast.

11. As regards the objective of the proposed amendment to the Resolution, the Administration has advised that with an estimated balance of \$259 billion by the end of March 2003, the Land Fund will continue to account for the vast majority of the Government's fiscal reserves. However, the existing Resolution has no provision to allow the Government to transfer moneys from the Land Fund to the GRA, which is the main Government account for day-to-day departmental expenditure and revenue collection, or to other Government Funds. As such, the vast majority of the fiscal reserves are effectively locked up in the Land Fund. In view of the prevailing fiscal constraints, the Administration has considered it necessary to provide funds from one part of the fiscal reserves to meet the expected shortfalls in other parts.

12. Having taken into consideration members' view that the proposed resolution should suitably reflect the objective of transferring the requisite funds from the Land Fund to the general revenue to meet cashflow requirements in the medium term, the Administration has accepted members' suggestion to stipulate in the proposed resolution the amount of \$120 billion to be transferred from the Land Fund to the general revenue. The draft resolution is at **Appendix II**.

13. Members of the Subcommittee have also raised concern about future monitoring of the transfer of funds from the Land Fund to the general revenue. In response, the Administration has advised that similar transfer arrangements are in place for other funds such as the CWRP, CIF and the Loan Fund. Subject to the passage of the proposed resolution, the Administration will follow the existing practice for inter-fund transfers under Head 184 of GRA -

“Transfers to Funds” whereby the amount of funds required to be transferred from the Land Fund will be assessed each year with regard to the commitments and forecast cashflow requirements of the GRA and other Funds, and included as part of the Annual Estimates for the Legislative Council's consideration. The Administration has also emphasized that its proposal is to help meet the cashflow requirements and is not meant to generate additional fund to finance certain government spending. The latter will be subject to the approval of the Legislative Council via the Appropriation Bill or the Finance Committee in the course of the financial year.

The Exchange Fund

14. In the course of deliberation, some members have enquired whether consideration has been given to using the accumulated surplus of the Exchange Fund to meet the anticipated shortfalls in the Government's cashflow requirements.

15. In this connection, the Administration has advised that the Exchange Fund Ordinance (Cap.66) defines clearly the purposes for which the Exchange Fund may be used in safeguarding the exchange value of Hong Kong dollar and maintaining the stability and the integrity of the monetary and financial systems of Hong Kong. It is not possible to use any assets of the Exchange Fund to meet operating and contingency requirements of the Government because this purpose does not fall within those specified in the Ordinance. In the view of the Administration, this option may lead to unwarranted speculation on the sustainability of the Hong Kong/US Dollar link. The Administration therefore considers it neither feasible nor advisable to transfer funds from the Exchange Fund to top up the anticipated shortfalls.

The way forward for the Land Fund

16. Some members of the Subcommittee are in favour of abolishing the Land Fund altogether so that its balance can be utilized by the FS as part of the fiscal reserves. By transferring the entire balance of the Land Fund into the general revenue, the Government will be better equipped with the necessary resources to tackle the budget deficits. At the same time, this move can send a strong message to the international community that Hong Kong is committed to and capable of combating its deficit problems.

17. Some members, on the other hand, express reservation on the suggestion of taking this opportunity to abolish the Land Fund. They prefer to adopt a two-stage approach under which the Subcommittee should first deal with the proposed resolution submitted before it. The question of whether or not the Land Fund should be dissolved may not fall within the scope of the currently proposed resolution and hence, the way forward for the Land Fund should be separately pursued through other channels. There is also the

concern that it may be necessary in future to credit sufficient funds to the CWRP for the purposes of financing the capital works programme and the acquisition of land in order that infrastructural development and the urban renewal programme will not be impeded.

18. The Administration's stance is that it does not favour the outright abolition of the Land Fund as its intention is to utilize only part of the Fund balance to meet the budget deficits in the medium term, and to retain the flexibility to formulate a policy on the long-term use of the Fund in future. Nevertheless, having noted members' concern, the Administration agrees to examine the way forward for the Land Fund, including whether or not it should be dissolved, and to consult the Panel on Financial Affairs in due course.

Legislative timetable

19. The Administration intends to move a motion to amend the Resolution of the Land Fund at the Council meeting on 7 May 2003. The text of the proposed resolution is at **Appendix II**. Owing to the urgent need to transfer funds from the Land Fund to the GRA as early as May 2003, the Administration intends to implement the proposed resolution as soon as practicable after it has been passed by the Legislative Council and published in the Gazette.

Recommendations

20. The Subcommittee supports the proposed resolution at **Appendix II**. It also supports the Administration's proposal of -

- (a) giving fresh notice to move the proposed resolution at the Council meeting on 7 May 2003; and
- (b) seeking the leave of the President to dispense with the notice period requirement for moving motions under Rule 29(1) of the Rules of Procedure.

Advice sought

21. Members are invited to support the Subcommittee's recommendations at paragraph 20 above.

Council Business Division 1
Legislative Council Secretariat
 24 April 2003

**Subcommittee on the motion to amend the Resolution of the Land
Fund under section 29 of the Public Finance Ordinance (Cap. 2)**

Membership list

Chairman Hon SIN Chung-kai

Members Dr Hon David CHU Yu-lin, JP
Hon Cyd HO Sau-lan
Hon Margaret NG
Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
Hon CHAN Kam-lam, JP
Hon Andrew WONG Wang-fat, JP
Hon Miriam LAU Kin-ye, JP
Hon Emily LAU Wai-hing, JP
Hon Abraham SHEK Lai-him, JP
Hon LEUNG Fu-wah, MH, JP

(Total : 11 members)

Clerk Miss Polly YEUNG

Legal Adviser Mr KAU Kin-wah

Date 15 April 2003

PUBLIC FINANCE ORDINANCE

RESOLUTION OF THE LEGISLATIVE COUNCIL

LAND FUND

Resolution made and passed by the Legislative Council under section 29 of the Public Finance Ordinance (Cap. 2) on 2003.

RESOLVED with respect to the Land Fund established by resolution made and passed by the Provisional Legislative Council on 23 July 1997 and published in the Gazette as Legal Notice No. 398 of 1997, that a sum of \$120,000,000,000 be transferred from the Land Fund to the general revenue.

Clerk to the Legislative Council

2003