

RESOLUTIONS (TRANSLATION) OF THE 7TH SESSION OF THE NATIONAL COUNCIL OF BHUTAN

*(Wednesday, the 30th Day of the 3rd Month of the Iron Female Rabbit
Year corresponding to 1/06/2011)*

A Proceedings of the Opening Ceremony

The 7th Session of the National Council of Bhutan commenced on the 30th Day of the 3rd Month of the Iron Female Rabbit Year with the traditional offering of *Marchang* presided over by the Hon'ble Chairperson.

B Hon'ble Chairperson's Address

The Hon'ble Chairperson welcomed the Hon'ble Members, media personnel and all the people watching television and listening to the radio to the opening ceremony of the 7th Session of the National Council. At the outset, he thanked His Majesty the King for ensuring the welfare of the country and the people at all times, and for His Majesty's continuous advices, which had resulted in the success of Constitutional Democracy far beyond expectations. He also commended the Government for the significant achievements made in planned activities within a short span of time since the introduction of democracy in the country. Further, he conveyed his heartfelt gratitude to the government, institutions and corporations for rendering full support to the National Council and ensuring achievement of results while carrying out its legislative and review functions.

Recalling the three major fire accidents that broke out in Chamkhar, Bumthang recently, he said that these had been a cause of big concern and sadness to everyone. He expressed a deep sense of remorse at the tragedies caused by natural calamities such as windstorms, earthquakes, landslides and flash floods in many of the Dzongkhags. These natural calamities were attributed to mainly climate change which triggered disturbance of the four elements of nature. While these cannot be totally prevented, we could come up with mitigation measures through research and cooperation on

international policies and laws. He reminded the members to base their deliberations both while carrying out their legislative and review works, as well as discussing on disaster related legislations on the problems faced in their respective constituencies.

The Hon'ble Chairperson said that the National Council during the 7th Session would deliberate on 9 legislative issues, 4 policy related issues and any other business including question hour. As in the past, he expressed hope that every member with wisdom and sincerity would participate actively bearing in mind the immediate as well as long term interest of the nation, and contribute towards successful completion of the 7th session.

With the blessings of *Kencho-Sum* and the protection of the country's *Ka-Sung-Damchen*, he prayed for the long life and glorious reign of His Majesty the King, the Fourth Druk Gyalpo and the Royal Family. On the historic celebrations of the Royal Wedding in October, he pledged full support on behalf of the people of Bhutan, in particular, the National Council. He also prayed that the celebrations may proceed in accordance with the aspirations of His Majesty the King and Her Majesty the Queen.

C Submissions by the Hon'ble Members

- i. The Hon'ble Member of Gasa Dzongkhag said that the 7th session of Parliament was historic because His Majesty had during the joint sitting of Parliament proclaimed to the nation on the Royal Wedding in October this year. The Bhutanese people were fortunate and blessed as they could offer *Tashi Legdhar* and participate in the celebrations.
- ii. In his submission, the Hon'ble Member of Paro Dzongkhag said that he was deeply saddened by the recent fire in Bumthang. Among other global disasters, he expressed his sorrow and conveyed condolences to the victims of the March 2011 earthquake and tsunami in Japan which resulted in death and injury to the

people, and huge economic loss to the country. He said that while the increased occurrence of natural calamities caused serious problems in our country, we should not be worried much since the magnitude of such disasters was small compared to those in other countries.

D Adoption of Agenda

Under legislative issues, the National Council resolved to include the Public Finance (Amendment) Bill of Bhutan 2011, Sales Tax, Customs and Excise (Amendment) Bill of Bhutan 2011, Election (Amendment) Bill of Bhutan 2011, Consumer Protection Bill of Bhutan 2011, SAARC Agreement on Trade in Services, Druk Gyalpo's Relief Fund Bill 2011 and National Budget & Appropriation Bill 2011-12 in the agenda for deliberation in the 7th session. The Adoption Bill of Bhutan 2010 shall also be re-deliberated and a motion for drafting of National Flag Bill of Bhutan be moved.

Under review of policies, the Good Governance Committee shall present the Annual Report 2010 of Anti-Corruption Commission. The agenda also included bifurcation of larger gewogs, policy on private sector education in Bhutan, foreign labour recruitment agency and irrigation facilities/ infrastructure in the country. As in the past sessions, question time shall be held with Cabinet Ministers every Tuesday and Friday besides 'Any Other Business'.

The Hon'ble Members from Pemagatshel and Lhuentse expressed the need to know the status of implementation of the resolutions of the past sessions by the government and other relevant agencies. Therefore, they requested that a report to this effect be submitted to the House. On this, the National Council resolved that a status report on the implementation of the resolutions of past sessions, in particular, the resolutions of the 6th session shall be submitted to the House in the 7th session, itself.

*(Thursday, the 1st Day of the 4th Month of the Iron Female Rabbit Year
corresponding to 2/06/2011)*

E Legislative Issues (Bills and Amendment of Acts)

1 Introduction of the Sales Tax, Customs and Excise (Amendment) Bill of Bhutan 2011

The Hon'ble Minister for Finance said that the Sales Tax, Customs and Excise Act 2000 had been drafted without adequately understanding the future implications, which had resulted in different interpretations while read with other laws. In keeping with an amendment motion moved in the 5th session, the National Assembly had deliberated on the Act during its 6th session and made amendments on few sections, which were submitted to the National Council for endorsement.

The main purpose of the amendment was to provide clarity and enhance efficiency in administration, and not to debate on the powers and responsibilities under the Act. This was based on the understanding that the power to revise sales tax, customs and excise under Part 1, Chapter 3, Section 4.2, Part 2, Chapter 4, Section 6.1 and Part 3, Chapter 3, Section 4.1 of the Act vested in the government. Since the proposal for amendment was introduced and deliberated in the National Assembly prior to the Supreme Court's verdict on the tax revision case, he submitted that the discussions be based on the deliberations in the National Assembly.

1.1 Amendments and Changes to the Bill

Hon'ble Kuenlay Tshering acknowledged that the main intention of raising tax by the government was to meet current expenditure from internal revenue for ensuring the country's sovereignty. Whatever doubts existed on the procedures in revising taxes had also been clarified by the verdict of the Supreme Court. However, he reminded to bear in mind Articles 8(8) and 14(1) of the Constitution of Bhutan while deliberating on tax related issues.

The National Council on 02/06/2011, 14/06/2011 and 16/06/2011 deliberated on the Sales Tax, Customs and Excise (Amendment) Bill of Bhutan 2011 and made the following

amendments/changes. The House resolved to submit these to the National Assembly for re-deliberation in accordance with Article 13.7 of the Constitution of Bhutan.

General Preliminary

Section 2 (19)

Excise Duty means a duty levied on ~~goods produced and~~ manufactured **goods either produced** in the country ~~and or~~ imported ~~into the country~~.

Section 2 (20 Ka)

Exempted Goods means goods which are exempt from either duty or tax or both leviable thereon, and ~~includes~~ **include** goods which are chargeable to “Nil” rate of duty or tax.

Section 2 (20 Kha)

Exempt person - means a person eligible to avail exemption from the applicable duty or tax or both, as specified in this Act or Rules thereof.

Section 2 (43 Ka)

Rules- means the Rules framed by the Ministry of Finance in accordance with **this Act** ~~the power vested to it by the Sales Tax, Customs and Excise Act of the Kingdom of Bhutan, 2000 to implement its provisions.~~

Part I

Chapter 2, Section 2

A person ~~Business entity, public body and or~~ government institution within the Kingdom of Bhutan

Chapter 2, Section 3.3

Amended in Dzongkha

Chapter 3, Section 4.2

The fixation of rates of Sales Tax and any revision thereof, and the range of commodities and services under the Sales Tax Schedule shall be approved by the **Parliament** ~~Royal Government of Bhutan~~ **without the need for further authorization.**

Chapter 5, Section 7

For the purpose of this Act, Import and Export clearance, Entry and Exit of conveyance and goods, Warehousing, **Import, Sale and Transfer of exempted vehicles and other goods, Baggage, Import and Export of goods by Post,** Inspection and Search and Import and Export Restrictions and Prohibitions thereof shall be in accordance with provisions under Chapter 4 (Section 10 and 11) 7, 8, 9, 10, 11, 12 and 13 of Part II of this Act.

Part II

Chapter 2, Section 3

Person, ~~entity~~ or his agent importing or exporting goods into ~~and~~ **or** out of Bhutan shall be liable to pay customs duty.

Chapter 4, Section 6.1

Customs Tariff and revision thereof shall be approved by the **Parliament** ~~Royal Government of Bhutan~~ **without the need for further authorization.**

Chapter 7, Sub-title of Section 17

Import and disposal of goods by ~~privileged personnel~~ **exempt person**

Chapter 7, Section 20.2

License/permits for clearing and forwarding agents may be issued by the Ministry of **Economic Affairs Trade and Industry** on recommendation of the Ministry.

Title of Chapter 10

Import, Sale and Transfer of ~~Vehicles~~ **Exempted Goods**

Chapter 10, Sub-title of Section 33

Sale of duty/tax exempted ~~vehicles and~~ goods

Chapter 10, Section 33.1

Sale or transfer of ~~vehicles and other~~ goods imported or purchased under exempt basis ~~by persons~~ shall liable to pay customs duty, taxes, fees and charges.

Chapter 10, Section 33.3

The sale or transfer of duty/tax exempted ~~vehicles and other~~ goods **either** by an exempted person **or imported or purchased under on exempt basis**, whether through public auction or tender, the buyer if not a ~~privileged~~ person **entitled to exemption**, shall pay the customs duty, taxes, fees and charges.

Chapter 10, Section 33.5

Notwithstanding Sub-sections 33.1, 33.2, 33.3 and 33.4 above, the Ministry shall prescribe rules for the import, sale and transfer of ~~vehicles~~ **exempted goods**.

Chapter 10, Section 34

Where a ~~vehicle of third country origin~~ **good** is imported into Bhutan without an authorization, it shall be confiscated without notice pursuant to Section 10 in the General Provisions.

Chapter 11, Section 35 (Ga)

Provisions applicable to ~~diplomatic personnel and privileged~~ **exempt** persons under Sub-section 5.1 or any particular group of persons or professionals.

Part III

Chapter 3, Section 3

Excise duties shall apply to ~~goods~~ manufactured **goods either** ~~or~~ produced in Bhutan **or imported** as prescribed by the Ministry.

Chapter 3, Section 4.1

Rates of Excise duty on excisable goods shall be fixed and revised **with the approval from the Parliament** ~~by the Royal Government~~ **without the need for further authorization.**

Chapter 4, Section 6

Excise duty and other fees shall be levied and collected by the Department or the manufacturer or dealer at the time of sale or removal of the goods from the factory or warehouse **or import** as the case may be.

Chapter 7, Section 13

Illicit goods manufactured, imported, exported, sold ~~and~~ **or transported transferred** may be confiscated along with the container or equipment.

General Provisions

Chapter 1, Sub-title of Section 5

Refund ~~of tax or duty paid~~ **Tax, Duty, Fees or Charges**

Chapter 1, New Section 5.3

Where duty or tax or **fees or charges** has been wrongly or erroneously levied or paid, the excess amount so paid shall be refunded or adjusted against outstanding taxes due to the Government, if any.

Chapter 3, Section 7.2

Where an officer of the Department has reason to believe that the goods have been illegally imported or **exported and or transferred**, the officer shall have power to detain the goods, conveyance and person for further enquiry.”

Chapter 4, Section 16 (Ka, Kha, Ga, and Ja)

Amended In Dzongkha

Chapter 4, Section 16 (Tha)

... ~~who~~ fails to comply with any provisions of this Act and rules thereof

Chapter 6, Section 21.3 (Kha)

One from Ministry of **Economic Affairs** ~~Trade and Industry~~;

Chapter 6, New Section 24.2

Any waiver granted under section 24.1 shall be annulled if the appellant pursues the same contention at **with** a higher appeal body or a Court of Law.

Chapter 7, New Section 25.2 (Cha)

Withholding the imports and exports of the ~~entity or person or its sister concerns~~; and/or

Chapter 9, New Section 40

The Department may levy fees and charges as it ~~thinks~~ **deems** fit for any services rendered by it to any person under the

provisions of this Act and it may require such fees and charges to be paid in advance of the service being rendered.

Chapter 9, New Section 42

~~The Ministry of Finance shall initiate, formulate and present to the Parliament any amendment necessary to this Act.~~ **The amendment of this Act by way of addition, variation, or repeal shall be effected by a simple majority of the respective Houses or vote of no less than two-thirds of the total members of Parliament present and voting on a motion submitted by one-third of the members of either House, provided that the amendment does not undermine the functions and effectiveness of the Ministry or Department.**

(Thursday, the 1st Day of the 4th Month of the Iron Female Rabbit Year corresponding to 2/06/2011)

2 Introduction of the Public Finance (Amendment) Bill of Bhutan 2011

The Hon'ble Minister for Finance submitted that the Public Finance Act of Bhutan 2007 was adopted to manage public finance of the state and related expenditures. However, with the adoption of the Constitution of Bhutan, certain terminologies related to budget had to be made consistent with those in the Constitution and also harmonize with the provisions of other related laws. Therefore, the National Assembly during its 6th session had deliberated on the Act and made amendments, which were submitted to the National Council for adoption.

The main objective of amending the Public Finance Act of Bhutan 2007 was to resolve the issue of having to present the Budget & Appropriation Bill in both Houses. The National Assembly wanted to replace Budget & Appropriation Bill that figured in most of the sections under the Act with just Budget, and accordingly amend sections 9, 10, 13 and 14. Budget and tax related issues that needed to be passed by Parliament had been amended in accordance with the provisions of the

Constitution besides making the process of budget and supplementary budget more transparent.

2.1 Amendments and Changes to the Bill

On this, the Hon'ble Member from Haa Dzongkhag and Hon'ble Kuenlay Tshering submitted that the disagreements between the two Houses that prevailed in the past sessions of the National Council on the procedures in passing budget had been clarified by the verdict passed by the Supreme Court. While the National Assembly had primacy over passing the Budget, it had been recognized as a Bill. Therefore, it had to be deliberated in both Houses and submitted to the Druk Gyalpo for Assent like any other Bill. As a House of Review, it was important for the National Council to review and endorse it for transmission to the National Assembly.

The National Council deliberated on the Public Finance (Amendment) Bill of Bhutan 2011 on 02/06/2011, 13/06/2011 and 16/06/2011, and made the following amendments/changes. The House resolved to submit these to the National Assembly for re-deliberation in accordance with Article 13.7 of the Constitution of Bhutan.

Section 2

Supersede all **provisions of any** laws, regulations, rules and notifications that are inconsistent with the provision of this Act, ~~except the Constitution of the Kingdom of Bhutan~~, or as otherwise specified herein.

Section 9

Retained as in the Act

Section 10

Money shall be appropriated for the requirement of the state through the annual Budget **and Appropriation Bill** approved by the ~~National Assembly~~ **Parliament**.

Section 13

Retained as in the Act

Section 14 (b)

Retained as in the Act

Section 23 (b)

... implementing the budget process including preparing the Budget Policy and Fiscal Framework Statement, the budget, the **budget and** Appropriation Bill and other relevant materials;

Section 41

The Royal Audit Authority shall audit the Government's **Consolidated Annual Financial Statements** ~~receipts and payments accounts.~~

Title for Chapter 4

~~Government~~ **Money and Financial Bill**, Budget and Reports

Section 46 (c)

Retained as in the Act

New Sections after Section 46

Money Bills and Financial Bills

46A. A Money or Financial Bill is a Bill which contains only provisions dealing with all or any of the following matters:

- (a) Imposition or increase of any tax or abolition, reduction or remittance of any existing tax.**
- (b) Government spending that is, appropriation or payment of moneys out of the Consolidated Fund;**
- (c) Receipt of moneys on account of the Consolidated Fund or the custody or issue of**

such moneys or the audit of the accounts of the State; and

46B.

- (a) The imposition or increase of any tax or abolition, reduction or remittance of any existing tax once passed as law by Parliament, shall be applied retroactively from the date it was initially tabled in the National Assembly;**
- (b) Non-money clauses may not be attached to a Money or Financial Bill.**

46C. A Bill shall not be deemed to be a Money or Financial Bill by reason only that it provides for:

- (a) Principles and procedures that relates to taxation or spending; or**
- (b) Imposition or alteration of any fine or other pecuniary penalty or for the payment or demand of any fee or charge for any service rendered.**

Procedure for Money Bills and Financial Bills

46D. Money Bills and Financial Bills shall originate only in the National Assembly.

46E. A Money or Financial Bill, after being passed by the National Assembly, shall be presented to the National Council within Five days from the date of passing and that Bill shall be passed during the same session of Parliament.

46F. Where the National Council passes the Money or Financial Bill, it shall return the Bill to the National Assembly who shall submit the Bill to the Druk Gyalpo for Assent within five days from the date of receipt of such Bill.

46G. Where the National Council does not pass the money or financial bill, it shall return the bill to the National Assembly with objections or amendments for re-deliberation and consideration by the National Assembly.

46H. The National Assembly may thereupon either accept or reject all or any of the recommendations of the National Council and present the Money or Financial Bill to the Druk Gyalpo for Assent along with the objections and recommendations from the National Council within five days from the date of passing of such Bill.

46I. Where the National Council neither passes nor returns the Money or Financial Bill within five days of its presentation, the Bill shall be deemed to have been passed and the National Assembly shall submit the Bill to the Druk Gyalpo for Assent within five days from the date of passing of such Bill.

46J. Where the Druk Gyalpo does not grant Assent to a Money or Financial Bill, the Druk Gyalpo shall return the Bill with amendments or objections to deliberate and vote by the National Assembly. Upon re-deliberation and passing of the Bill in the National Assembly, it shall be resubmitted to the Druk Gyalpo for Assent thereto, whereupon Assent shall be granted to the Bill.

Section 47

Retained as in the Act

Section 48

Retained as in the Act (amended in Dzongkha)

Section 49

Retained as in the Act

Section 50

Retained as in the Act

Section 51

Where the budget has not been approved by the National Assembly before the beginning of the fiscal year, the **preceding budget on current expenses** ~~respective budgets of the preceding fiscal year shall be applied for the following until the new ones are~~ **one is** sanctioned. **Revenues shall be collected and disbursements made in accordance with the law in force at the end of the preceding year. However, if one or more parts of the new budget have been approved, they shall be put into effect.**

- ~~a. Meeting the recurrent expenditures necessary to maintain the continuity of Government;~~
- ~~b. Meeting expenditures for on going donor financed projects that have all the required Government approvals; and~~
- ~~c. Meeting the requirements for the repayment of loans.~~

~~If one or more parts of the new budget have been approved, they shall be put into effect.~~

Section 52

Retained as in the Act

Section 53

Retained as in the Act

Section 56

Retained as in the Act

Section 57

Revisions of the budget and appropriations ~~shall~~ may be considered only when circumstances have changed significantly, such as, in the case of:

- (a) shortfalls in revenue and other resources threatening macro-fiscal sustainability; or
- (b) ~~significant~~ substantial ~~changes~~ increase in costs of ~~approved~~ programmes as approved by Lhengye Zhungtshog;

- (c) incorporation of expenditures financed or co-financed by donors and the Government's contribution there for as provided for under section 60;
- (d) emergency expenditures as provided for under section 66 in this Act;
- (e) any other expenditure on an activity which is of national importance as approved by Lhengye Zhungtshog.

Such revisions to the budget under section 57 (b) and (e) may be approved by the Lhengye Zhungtshog only on the recommendation of the Ministry of Finance where additional budget does not exceed the total approved budget. The Ministry of Finance may authorize additional budget through technical adjustments but remaining within the total approved budget.

Any supplementary budget beyond the total approved amount shall only be approved by the ~~National Assembly~~ **Parliament** ~~except for provisions under sections 60 and 66.~~

The Minister of Finance shall submit these to the ~~National Assembly~~ **Parliament** as the Revised Budget.

Section 58

Retained as in the Act

Section 59

Retained as in the Act

Section 60

Retained as in the Act

Section 61

Retained as in the Act

Section 62

Retained as in the Act

Section 63

Retained as in the Act

Section 64

Retained as in the Act

Section 66

Retain as in the Act

Sub-title before Section 106

Government's main funds **Consolidated Fund** and related bank accounts.

Section 107

There shall be a principal account of the Government known as the "~~Consolidated Fund~~" **Consolidated Fund into which shall be deposited all public money not allocated to specific purposes by law and from which expenditure of the state shall be met.** All fund release shall be made from this Account.

Public money shall not be drawn from the Consolidated Fund except through appropriations in accordance with the law.

New Section after Section 112

The Ministry of Finance shall release funds to budgetary bodies after the budget had been approved by ~~National Assembly~~ **Parliament**. Such funds shall be drawn from the Consolidated Fund and released through bank accounts authorized by **the** Ministry of Finance in accordance with the Financial Rules and Regulations.

Section 113

Retained as in the Act

Section 122

All budgetary bodies shall base the accounting records on accounting standards prescribed by the **Accounting and Auditing Standards Board of Bhutan** Ministry of Finance.

Section 146

Except for money under Section 139 (d), no ~~No~~ person shall have any right of action against the Government or any agent of the Government in respect of any investment or non-investment of any money to which this Section relates.

New Section after Section 172

Other fees and levies may be introduced or revised from time to time by the agencies as per the provisions of the respective laws. Where no laws exist, fees and levies may be introduced or revised with the approval of the Government.

(Thursday, the 1st Day of the 4th Month of the Iron Female Rabbit Year corresponding to 2/06/2011)

3 Introduction of the Election (Amendment) Bill of Bhutan 2011

The Chairperson of the Good Governance Committee, the Hon'ble Member from Gasa Dzongkhag submitted that the National Assembly after deliberating on the Election Act of Bhutan 2008 during its 6th session had amended 3 sections and submitted to the National Council for endorsement. The first one was on providing state funding to political parties to maintain their party offices. The second was to repeal a provision of the Act in which members of a political party were barred from contesting in Local Government and National Council elections for a period of one year after resigning from the party. The third amendment was on the need for the Election Commission to submit an annual report on its activities and policies to the Druk Gyalpo, Prime Minister and

Parliament. He said that these sections were submitted to the National Council for deliberation in its 7th session.

On this, the Deputy Chairperson reminded the House that the National Council, in its deliberations on the Budget & Appropriation Bill during the 1st session of Parliament, had not supported state funding to political parties since it was in contravention to the provisions of the Constitution. This was accepted by the National Assembly and state funding to political parties was removed from the Budget. In his first annual report, Hon'ble Prime Minister similarly reported that the fund was removed since there was doubt on whether or not it was against the provisions of the Constitution. The removal of section 206 by the National Assembly was also resolved in a joint sitting during the 1st session of Parliament due to the disagreement between the two Houses. These had to be borne in mind while deliberating on the issue.

3.1 Amendments and Changes to the Bill

The Chairperson of the Good Governance Committee, the Hon'ble Member from Gasa Dzongkhag agreed that state funding to political parties had been discussed during the 1st session of Parliament itself. However, the funding was not supported because it was against the provisions of the Constitution under Article 15 which stated that funding support "does not accept money or any assistance other than those contributions". Therefore, the new insertion made by the National Assembly as section 158(a) and the removal of section 206 by the National Assembly could not be supported. On the need for submission of annual report by the Election Commission under section 581, he proposed that it be amended so that a report was submitted after each election.

Most of the Hon'ble Members submitted that in order to build a strong foundation for democracy in the country, strong political parties must be established. For political parties to take proper root, they must be provided with substantial financial support. However, state funding was against the provisions of the Constitution. This was because political parties were provided with public campaign fund during

elections under Article 16 of the Constitution of Bhutan. Article 23.1 provides “the general will of the people shall be the basis of government and it shall be expressed through periodic elections”. Who can make contributions to political parties had been clearly provided under Article 15.4 (d). Therefore, the National Council cannot support state funding to political parties.

Need for fund by political parties for maintenance were two-fold. The first was for public campaign fund during elections which had already been provided. The second was to maintain offices after establishment of political parties, which had to be through contributions made by its members. Once the government was established after establishment of political parties, the party offices has no substantial responsibilities. State funding to political parties was firstly against the provisions of the Constitution of Bhutan. Secondly, political parties do not have a lot of responsibilities during the 5 year term after elections. Thirdly, even if state funding was provided, there would be problems of accountability. As such, there were a lot of reservations in supporting state funding to parties.

Likewise, the Hon’ble Deputy Chairperson submitted that since political parties were crucial in a democratic system, measures must be adopted to solve the funding problems of the existing two political parties. However, it had been resolved during the 1st session of the first Parliament of Bhutan that state funding was against the provisions of the Constitution, which must be respected. The Hon’ble Speaker had also reported to the Druk Gyalpo that this was against the Constitution. The government had, during the presentation of annual budget, reported that substantial salary revision and developmental works could not be affected since the government did not have adequate revenue. The country would face grave problems if state funding was approved.

However, the Hon’ble Member from Sarpang Dzongkhag submitted that it was important for the state to adopt a procedure to provide political parties with state funding in order to strengthen the parties and also to prevent corruption.

The National Council deliberated on the Election (Amendment) Bill of Bhutan 2011 on 02/06/2011, 14/06/2011 and 16/06/2011, and made the following amendments/changes. The House resolved to submit these to the National Assembly for re-deliberation in accordance with Article 13.7 of the Constitution of Bhutan.

Section 41

~~The Election Commission shall have full authority over all aspects of its financial and personnel management. **The Commission shall determine its organizational structure in consultation with the Royal Civil Service Commission and administer it independently.**~~

New Sections after Section 41

41A. The Commission shall have independence and powers to regulate appointments, management and dismissal of its staffs other than a Member in accordance with the Civil Service Act.

41B. The State shall, make adequate financial provisions for the independent administration of the Commission as a part of annual national budget.

Section 158 A

(The new Section added by the National Assembly was not accepted)

Proviso of Section 206

Retained as in the Act

New Section after Section 581

581A The Commission shall, **after each election**, submit ~~a an~~ annual report to the Druk Gyalpo, the Prime Minister and Parliament on its policy, performances and conduct of elections.

*(Friday, the 2nd Day of the 4th Month of the Iron Female Rabbit Year
corresponding to 3/06/2011)*

4 Introduction of the Consumer Protection Bill of Bhutan 2011

The Hon'ble Minister for Economic Affairs submitted that Bhutan's economy was integrated with the international and regional economy. While there were many international policies and laws to safeguard the health and protection of communities, there was no direct law to protect the country's consumers while importing goods from abroad. The Ministry of Economic Affairs had drafted the Consumer Protection Bill of Bhutan to safeguard the rights and interests of consumers from deceptive and improper distribution of goods during business transactions.

The Bill was drafted based on the Bills of many countries, and through consultations with ministries, corporations, agencies, Dzongkhag officials and the public. After finalizing the Bill, it was submitted to the Lhengye Zhungtshog in October 2010, after which it was submitted to Parliament for adoption.

The purpose of the Bill was to protect and enhance the rights of consumers, develop commerce by making goods available to consumers at reasonable prices, ensure transparency and accountability of goods and service providers, adopt measures to provide cheaper and user friendly goods, and to enhance collaboration between consumers and foreign countries.

The Bill will ensure the availability of basic necessities to the Bhutanese consumers, timely information on dangers to life, justice regarding reasonable price, enhance community associations, ensure rights can be clearly stated through participation in major decision making, and immediate replacement of goods if problems arose. Since it would greatly benefit the country, it was submitted that the National Council properly deliberate and pass the Bill.

4.1 Amendments and Changes to the Bill

The National Council deliberated on the Consumer Protection Bill of Bhutan 2011 on 03/06/2011, 17/06/2011 and 22/06/2011, and made the following amendments/changes. The House resolved to submit these to the National Assembly for adoption in accordance with Article 13.5 of the Constitution of Bhutan.

Title

Consumer Protection Bill of Bhutan **2011** ~~2010~~

Preamble

Parliament of Bhutan, do hereby enact the Consumer Protection Act of Bhutan **2011** ~~2010~~ on the Day of the month of Iron **Female Rabbit** ~~Male Tiger~~ Year of the Bhutanese Calendar corresponding to the day of **2011** ~~2010~~ at its ... Session of the First Parliament as follows:

Section 1

This Act shall:

- (a) Be called the Consumer Protection Act of Bhutan, **2011** ~~2010~~;
- (b) Come into force on the ... Day of the ... Month of Iron ~~Male Tiger~~ **Female Rabbit** Year of the Bhutanese **Calendar** ~~Calendar~~ corresponding to the ... Day of ..., **2011** ~~2010~~; and

Section 2 (a)

Amended in Dzongkha

Section 5

The Consumer shall **endeavour to** promote:

Section 5 (a), (b) and (c)

Amended in Dzongkha

Section 6

No person shall make a false or misleading representation, **among others**, that:

Section 7

A person shall not mislead the consumers on the price of the goods **and services**.

Section 9

Goods displayed for sale **and, where applicable, services** shall have the price affixed conspicuously.

Section 10

Amended in Dzongkha

Section 11

Amended in Dzongkha

Section 15 (a)

Amended in Dzongkha

Section 16 (b)

Amended in Dzongkha

Section 17 (c)

Amended in Dzongkha

Section 18

The supplier and manufacturer shall not discriminate consumers ~~on the basis of one's status~~ in the supply of goods and services.

Section 20

Amended in Dzongkha

Section 23 (d)

Amended in Dzongkha

Section 24

Amended in Dzongkha

Section 25 (c)

Amended in Dzongkha

Section 27 (a)

Amended in Dzongkha

Section 27 (d)

Amended in Dzongkha

Section 36

Amended in Dzongkha

Section 47 (a)

Amended in Dzongkha

Section 51

Amended in Dzongkha

Section 54 (b)

Amended in Dzongkha

Section 58 (b)

Amended in Dzongkha

Section 59 & 59 (a)

Where services are provided to a consumer, there shall be implied a guarantee that the services will be completed within a reasonable time where the time for the services to be carried out is ~~not~~:

(a) **Not** determined by the contract;

Section 60 & 60 (a)

Where services are provided to a consumer, there shall be implied a guarantee that the consumer shall not be liable to

pay to the supplier more than the reasonable price for the services where the price for the services is ~~not~~:

(a) **Not** determined by the contract;

Section 60 (d)

For non-compliance with the implied guarantee under **this** section ~~60~~, the consumer may refuse to pay more than the reasonable price.

Section 62 (b)

Amended in Dzongkha

Section 63 (a)

Where the failure is one that can be remedied, the consumer may require the supplier to remedy the failure within a reasonable time; ~~and or~~

Section 66 (b)

Amended in Dzongkha

Section 79 (a)

The fine equivalent of the value of the goods **or services** shall be imposed; and

Section 84 (b)

One member each ~~subject to a maximum of two~~ from different relevant ministries **subject to a maximum of two**;

Section 84 (d)

Amended in Dzongkha

Section 86

All the decisions at any meeting of the Consumer Board shall be through consensus, and where no consensus is reached by a majority of the Members present and voting, the Chairperson shall have a **deciding** ~~casting~~ vote.

Section 87 (h)

Recommend to the Government for approval the Approve remuneration of Board members, dispute settlement committee members, any other committees and functionaries of the institutions under this Act; and

Section 89 (k)

~~Fixation of adequate remuneration for members of Dispute Settlement Committees and any functionaries or committees constituted for enforcement of this Act.~~

New Sub-section under Section 89

k) Make public all information pertaining to complaints filed and actions taken.

Section 94

The members shall elect a Chairperson **from** ~~form~~ among them upon their appointment. The Chairperson shall:

- (a) Receive complaints referred to it by the Consumer Advocate or the Gup;
- (b) Convene the hearing on the complaints referred to it.

Section 97

Amended in Dzongkha

Section 101

If the supplier of goods denies the allegations, the Committee shall:

- (a) Obtain samples of the goods from the complainant;
- (b) Refer the sample to the appropriate laboratory to make an analysis on whether such goods suffer from any of the defects alleged in the complaint, or suffer from any other defects, and report its findings within a reasonable period; and
- (c) On receipt of the report from the laboratory, the Committee shall accordingly make an award.

The defaulting party shall be liable for costs under this section.

Section 105 (h)

Amended in Dzongkha

Section 109

Any person aggrieved by an order made by the Committee may appeal against such order to the ~~Dzongkhag~~ court **of competent jurisdiction** within a period of ten days from the date of the order.

Section 112

No action or suit shall be instituted or maintained in any court against:

- (a) The Committee;
- (b) A member of the Committee; or
- (c) A person authorized to act for or on behalf of the Committee; ~~for any act or omission done in good faith in the performance of the functions of the Committee or the person and the exercise of such powers under this Act.~~

for any act or omission done in good faith in the performance of the functions of the Committee or the person and the exercise of such powers under this Act.

Section 115

Receipt

A person who supplies or offers to supply any goods or services shall provide the consumer with a receipt for any purchase of goods or services ~~exceeding the prescribed value.~~

Section 117

Any person who contravenes this section shall be imposed a fine ten percent of the value of goods and services subject to **a maximum of six months' minimum wage** ~~Ngultrum 20,000.~~

Section 119

If any person fails to comply with the decisions of the Committee or Orders of the Board, the person shall be guilty of the offence **of** obstruction of lawful authority.

Section 121

The amendment of this Act by way of addition, variation or repeal shall be effected by a simple majority of the respective Houses or vote of no less **than** ~~then~~ two thirds of the total members of Parliament present and voting on a motion submitted by one third of the members of either House, provided that the amendment does not undermine the functions of the Office of the Consumer Protection.

Section 123 (a)

Amended in Dzongkha

Section 123 (g)

“Goods” refers to anything that is movable or immovable at the time of contract for sale, including technology, animal, minerals, oil and gas, **agricultural products** ~~growing crops~~, land, buildings and other things to be served from real property.

Section 123 (m)

Amended in Dzongkha

Section 123 (p)

“Service” means service of any description, which is made available to potential consumers and includes, but is not limited to the provision of facilities in connection with banking, finance, insurance, transport, telecommunication, processing, supply of electricity or other energy, board and lodging, entertainment, amusement or the purveying of news or other information, healthcare, but does not include the rendering of a service free of charge ~~by a charity or under a contract of personal service.~~

(Tuesday, the 21st Day of the 4th Month of the Iron Female Rabbit Year corresponding to 21/06/2011)

5 Re-deliberation on the Adoption Bill of Bhutan 2010

The National Council during its 6th session passed the Adoption Bill of Bhutan 2010 and submitted it to the National Assembly for adoption. The National Assembly deliberated on the Bill during its 7th session and returned it along with amendments and changes for re-deliberation. While some amendments were accepted, most were not endorsed by the National Council during the re-deliberation on 21/06/2011. The House resolved to deliberate on the following differences in the Joint Sitting of Parliament:

5.1 Amendments made by the National Assembly and accepted by the National Council:

Section 1

Short Title, Commencement and Extent

This Act shall:

- a. Be called the **CHILD ADOPTION ACT OF BHUTAN**;
- b. Come into force in the year of.....; and

Section 2

This Act hereby supersedes the provisions of any law, **bye law Acts, resolutions related to child adoption** ~~regulations, rules, directives, notifications, circulars and enactments~~ that are inconsistent with this Act ~~shall hereby be repealed~~. However, the adoption effected before the commencement of this Act shall continue to have force under this Act.

Section 10

The National Commission for Women and Children or **any other agency designated by the Government** shall be the competent authority under this Act

Section 45

Retained as in the draft

Section 51

An application for domestic adoption shall be filed by the competent authority **or a person designated by the Government** and such application shall be supported by the following documents:

- (a) Birth Certificate or **the Citizenship Identity Card of the applicant;**
- (b) Citizenship Identity card ~~or any other proof of citizenship or residency~~ of the adoptive parent and child's parent **or** ~~and~~ guardian;
- (c) Recent pass port size photographs of both the child and the adoptive parent;
- (d) Written consent of the parent or guardian;
- (e) Written agreement between a biological parent or guardian and adoptive parent ~~and their citizenship identity card and birth certificate;~~
- (f) Letter of undertaking from the adoptive parents to give share of inheritance to the adoptive child;
- (g) A letter recommending adoption issued by the competent authority or by the child welfare officer; ~~and~~
- (h) **Birth Certificate of the child; and**
- (i) Any other necessary document that competent authority and the court may require.

Section 52

All parties to the adoption whether domestic or inter-country shall ~~personally~~ be present **in person** during the Court hearing.

Section 72

The amendment of this Act by way of addition, variation or repeal shall be effected by a simple majority of the no less than two-thirds of the total members of Parliament present and voting on a motion submitted by one-third of the members of either House.

Section 73

The Dzongkha text shall be the authoritative text, if there exist any difference in meaning between the Dzongkha and the English text.

5.1 The following amendments made by the National Assembly were rejected by the National Council and resolved to be deliberated in the Joint Sitting of Parliament:

Section 1

~~c. Extend to the whole of the Kingdom of Bhutan or otherwise within the jurisdiction of Bhutan~~

New Section after Section 1

Extent

~~**1B. Extend to whole of the Kingdom of Bhutan or otherwise within the jurisdiction of Bhutan.**~~

Section 6

~~An inter-country adoption may be considered only as an alternative means for a child for whom a suitable adoptive parent cannot be found in the country.~~

Section 7

It shall be the State Policy to safeguard and prevent the child from unnecessary **unlawful** separation from biological parents.

Section 25

Retained as in the draft

Section 26

Subject to this Act, an application for adoption may be made by a ~~married couple~~ **Bhutanese Citizen who:**

- ~~a) Is married;~~
- b) Is of good moral character;**

- c) **Is financially secure;**
- d) **Is not convicted of a felony crime;**
- e) **Is capable of support and care for child; and**
- f) **Is at least 30 years of age and the age difference between the adoptive parent and the child to be adopted shall be at least 20 years.**

Section 27

~~Notwithstanding anything contained in Section 26 (a), a single **Bhutanese** person may adopt a child, if the person is found suitable and agreeable to the conditions specified by the competent authority.~~

Section 29 and 30

Retained as in the draft

Section 31

Subject to this Act, the following person may be adopted **by a Bhutanese Citizen:**

- a. A child below eighteen years of age;
- b. A person of legal age if prior to the adoption said person has been consistently considered and treated by the adoptive parent as ones own child since minority;
- c. A child whose parent, guardian or adoptive parent have died; or
- d. Any other child that the competent authority has taken cognizance of being in difficult circumstances.

Section 32, 33 and 34

Retained as in the draft

Section 36

~~A Bhutanese child may be adopted by any foreign national **belonging to** of a country with whom Bhutan has diplomatic relationship **may adopt a Bhutanese child**, or by a Bhutanese citizen permanently residing abroad if the person:~~

- a. Is at least ~~twenty five~~ **thirty** years of age at the time of filing an application for adoption ~~and the age difference~~

~~between the adoptive parent and the child to be adopted shall be at least 20 years;~~

- ~~b. Is married, the couple shall jointly file for the adoption;~~
- ~~c. Has the capacity to act and assume all rights and responsibilities of parental authority under ones national laws;~~
- ~~d. Is not convicted of a **felony** crime involving moral turpitude or other offences;~~
- ~~e. Is eligible to adopt under ones national law;~~
- ~~f. Pay adoption and other fees;~~
- ~~g. Undertakes to provide inheritance to the adopted child; and~~
- ~~h. Is in a position to provide the proper care and support and to give necessary moral values to the child adopted; and~~
- i. Submit an undertaking that the adoptive parents will submit progress report of the child to the Bhutanese Embassy.**

Section 37

~~Notwithstanding anything contained in Section 36 (b), a single **person** foreign national may adopt a child, if the person is found suitable and agreeable to the conditions specified by the competent authority.~~

New Sections after Section 37

37A. A Bhutanese National may adopt a foreign child only if the person, in addition to section 36:

- a. Has resided in the country from which the child is to be adopted for more than three years and is able to produce evidence that the primary reason for residing in that country was not for adoption;**
- b. Has not more than 1 child biological or otherwise; and**
- ~~**c. The number of adoption shall not exceed the permissible limit under Section 37B.**~~

37B. The Ministry of Home & Cultural Affairs shall be a relevant Ministry to issue directives and set limits on the number of inter-country adoption each year.

Section 38

Subject to this Act, the person mentioned under Section 31 may be adopted. **However, in case of a Bhutanese citizen adopting a foreign child, that child shall be below 9 years of age and a citizen of a country with whom Bhutan has diplomatic relationship.**

Section 39

Retained as in the draft

New section after section 39

For the purpose of this Chapter, the Competent Authority shall frame relevant rules for the purposes of implementing the provisions of this Chapter to ensure that a child is protected from exploitation, abuse, trafficking, sale or any other practices in connection with adoption which is harmful, detrimental, or prejudicial to the child.

New Section before Section 48

Retained as in the draft as section 34

New Section after Section 48

Retain as in the draft as section 39

Section 50

~~Adoption~~ Application for inter-country **adoption** shall only be filed by the competent authority and such application shall be supported by the following documents:

- (a) Birth Certificate of applicant;
- (b) Passport copies and passport size photographs of adoptive parent and recent postcard-size pictures of the applicant and ones immediate family;
- (c) Marriage contract, if married, and divorce decree, if applicable;
- (d) **If married, the couple shall file the application jointly;**
- (e) Written consent of the parent or guardian **of the adoptee;**
- (f) Written agreement between a biological parent or guardian and adoptive parent;

- (g) **Document on** home study by a recognized organization in home country;
- (h) Medical fitness certificate of the adoptee parent;
- (i) Documents showing the financial capability of the applicant;
- (j) Annual financial statements on income earned;
- (k) Character reference from the local authority, the applicant's employer or from ~~a the~~ member of the immediate community who **has** ~~have~~ known applicant for at least five years;
- (l) Certification **from the concerned government agency that the adoption is in accordance with their domestic law** ~~that once the adoption process is completed, the child will become a full fledged citizen of the country one is being adopted into, accorded all rights and privileges as others citizens;~~
- (m) ~~Certification that once the adoption process is completed, the child as a member of the family will be accorded same rights and privileges as a biological child including rights to inheritance;~~
- (n) Certification that progress reports on the child carried out by a certified and recognized organization; ~~and~~
- (o) **Birth Certificate of the child; and**
- (p) Any other necessary document that competent authority and the court may require.

Sections 62 and 63

Retained as in the draft

Section 65

A person shall be guilty of the offence **of** ~~for receipt of payment~~ **bribery**, if the person receives any payment, reward, favour or consideration in relation to adoption or proposed adoption of a child. The offence of **bribery** shall be a felony of fourth degree.

New Definitions under Section 74

“Domestic Adoption” means where a child of a Bhutanese is adopted by another Bhutanese.

“Inter-country Adoption” means the adoption of a child between a Bhutanese national and a national of a country with which Bhutan has diplomatic relationship.

(Tuesday, the 27th Day of the 4th Month of the Iron Female Rabbit Year corresponding to 28/06/2011)

6 Report on the National Budget & Appropriation Bill 2011-2012

The Hon’ble Finance Minister said that he was privileged and honored to get the opportunity to present the national budget report for the financial year 2011-2011 to the National Council coinciding with the auspicious occasion of the royal wedding of His Majesty the King.

He said that the national budget report was based on the annual financial statements of the financial year 2009-2010, macro economic developments, revised budget for financial year 2010-2011, budget estimates for financial year 2011-2012, tax measures, economic outlook in the medium term, report on state owned enterprises and companies with government shareholdings, report on the national pension and provident fund and the Royal Monetary Authority, developments in the financial sector and report on Trust Funds.

In the annual financial statements of the financial year 2009-2010, the current expenses had been met from internal revenue, fulfilling the main financial policy of the government and the provisions of the Constitution. The appropriation of the national budget of the financial year 2011-2012 was based on the principle of poverty reduction as enshrined in the 10th Five Year Plan. Priority activities and proposals from local governments had been incorporated, and the problems of shortage of contractors and specialized workers had been taken into consideration.

The total expenditure for this financial year estimated at Nu. 37,023.257 million was 10.9% more than the expenditure of the financial year 2010-2011. This was due to the salary

revision for public servants, new recruitments, and increase in basic public infrastructures.

The budget appropriation for different agencies included institutions, ministries, agencies and corporations. Under the general public activities, the Constituency Development Grant was comprehensively included. Along with these, the revised Budget and Appropriation Bill for the financial year 2010-2011, Budget and Appropriation Bill for the financial year 2011-2012, and Tax Revision Bill 2011 were introduced to the House for adoption.

Our country was known as a pioneer and example in environmental management. To continue this through, prevention of problems by restricting the import of goods that were harmful to the environment, and bearing in mind the concerns related to social conditions, the reasonable tax imposed on alcohol, vehicles, spare parts for vehicle, packaged fruit juice and precious metals were submitted to the National Council for endorsement.

(Wednesday, the 28th Day of the 4th Month of the Iron Female Rabbit Year corresponding to 29/06/2011)

6.1 Recommendations on the Budget & Appropriation Bill 2011-2012

The National Council deliberated on the National Budget estimates for the financial year 2011-12, revised Budget & Appropriation Bill 2010-11, Budget & Appropriation Bill 2011-12 and Tax Revision Bill 2011 from 28/6/2011 to 30/6/2011. While these were passed in general, the National Council resolved to submit the following amendments, objections and recommendations to the National Assembly.

A National Budget estimates for the financial year 2011-12

A.A Recommendations

- 1 Chapter 4.1.1:** The fall in domestic revenue due to decrease in income of DGPC owing to increased domestic

energy consumption and higher operations and maintenance cost of Tala Hydro-electric Plant was a big cause for concern. Since the on-going power projects were being implemented by the earlier construction companies, proper monitoring must be done to ensure quality.

- 2 Clarification was sought under Table 4.2, serial number 10 which provided for only capital and no re-current expenses for Phuentsholing Thromde.

3 Chapter 4.4.1: Health

- The report indicated that the coverage of Rural Water Supply under Health at the beginning of the 10th Plan was 87%, which had now reached 93%. However, some areas still faced shortage of drinking water. For instance, Upper Udzorong under Trashigang still did not have adequate drinking water although the government had allocated budget for water supply and work had long been completed. The current problem of the public of Upper Udzorong must be solved as soon as possible.
- The provision of labor by the people and transportation of materials by horses for supply of drinking water in some Gewogs under Gasa Dzongkhag were a problem. The Hon'ble Prime Minister during the mid-term review of the 10th Plan had said that the materials for supply of drinking water would be transported by air. However, this had not been reflected in the budget which needed to be reviewed.
- A separate budget had not been provided for the BHU II which was being built at Ura Gewog under Bumthang Dzongkhag. Besides, the budget of Nu. 6 million kept for the BHUs at Ura and Dhur was not adequate. It needed to be increased and included in the budget.

4 Chapter 4.4.11: Cultural Services

While budget had been provided under Cultural Services for renovation of most of the Dzongs and Lhakhangs, budget for renovation of the major damage caused to Trashigang Dzong by earthquake had not been provided, which may be included.

5 Chapter 4.5.1: National Assembly

Nu. 0.850 million had been provided to the National Assembly for consultation and exchange programmes between members of Parliament and local governments. Since the National Council had similar legislative roles as that of the National Assembly, a similar budget had to be provided to the National Council for exchange programmes with local governments.

6 Chapter 4.5.2: National Council

- The National Council is one of the highest legislative bodies in the country and is indispensable in our democracy. Therefore, due consideration needs to be given to the importance of the institution in appropriating budgetary resources.
- The Committees are very important for carrying out the internal functions of the National Council. In doing so, they need to organize consultation meetings, conduct research and hold public hearings, for which substantial budget was required. The National Council had proposed a reasonable amount of Nu. 0.550 million against which only Nu. 0.300 million had been recommended. Therefore, it was submitted that the whole amount as proposed may kindly be granted.
- In the previous financial year, Nu. 0.700 had been spent on stationery and related procurement. The National Council had proposed a reasonable budget of Nu. 0.476 million for this financial year against

which only Nu. 0.100 had been recommended. The purchase of a colour printer cartridge alone amounted to Nu. 50,000. With the recommended budget, severe problems would be faced in running the office. Therefore, it was submitted that the whole amount as proposed may kindly be granted.

- The National Council Secretariat was an important office that assisted and supported the National Council in the conduct of its parliamentary functions. Adequate budgetary support had to be provided to enable the secretariat to print copies of Bills and other important documents for distribution to the Hon'ble Members. Accordingly, a reasonable amount of Nu. 0.250 million had been proposed in this year's budget against which only Nu. 0.100 million had been recommended. With this, severe problems would be faced in running the office. Therefore, it was submitted that the whole amount as proposed may kindly be granted.

7 Chapter 4.4.5: Judiciary

- The Dungkhang Courts faced a lot of problems in the discharge of its duties, particularly, while travelling to other places. A vehicle each for the Dungkhang Courts was essential. It was submitted that the government, after studying the feasibility, consider keeping provisions in the budget for supply of a vehicle each to those which are presently not provided.
- Most of the duty vehicles provided to Dzongkhag Judges were more than 10 years old and had exceeded the warranty period. Therefore, provision had to be kept in the budget for allotment of new vehicles as deemed appropriate.

8 Chapters 4.5.6 & 4.5.7: Royal Audit Authority and Royal Civil Service Commission

Any training institution in the country after construction through either royal government funding or external grants had to be maintained at a huge cost. Therefore, the government should after carrying out in-depth study and research decide on establishing fewer but quality training institutions.

9 Chapter 6: Economic Outlook in the Medium Term

The recommendations submitted by the National Council on Economic Outlook in the Medium Term are as follows:

- Under the Bus Transport Services, the government had with a view to keeping the bus fare at reasonable rates granted tax and interest exemption for purchase of buses. However, the private transport service providers continued to charge unreasonable fares. For example, a passenger travelling from Trashigang to Khaling on the Trashigang-Samdrupjongkhar public transport bus was charged the full fare for Trashigang to Samdrupjongkhar which was unfair to the public. The government needed to investigate and solve the problem.
- While passengers travelling by bus with a luggage of more than 20 kg were required to pay luggage charges, people complained that charges were levied even for luggage that weighed less than 20 kg. The government needed to look into this and issue directives allowing free luggage up to a prescribed limit for passengers on a public transport service.
- Subsidy needed to be given to those low profit public transport service providers plying on unpaved roads.
- In keeping with the goal of promoting tourism in eastern Dzongkhags, budgetary provisions need to be kept for new activities. For example, budget need to be provided for the Sangay Shamu festival in Ura, Bumthang initiated in 2009 by the Ministry of

Agriculture. Likewise, budget need to be provided for the observance of existing festivals such as the annual Jomo Kukhor in Merak Sakteng under Trashigang. At the same time, Tourism Council of Bhutan needed to continue with its tourism development and promotion programs through advertisements.

- While it was feasible for tourists trekking mountains and snow covered places in rural areas like Laya, Lingzhi and Merak Sakteng to stay at the homes of ordinary villagers and provide food, tour operators carried tents and ration with them, thus denying the people of the income. Henceforth, the villagers need to be encouraged to keep tourists at their homes to enhance their income. For this, assistance had to be given to improve healthy living and eating conditions.
- Similarly, other areas like Tashiyangtse, Dagana and Gasa had potential for cultural and environmental tourism. Therefore, tourism had to be developed in these areas as well.

10 **General**

During the mid-term review meeting of the 10th Five Year Plan, the government had identified many developmental activities in the different Dzongkhags and agreed to begin the works. However, these were not included in the present budget. The government needed to review and include these activities in the budget. A proper monitoring and thorough investigation also had to be carried out to see that the progress as reported during the mid-term review had actually been achieved.

As agreed, the Hon'ble Minister for Finance may like to provide clarifications on the doubts and questions raised by some of the members on 28/6/2011.

A (B) Objections

1 Chapter 4.4.13, Table 4.19, Sl. No. 9

The Constituency Development Grant provided in the national budget 2011-12 on page 83, paragraph 2, table 4.19, number 9 needed to be removed since this had no support in accordance with the resolutions of the past National Council sessions.

B Supplementary Budget & Appropriation Bill 2010-2011

B (A) Recommendations

- 1 The National Council endorsed the amendments made by the National Assembly on the title and sections 1, 2 and 4 of the Supplementary Budget & Appropriation Bill 2010-11.
- 2 Clarification was needed on why budget was returned to the government from spending agencies, Dzongkhags and local governments, and the measures adopted by the government to prevent such a situation. In particular, return of budget had been mostly from Gewogs with high incidence of poverty. Therefore, training related to budget handling needed to be initiated for local leaders to build their capacity.
- 3 Apart from the Supplementary Budget & Appropriation Bill 2010-11 being under implementation till 30th June, the total amount for the National Budget and the Supplementary Bill had been shown differently making it very difficult to endorse. Therefore, a system had to be adopted in future for the Houses to deliberate on the Supplementary Budget & Appropriation Bill during the winter session, i.e., after the completion of the financial year. However, the present Supplementary Budget & Appropriation Bill 2010-11 had been endorsed as it was.
- 4 The appropriations in the Supplementary Budget & Appropriation Bill needed to be shown clearly following

the same procedures as in the normal Budget & Appropriation Bill.

- 5 Budget kept in the previous financial years for renovation of Gasa hot springs had been returned to the government since it could not be utilized properly due to shortage of man power and contractors. To solve the problem and create employment opportunities, it was recommended that the budget for those activities that could not be done privately be given to the students of vocational/construction training institutions for carrying out the works. This would benefit all the Dzongkhags, in general.

B (B) Objections

- 1 In accordance with the past resolutions of the National Council, take out Constituency Development Grant (CDG) from the budget if included in Schedule 10 of the Supplementary Budget & Appropriation Bill 2010-11 under Ministry of Finance's General Reserves.

C Budget and Appropriation Bill 2011-12

C (A) Amendments

1 Section 4

The appropriation is for a sum not exceeding Nu. 42,174.740 million. The above total to change with the removal of Constituency Development Grant of Nu. 94 million, and incorporation of other proposals to the budget estimates for the financial year 2011-12.

C (B) Recommendations

1 Schedule 10

While the Repayment, On Lending and General Reserves under the Ministry of Finance had been clearly shown in

the budget, Common Public Expenditure was not. This also had to be shown clearly.

C (C) Objections

1 Schedule 10

The budget provided for Constituency Development Grant under General Reserves need to be removed.

D Tax Revision Bill 2011

D (A) Amendments

1 Section 9: Implementation of the Revised Tax

The implementation of the revised taxes shall be in accordance with the *Sales Tax, Customs and Excise Act 2000* as revised from time to time **by the Parliament** and the rules and regulations thereof.

D (B) Recommendations

1 Revision of Alcohol Tax

- The National Council fully supported the increase of alcohol tax. The main purpose of the present increase in tax had been to reduce diseases and for improvement of the society at large. The government had adopted various policies and measures to reduce alcohol consumption. Reliance should not be put only on the Ministry of Finance's proposal for tax revision. Other Ministries and Departments had to adopt and implement similar measures to this end. For example, the annual renewal fees for bar licenses had to be increased, bars needed to close on time in the evening, and the areas where bars remained opened needed to be properly monitored and followed up.
- To reduce alcohol consumption, import and production of alcohol by distilleries such as Army

Welfare Project and other alcoholic beverages like beer within the country needed to be reduced.

2 Vehicle

The National Council endorsed the increase in vehicle import tax as proposed by the National Assembly. The tax increase had been aimed at benefitting the society and the environment. To this end, basic infrastructure such as cycle tracks for bicycles needed to be constructed and public transport services improved. In future, electric bus and rail transport system could be introduced to further alleviate the problems related to society and the environment.

3 Spare Parts of Vehicles and Machineries

- While the National Council endorsed the tax increase for spare part of vehicles and machineries, it did not support the tax increase for spare parts of machineries related to agriculture and small scale industries. The House argued that most of the people in the country depended on agriculture for livelihood, which had helped in poverty reduction. If taxes were increased, small scale private industries would also lose interest in developing the private sector. The National Council instead recommended waiving off the existing taxes on spare parts for agriculture and small scale industries, if possible.
- Tobacco Control Act had been adopted and was being implemented in the country. Likewise, activities related to tobacco production were not allowed in the country. On the contrary, the Tax Revision Bill had provisions on spare parts of tobacco production machineries, which needed to be removed from the Bill.

4 Packaged Fruit Juice

- The National Council endorsed the tax increase on Packaged Fruit Juice as proposed by the National Assembly. For future benefit, the House also recommended increasing the tax on cool drinks such as pepsi, fanta and coca cola which could be sold in bottles of less than 250 ml that were harmful to the health of the community and the environment.
- The government also needed to impose reasonable tax while considering tax revision in future on edibles packaged in plastics since plastic caused the most harm to the environment.

5 Precious Metals

The tax increase on precious metals was endorsed as proposed by the National Assembly.

In general, the National Council supported the proposal of the Government and the National Assembly on the revision of Customs & Sales Tax. The House further recommended that the other existing taxes in the country such as personal income tax, business income tax and corporate income tax be reviewed and revised in order to generate revenue and bring about equitable development between the rich and poor. While there was lot of problems in administration of land tax, the revenue generated from it had not been substantial. Therefore, it was submitted that land tax be waived off for land holdings below 5 acres. For land holdings of more than 5 acres, the government should conduct a feasibility study to increase land tax based on the size of holding.

(Friday, the 2nd Day of the 4th Month of the Iron Female Rabbit Year corresponding to 3/06/2011)

F Legislative Issues (International Conventions)

1 Introduction of the SAARC Agreement on Trade in Services (SATIS)

The Hon'ble Ministry for Economic Affairs said that SAARC was established in 1985 with the aim of promoting cooperation, peace and happiness within the region. Subsequently, a lot of regional conventions and agreements had been adopted. Of these, SAFTA had been signed in 1993, based on which the need for a regional agreement on trade in services had been recognized in 2005 during the 13th SAARC Summit. The SAARC Secretariat had drafted the agreement based not only on the member countries' but on international agreements and laws, bearing in mind the development of trade in services, imposition of tax, security measures and academic qualification among the countries in the region. The member countries had signed the agreement in April 2010 at Thimphu during the 16th SAARC Summit.

The agreement had 32 Articles and 2 Annexure. The Cabinet had held review discussions, after which it had been deliberated in the National Assembly and ratified. The agreement had now been submitted to the National Council for similar ratification.

On this, the Deputy Chairperson said that the government had previously said that Bhutan was not ready to join the WTO, and that research and consultations were being done. This agreement (SATIS) was based on the objectives of GATS which was also aimed at enhancing trade in services. Thus, it appeared as if we were accepting the objectives of WTO. He asked if we were now ready to join the WTO, and what the status of the government plans and programs was for joining the WTO.

While there were no major amendments, Hon'ble Kuenlay Tshering and Hon'ble Karma Damcho Nidup said that since the agreement had been initially drafted in English, minor changes had to be made in the Dzongkha version for clarity during implementation once it had been ratified by Parliament. Moreover, the Ministry concerned needed to either report again to Parliament or the National Council on Annexure 2 which was missing from the Agreement.

1.1 Ratification of the SAARC Agreement on Trade in Services

The National Council thoroughly deliberated and ratified the SAARC Agreement on Trade in Services. Since the implementation of any law in the country was based on the Dzongkha version, the anomalies in translation between Dzongkha and English needed correction. The House also resolved that the ministry concerned should submit the Annexure provided under Article 30, Section (b) which was missing from the agreement to the National Council once it had been finalized.

(Wednesday, the 22nd Day of the 4th Month and the 5th day of the 5th Month of the Iron Female Rabbit Year corresponding to 22/06/2011 and 6/7/2011)

H Legislative Issues (Motion)

1 Motion to introduce the Druk Gyalpo's Relief Fund Bill 2011 in the 8th Session

The Hon'ble Chairperson said that the National Council had thoroughly deliberated on the need to establish a Druk Gyalpo's Relief Fund Bill during its past sessions and had submitted reminders to the government and the National Assembly. Accordingly, the National Assembly during its 6th session had deliberated and passed a resolution for establishment of the Fund and transmitted it to the National Council. The National Council had accepted the resolution with deep appreciation and further resolved that the government should introduce the Relief Fund as an Urgent Bill bearing in mind the present and future well-being of the country. The same had been reported to the government and the Hon'ble Speaker of the National Assembly apprised to have the Bill deliberated in the 7th Session of Parliament.

Respecting the resolutions of the National Council, the government had drafted the Relief Fund Bill and submitted a copy each to both the Houses of Parliament, along with a letter requesting that the Bill be deliberated within the 7th session

itself. As an important Bill which was required for unavoidable humanitarian relief, the National Council included the Bill in its agenda for the 7th session. Accordingly, the Hon'ble Minister for Finance was invited to introduce the Bill, to which he had agreed. However, following his discussions with the Hon'ble Speaker of the National Assembly, the Hon'ble Minister could not come. As there was doubt on whether or not the Relief Fund Bill was a Financial/Money Bill, deliberations on it could not take place in the National Council. The Hon'ble Chairperson also said that there was a need for clarification on this.

Hon'ble Kuenlay Tshering and Hon'ble Karma Yezer Raydi expressed their appreciation to the government for drafting the Bill on the Druk Gyalpo's Relief Fund and submitting it to Parliament in accordance with the resolution of the 6th session of the National Council. After the Bill was received by the National Council, the Legislative Committee had reviewed the Bill and was ready for deliberation in the House. They said that the sections in the Bill were not related to just money, but had other provisions as well. As such, the Bill was not a Money or Financial Bill and therefore, could be deliberated in the House. However, the Bill had to be introduced by the government since it came from there. They said that the Bill shall be deliberated upon once the uncertainty on its category had been clarified. The Hon'ble Member from Gasa Dzongkhag said that it was the Hon'ble Speaker who had to decide on whether or not it was a Money or Financial Bill.

Hon'ble Kuenlay Tshering acknowledged that there were no clear definitions on the different types of Bills in the respective Houses of Parliament. The members, too, were still gathering experience in the new democratic system. Even though the deliberation on the Bill could not take place during the 7th session because of procedural problems, it had to be deliberated in both the Houses during the 8th sessions and passed as an Act in view of its importance.

On this, the National Council expressed its appreciation to the government for allocating an annual amount of Nu. 20 million towards the Relief Fund in keeping with the resolution of the

6th Session of Parliament. Since the Druk Gyalpo's Relief Fund would benefit the country and the people, it should be established under an Act of Parliament. The House resolved to accordingly make a request to the National Assembly for deliberation on the Relief Fund Bill in both the Houses and enact into an Act during the 8th session of Parliament.

*(Thursday, the 23rd Day of the 4th Month of the Iron Female Rabbit
Year corresponding to 23/06/2011)*

2 Motion to draft new National Flag Bill of Bhutan

The Chairperson of Social & Cultural Affairs Committee, the Hon'ble Member from Wangduephodrang Dzongkhag submitted that the national flag was a true symbol of the country's sovereignty, integrity and unity, and had been accorded due respect and reverence as per tradition. However, there was no set approach as to where the flag should be hoisted, or how respect and reverence should be shown. For a uniform system to be put in place, the Hon'ble Member from Lhuentse Dzongkhag had asked for a review on this during a Plenary Meeting of the National Council. Accordingly, the Hon'ble Member and the Social & Cultural Affairs Committee had conducted a joint review and found a real need for a National Flag Act.

The erstwhile National Assembly had during its 36th session in 1972 deliberated upon and adopted National Flag Rules. However, the Rules could not be properly implemented due to lack of legal backing. With the change in governance to a democratic system, there was the danger for misuse of the national flag by printing it on shoes and garments. To prevent these from the very beginning and in view of the importance attached under Article 1.5, Article 8.4 and the First Schedule of the Constitution of Bhutan, a new National Flag Bill would be drafted based on the Rules of 1972 for deliberation during the 8th session of Parliament.

The Hon'ble Members from Lhuentse, Trongsa, Paro and Haa Dzongkhags and Hon'ble Kuenlay Tshering said that the drafting of the new National Flag Bill would help in solving the

uncertainties related to the national flag in Bhutan which had caused inconvenience to the people. The Bill would also benefit in preserving the traditional values through respect and reverence to the national flag which was a symbol of the dual system, peace and sovereignty. They expressed full support and said that the new National Flag Bill would be drafted in keeping with time to prevent misuse.

The national flag was a symbol of the country's sovereignty, security, integrity, peace and loyalty based on *leyjumdey* and *thadhamtsi*. However, there were no areas identified for hoisting the flag and clear procedures on how respect and reverence should be shown towards the flag until now. While there were a set of Rules for this, these had no strong legal backing and therefore, could not be properly enforced. Therefore, they said that the Social & Cultural Affairs would take the lead and consult the Gylapoi Zimpon's Office, Ministry of Home & Cultural Affairs, Dzongkha Development Commission and different Dzongkhags, draft the new National Flag Bill and submit it to the 8th session of the National Council for deliberation. Other traditional aspects, languages and system of *Driglam Choesum* would also be reviewed and reported to the National Council.

3 Other Legislative Motions

The Hon'ble Member from Pemagatshel Dzongkhag said that deductions were made from the salary of members of Parliament towards Provident Fund just like the civil servants, Armed Forces and corporate employees. However, the deductions towards pension from the monthly salary which are missing needed to be clearly provided for in the Parliamentary Entitlement Act for the benefit of the members on retirement after their five year term, and to reduce corruption in the country. Similarly, deductions from private employees should be considered so that they benefit from the scheme after their retirement.

Pension contributions were deducted from other offices also with five year terms like the Constitutional Post Holders, Justices of the High Court and Supreme Court, and

Government Secretaries. Similar deductions from members of Parliament and Cabinet Ministers would not result into any loss to the government. Therefore, the Parliamentary Entitlement Act 2008 and the Entitlements & Service Conditions of Constitutional Post Holders, Members and Commissioners Act 2010 should be reviewed and additions made to align the Acts in line with the deductions made from other employees.

The Hon'ble Member of Lhuentse Dzongkhag pointed out that if a Member of Parliament retired before the expiry of the five year term, s/he was not entitled to gratuity while a Constitutional Post Holder holding office for five year could retire any time and get the gratuity, which was unfair. Considering the welfare of the five year term holders like the Justices of the High Court and Supreme Court, Government Secretaries, employees of local government and members of Parliament, he submitted that gratuity be given even if someone retired before expiry of the five year term to maintain uniformity on which most of the Hon'ble Members agreed.

On this, the National Council maintained that since the present Parliament was the first of its kind, it should review and amend any Act that was inconsistent with other existing laws. Keeping the future well-being of the members of Parliament in mind, the House resolved to thoroughly review the Parliamentary Entitlement Act 2008, the Entitlements & Service Conditions of Constitutional Post Holders, Members and Commissioners Act 2010, the Labour Act 2007 and the National Pension & Provident Fund Rules and Regulations, and submit a report to the National Council for deliberation during its 8th session to ensure deductions towards pension from their monthly salaries were made and that gratuity for retirement before the expiry of the five year term was paid.

(Friday & Wednesday, the 23rd Day of the 4th Month and the 5th Day of the 5th Month of the Iron Female Rabbit Year corresponding to 26/06/2011 and 6/07/2011)

I Review of Policy Issues

1 Annual Anti-Corruption Commission Report 2010

In accordance with Article 17.4 of the Constitution of Bhutan, the Good Governance Committee presented the annual Anti-Corruption Commission Report 2010 to the National Council based on six different sections.

The Deputy Chairperson of the Good Governance Committee, the Hon'ble Member from Zhemgang Dzongkhag presented the first three sections which dealt with general assessment, implementation status of parliamentary resolutions, operational challenge of ACC's independence, and institutional development. She said that the Commission had not been able to properly implement the 14 resolutions of the 2nd and 4th sessions of the National Assembly since the implementation procedures were not laid down clearly. There was thus the need to set down a system on how and by whom the resolutions should be implemented in the future.

She also pointed out that the Anti-Corruption Commission as an institution had no independence with its employees put under the Civil Service Commission. Among the existing employees, 10 had retired due to misgivings and difficulties associated with their work. There were major problems in institutional development in the fight against eradication and reduction of corruption in the country. To solve these problems, various policies and measures need to be adopted, among which creation of awareness by including anti-corruption measures in the main curriculum of schools was one.

The Chairperson of the Good Governance Committee, the Hon'ble Member from Gasa Dzongkhag presented the latter parts which included accountability, challenges and conclusion. Between 2006 and 2010, he said that the instances of corruption in the country had gradually gone down. The major instances of corruption had been in the Health's Procurement Section, Department of Forestry, Ministry of Works & Human Settlement, Construction Development Corporation and Department of Geology & Mines which were saddening to every Bhutanese. These were mainly

due to the time taken for adjudication of corruption cases, absence of a strong procurement system, misuse of authority by officials and imposition of non-uniform penalties related to corruption among different agencies.

The National Anti-Corruption Strategy Framework developed by the Commission in the past year for prevention and eradication of corruption had been disseminated to every institution. However, these had not been implemented properly. The responsibility of solving the problems of non-declaration of Assets and non-uniform codes of conduct should not be left to the Anti-Corruption Commission alone. He said that every institution and individual Bhutanese should jointly adopt measures to prevent corruption.

1.1 Debate on the Report

Hon'ble Tashi Wangmo said that corruption could be brought down if the Anti-Corruption Commission, the Office of the Attorney General and Judiciary cooperated on adjudication of corruption cases within a short period of time. Strategies had to be implemented properly and agencies with shortage of manpower be strengthened keeping in mind the long term needs. She also questioned the Commission on the inquiries it had made on the non-declaration of Assets.

The Deputy Chairperson, the Hon'ble Member from Trashigang Dzongkhag said the Commission had initiated many activities and programs towards prevention of corruption. Parliament had also passed a resolution requiring every institution to implement the National Anti-Corruption Strategy Framework that was adopted sometime last year. However, none had implemented it properly till date. Henceforth, the National Council should monitor implementation of these measures. Within the National Council itself, corruption prone areas should be identified, internal regulations framed and implemented. To this end, he said that a report would be submitted during the 8th session.

The Hon'ble Member from Pemagatshel Dzongkhag said that it would be best if a Parliamentary Committee could monitor the

implementation of Parliamentary resolutions under Section I of the report. On the code of conduct and different corruption related penalties among agencies, he said that the Good Governance Committee of the National Council should consult the Civil Service Commission and submit a report during the current session itself. Further, he inquired on the status of the corruption cases in the Ministry of Health. In response, the Hon'ble Member from Gasa Dzongkhag informed the House that the Judiciary had already passed verdict on some of the cases. He said that the Committee would consult the Ministry concerned on those cases which were not cleared and report back to the House.

Although the Anti-Corruption Commission was a new institution with acute shortage of human resources, most of the Hon'ble Members expressed their appreciation for its persistent efforts in preventing corrupt practices and bringing the country to number 36 on the International Corruption Index. It was now important to sustain these efforts to either eradicate or prevent the dreadful scourge of corruption in our democratic system. Since most of the corruption cases in the country arose due to the lack of proper administrative and management controls in the construction and procurement sectors, sustainable long term strategies had to be adopted.

As corruption was a dreadful practice in a democracy, the National Council held that the responsibility of eradicating and preventing corruption rested not only with the Commission but every institution, ministry, commission, agency, corporation, private sector and individual citizen in the country, alike. To this end, the National Council resolved that the following shall be submitted to the Government, Anti-Corruption Commission, relevant ministries and agencies as reminders:

1. Judiciary to consider facilitating a speedier processing of corruption cases as it helped the fight against corruption;
2. Government to consider incorporating corruption and ethics in schools and higher education curriculum based on our traditional value system of "*Tha-Damtsi*"

and “*Ley-Jumdey*” as a long term strategy to fighting corruption;

3. The Committees of the National Council to follow-up on the resolutions proposed by respective Committees and status of implementation, and report back to the House, whenever necessary;
4. The Government to work towards bringing more transparency in major hydro-power projects to curb corruption and the governments of Bhutan and India, particularly, Ministry of Economic Affairs to engage more Bhutanese private sector in actual construction works;
5. The Government to support the efforts of the Anti-Corruption Commission and Royal Civil Service Commission to streamline disciplinary and administrative actions through uniform application of rules by HR Committees of agencies and RCSC;
6. To insert transparency clauses in the Mines & Mineral Act and related legislations to avoid similar disputes like in the Samtse mining case;
7. Although significant budget allocation had been made to the local governments, their inability to utilize the budget posed risk of increased corruption. To minimize the risk, the Government and Anti-Corruption Commission should conduct training and workshops on utilization of budget and related procedures;
8. While giving promotion to leadership positions, it had to be done depending on one’s capability in order to promote meritocracy. It was, therefore, important to improve the selection system with clear and transparent rules and regulations;
9. If corruption was to be stopped, it had to be done by the respective offices themselves. To ensure that the procurements in the different offices were done

properly, it was important to have internal audit system. In keeping with the recommendation of the Public Accounts Committee (PAC), the government was asked to give incentives to the internal auditors similar to the allowances paid to the employees of the Royal Audit Authority (RAA);

10. Of the many activities and programs initiated by the Anti-Corruption Commission to prevent corruption, it had adopted the National Anti-Corruption Strategy Framework sometime last year on which the Parliament had also passed a resolution requiring every institution to implement it. Since none of the agencies had implemented it properly till date, the National Council resolved to monitor implementation of these measures. Within the National Council itself, corruption prone areas would be identified, internal regulations framed and accordingly implemented.
11. The Government in consultation with the Royal Civil Service Commission should support and solve the problem of shortage of human resources which the Anti-Corruption Commission was still faced with.
12. To curb corruption, transparency was important and for transparency, information was required. Although the Ministry of Information & Communications had said that a Right to Information (RTI) Bill would be tabled in 2012, it had not been included in the legislative plan of Hon'ble Prime Minister's Annual Report. The National Council calls upon the Government to give special consideration to this.

*(Thursday, the 29th Day of the 4th Month of the Iron Female Rabbit
Year corresponding to 30/06/2011)*

2 Bifurcation of larger gewogs

The Hon'ble Member from Trashigang Dzongkhag said that as submitted by the people, reduction of poverty in the country to ensure equitable economic development, and difficulties faced

in attending meetings at the Gewog Centres due to the distance between Chiwogs and Gewog Centres had been discussed in Dzongkhag and Gewog Yargay Tshogchhungs. However, the problems had not been solved and the people in most of the Dzongkhags still faced inconveniences. Therefore, he submitted that 11 Gewogs in 8 Dzongkhags had to be either clubbed together or bifurcated based on the severity of poverty, size of area, number of households and population.

He reported that this issue had been discussed thoroughly in the previous National Assembly, Dzongkhag Yargay Tshogchhungs, Gewog Yargay Tshogchhungs and Annual Gups' Conferences. The present National Assembly had during its 2nd session deliberated on it and recognized the issue as an important one. Since the 10th Plan had by then already been approved, re-allocation of budget and allied activities had posed a major problem. Therefore, it had been resolved that the issue shall be discussed again in 2012 prior to the formulation of 11th Five Year Plan.

With the view to facilitating the National Assembly during its deliberations in 2012 and for the benefit of the affected people, he requested the National Council to submit the supporting documents to the Royal Government on Gewogs that had been identified for bifurcation in Dzongkhags such as Trashigang, Sarpang, Samtse, Samdrupjongkhar, Dagana, Mongar, Lhuentse and Chhukha.

Of the 15 Gewogs in Trashigang Dzongkhag, the gewogs that needed to be bifurcated based on population, number of households, size of area and severity of poverty were Lumang, Phongmey, Samkhar and Thrimshing.

The Hon'ble Members from Sarpang, Samtse and Dagana Dzongkhags similarly reported on the gewogs in their respective Dzongkhags that needed bifurcation. These included Jigmechholing Gewog in Sarpang Dzongkhag, Dorokha Gewog in Samtse Dzongkhag and Karna Gewog in Dagana Dzongkhag.

The Hon'ble Member from Mongar Dzongkhag said that Mongar had earlier only 12 Gewogs. The Lhengye Zhungtshog and the National Assembly had later bifurcated Balam and Narang from Drametse, Tsakaling from Chhali, Jurmi from Kengkhar, Drepung from Mongar and Sherimuhung from Ngatshang Gewogs for the benefit of the people, thereby increasing the number of gewogs to 17. While he expressed his appreciation on these, he said that Silambi Gewog needed to be bifurcated as well.

While the need for bifurcation of gewogs in Lhuentse Dzongkhag had not been discussed either in Dzongkhag or Gewog Yargay Tshogchhungs, the Hon'ble Member from the Dzongkhag said that the people felt that some of the Chiwogs under Metsho and Jaray Gewogs needed to be separated to form a new Gewog.

In Samdrupjongkhar, the Hon'ble Member from the Dzongkhag said that Lauri Gewog should be bifurcated into two Gewogs, while Sozur Chiwog with 71 households and Galingkhar Wangphu Chiwog with 48 households under Martsala Gewog needed to be separated from Martsala Gewog and merged with Pemathang Gewog due to its proximity to the Gewog Centre and for commercial and developmental activities to flourish.

In Chhukha, the Hon'ble Member from the Dzongkhag said that there was the need to study the feasibility of separating Dap and Bobi Goenpa with 25 households, Sengdep with 12 households and Omchhu with 15 households, a total of 52 households from Geleng Gewog and merging with Phuentsholing Gewog due to their proximity to the Gewog Centre in Phuentsholing for availing the services.

Similarly, the Hon'ble Member from Haa Dzongkhag said that Gakiling Gewog was previously under Samtse Dzongkhag but fell under Haa Dzongkhag after the delimitation exercise. While the distance was shorter to Samtse Dzongkhag for commercial businesses and availing the services of the Gewog Centre, the people had not made any submissions until now. He said that a review of their situation would be done and a report submitted to the House.

Hon'ble Kuenlay Tshering and the Hon'ble Member from Gasar Dzongkhag said that the bifurcation of Gewogs should be in line with Article 1.4 of the Constitution of Bhutan and be identified based on whether or not service facilities are available in the villages, number of empty households and road connectivity to Gewog Centres.

The National Council,

- a) Recalling the discussions in the sessions of the previous National Assembly, GYTs, DYT's and annual Gups' conferences concerning the bifurcation of Gewogs and establishment of new ones, and respectful of the resolution of the second session of the National Assembly in 2008 concerning this issue; and
- b) Convinced that the establishment of new Gewogs would contribute to accelerating socio-economic development and poverty alleviation,

Hereby,

- 1) Calls upon the attention of the Royal Government to consider the issue of bifurcation and establishment of new Gewogs before the finalization of the 11th Five year Plan; and
- 2) Submits a list of Gewogs for bifurcation, their background and justifications thereof, for consideration of the Royal Government.

3 Foreign Labour Recruitment Agencies

The Hon'ble Member from Paro Dzongkhag said that ever since the start of the first Five Year Plan in the country, foreign labourers had been employed due to shortage of labour and construction experts to take up social development activities like Dzong, road and other infrastructure. To address problems associated with this, plans and policies were later adopted in 1994. And in 2006, 29 foreign labour recruitment agencies

were established in Gelephu, Phuentsholing and Samdrupjongkhar, which were reduced to 21 as decided in a subsequent meeting.

The main responsibility of these agencies had been to assist in recruitment of foreign labourers for major construction works and solve other related problems. However, they had not taken their responsibilities seriously, while at the same time, the government had insisted that recruitment of foreign labourers invariably had to be done through these agencies. This had not only caused serious problems between the contractors and the agencies, but had resulted in poor output of the Foreign Labour Recruitment Agencies. Therefore, the government should either change the policy allowing the contractors to directly recruit foreign labourers like in the past, or appropriately review the relevant laws and policies.

To this, the Hon'ble Members from Thimphu and Chhukha Dzongkhags said that after the government established the agencies based on the objectives of private sector development, some of them had supported the contractors in a big way and had shown good results. However, some had taken money from the contractors and not done any work in recruitment of foreign laborers, which had resulted in major problems in the industry. In order to solve the problem, the government should either allow those who are capable of recruiting the laborers themselves directly without necessarily going through the agencies or review the relevant laws and policies of the recruitment agencies to support those contractors who had to seek their help.

The National Council held that while recruiting foreign laborers for construction related activities in the country, there had been no clear procedures between the Foreign Labour Recruitment Agencies and the contractors. Even those that existed had not been implemented giving rise to major problems. To address these problems, the National Council resolved to submit a postulate to the Government and the relevant Ministry to either allow contractors to directly recruit foreign laborers without having to go through the agencies or to review the laws and related policies to support those

contractors who required the services of the agencies for effective implementation.

*(Wednesday, the 5th Day of the 5th Month of the Iron Female Rabbit
Year corresponding to 6/07/2011)*

4 Review of Irrigation facilities and Infrastructure

The Hon'ble Member from Pemagatshel Dzongkhag said that the government had recognized poverty alleviation as the priority of the 10th Five Year Plan through balanced development between rural and urban areas, and the natural resources sector. Integrated rural development activities have been carried out aimed at reducing poverty from 23.3% at the beginning to 15% by the end of 10th Plan. However, farmers who depended on agriculture for their livelihood in many areas were faced with acute shortage of water for irrigation.

The Hon'ble Member of Lhuentse Dzongkhag agreed that the National Irrigation Policy 1992 was biased towards open channel irrigation system for paddy fields and ignored cash crops like fruits and vegetables. However, about 50% of the irrigation channels meant for paddy cultivation were non-functional. He said that the number of people farming was decreasing due to the poor state of agriculture infrastructure.

Further, the transfer of engineering works related to irrigation planning and management from the Ministry of Agriculture to the Ministry of Works & Human Settlement, and decentralization of power to Dzongkhag Engineering units and Gewog Engineers in controlling engineering experts in 2002 had resulted in the decline of functions related to irrigation planning, implementation and related activities. Moreover, other development activities like construction of farm roads and buildings had taken precedence over the construction of irrigation channels. The Hon'ble Member hoped that the National Irrigation Policy 2010 which had been drafted would solve these problems once adopted by the Cabinet.

Likewise, the Hon'ble Members from Trongsa, Paro and Mongar Dzongkhags said that the shortage of irrigation water

was a major problem at the national level. For long term solution, they said that the government should take up the initial construction of the irrigation infrastructure and the farmers themselves undertake the minor repairs.

On this, the National Council with a view to ensuring self-reliance of the Bhutanese who depended on agriculture for their livelihood, fulfilling the objective of food security in the country, and most importantly, alleviating poverty as per the 10th Plan development theme, resolved to submit the following recommendations to the Government as postulates and reminders:

1. Review institutional set-up of irrigation programs and restructure it to enhance implementation, monitoring and evaluation of irrigation activities at all levels. It was proposed that the mandate for coordination of irrigation activities at the national level be entrusted to Ministry of Agriculture & Forest to provide backstopping (technical as well as financial) to the Local Governments;
2. Strengthen human resource capacity in irrigation engineering;
3. Build capacity of local communities in irrigation water management through timely provision of adequate technical support and other resources to the Water Users' groups. Such groups must be provided with whatever assistance is was necessary and be nurtured over time till they are were able to function independently;
4. Diversify irrigation systems as per crop cultivation. Irrigation for horticultural crops (fruits and vegetables) production must be treated separately from irrigation for paddy cultivation, and be given more impetus since enhancement of farmers' income through cash crop production was gaining popularity over the years and can be expected to remain so in the near future;

5. Review and implement the draft National Irrigation Policy 2010 before the end of the 10th FYP so that irrigation received more impetus during the 11th FYP and beyond; and
6. Develop a comprehensive National Irrigation Development Master Plan.

J Any Other Business

1 Detoxification of Drug Addicts

The Hon'ble Member from Trongsa Dzongkhag said that the number of drug users in the community was rising. However, as reported twice in Bhutan Observer, they did not go to hospitals for treatment fearing that the police would charge them. Therefore, the system of treatment of drug addicts had to be improved.

Drug users usually went for treatment only when they were about to die due to overdose. Fear of treatment for minor illness or addiction had seen annual rise in drug related problems, which was a big cause of concern and a major challenge in the society. The relevant laws had clear provisions for treatments. The government should come up with proper programs, accordingly.

Recognizing its importance to the society, the Hon'ble Members from Wangduephodrang, Chhukha, Dagana and Thimphu Dzongkhags said that the government and people should take responsibility, jointly. Since youth were the future citizens and leaders, drug addicts should not be considered as criminals but as patients, and treated like any other patient. Check posts within the country conducted checking for security reasons. Since such checking was not being conducted these days, they wanted to know the reason.

The Deputy Chairperson, Hon'ble Kuenlay Tshering and the Hon'ble Members from Zhemgang, Gasa and Lhuentse Dzongkhags said that the National Council had deliberated on this issue during its 6th session, called the attention of the Government and relevant ministries, and received answers. It

took the Government some time to carry out any planned activities. Moreover, since the issue was like a status report without detailed research and consultation, they felt that there was no need for any recommendation to be submitted to the Government. Instead, the Committee should discuss it internally and come up with measures.

On this, the National Council held that a resolution had already been passed on the issue of treatment of drug addicts during its 6th session and submitted to the Government and ministry concerned. However, since the present youth were our future leaders, the House directed the Social & Cultural Affairs Committee led by the Hon'ble Member from Trongsa Dzongkhags to conduct thorough research and consultations and report back during the 8th session, if necessary, to come up with strong preventive measures on unwanted habits.

2 Alternatives to state funding of political parties

The Chairperson of Good Governance Committee, the Hon'ble Member from Gasa Dzongkhag submitted that during the deliberations on the Election Amendment Bill, state funding of political parties was found to be unconstitutional because of which the National Council had not supported it. However, due to the importance of the institutions of political parties in a democratic system, the Committee had been directed to draw up Terms of Reference (TOR) for establishment of an ad hoc national level committee to study and find out other possible lawful alternatives. Accordingly, the terms of reference prepared by the Good Governance Committee was presented to the House.

However, the Hon'ble Member from Sarpang Dzongkhag differed on the above and said that state funding of political parties was not unconstitutional as per Article 15.4 of the Constitution. Therefore, it would not only protect the sovereignty of the country, but also help the political parties to remain independent and thus prevent corruption, if the fund was granted.

Although a resolution had been passed not to provide state funding to political parties and to establish a multi-sectoral committee to study other alternatives, Hon'ble Karma Yezer Raydi said that he could see problems in achieving the intended results as the membership of the Committee and reporting mechanism had not been spelt out, clearly. Since the problem was with the ruling government, it was the government which had to initiate the study. But there was again the problem of the conflict of interest. Therefore, he expressed his doubts on the outcome of the committee. However, most of the Hon'ble Members expressed their support to establish an ad hoc committee with improvement on the objectives of the committee, its membership and reporting mechanism.

On this, the National Council resolved to improve the following draft terms of reference of the committee and submit it to the relevant agencies, particularly, the Government, National Assembly and the two political parties for implementation.

Working Title

Committee to study the status of political parties in Bhutan

Members

1. A representative from the Election Commission of Bhutan;
2. A representative from the Royal Audit Authority of Bhutan;
3. A representative from the Anti-Corruption Commission of Bhutan;
4. A representative from the Office of the Attorney General;
5. A representative from the Department of National Budget; and
6. The Secretary General, National Council of Bhutan as the Member Secretary.

Objectives

1. To study and report on the expenses, books of account and financial management of political parties; and

2. To study and report on the rules & regulations and structure affecting political parties.

Deliverables

Submit a report on the revenue and expenditure of political parties and recommendations to help sustain political parties.

Scope

The committee will study the current financial status of the two political parties, namely, Druk Phuensum Tshogpa and the Peoples Democratic Party. This exercise will include studying all related information in addition to the rules and regulations related to political parties. It will also include meeting with the stakeholders as determined by the committee, additionally.

Reporting

After its first meeting, the committee will submit a work plan to the Good Governance Committee of the National Council. Thereafter, the committee will report to the Good Governance Committee at the end of each month.

The final report will be submitted to the Good Governance Committee by the last week of October 2011. The Good Governance Committee shall then submit a report to the National Council at its 8th session.

Resources and Budget

While the committee convenes, all expenses related to it shall be met from the budget of the National Council.

Governance

The committee will arrive at a decision without voting based on consensus, failing which a simple majority vote will determine its decision.

4 System of transfer of School Teachers

The Hon'ble Member from Haa Dzongkhag said that since the youth of today were future leaders, the government aimed at improving the quality of education with a view to giving the best education and making them productive citizens. However, he said that the policy adopted by the Ministry of Education recently disallowing school teachers to go on transfer to other agencies before 10 years service was going to affect the objective of improving the quality of education.

While improvement of the quality of education was in the hands of teachers, there was the problem of shortage of teachers in schools. If the opportunities for existing teachers were reduced, there would be less interest in joining the teaching profession. Therefore, the government should review it properly and retain the policy as in the past.

In support, the Hon'ble Member from Thimphu Dzongkhag said that to improve the quality of education, teachers should be supported through favorable policies and rules to keep them motivated. However, the present policy would diminish their enthusiasm. The government should review it and retain the earlier policy for the existing teachers. With regard to new recruits, she said that it would be best if a contract with service conditions was signed prior to their joining service to have a strong system in place.

The Deputy Chairperson and Hon'ble Members from Gasa and Lhuentse Dzongkhags while expressing their appreciation to the government for according priority to the improvement of quality of education and adopting numerous policies said that a proper study should also be done on the present policy to see whether it originated from the Ministry of Education or the Royal Civil Service Commission. They felt that the outcome would be better if proper research and consultations were carried out before deliberating on the issue. Although the problem of transfer of teachers was due to shortage of teachers at present, review of policy should be done to solve the problem in the future.

To improve the quality of education in the country, recruitment of adequate teachers and building their capacity were important. However, the new policy adopted recently by the Ministry of Education disallowing school teachers who had not served 10 years to go on transfer to other agencies had discouraged new entry into teaching and risked losing enthusiasm of the existing teachers. Therefore, the National Council resolved to call the attention of the Government and the ministry concerned to review the policy in order to encourage and keep the morale of the teachers high.

(Thursday, the 7th Day of the 5th Month of the Iron Female Rabbit Year corresponding to 7/07/2011)

K Closing Ceremony

1 Closing Address of Hon'ble Chairperson

The 7th session of the National Council began on the 30th Day of the 3rd Month and concluded on the 7th Day of the 5th Month of the Bhutanese calendar. The fruitful completion of the session was attributed mainly to the blessings of the guardian deities, the wise guidance of His Majesty the King and the efforts of the individual members and committees. The Hon'ble Chairperson thanked everyone involved in the session.

On the issue of legislation, the Hon'ble Chairperson said that the National Council during the 7th session had deliberated on the Public Finance (Amendment) Bill of Bhutan 2011, the Sales Tax, Customs & Excise (Amendment) Bill of Bhutan 2011, the Election (Amendment) Bill of Bhutan 2011 and the Consumer Protection Bill of Bhutan 2011 and submitted these to the National Assembly for further deliberations. The National Assembly had similarly returned the Adoption Bill of Bhutan 2010 with certain amendments and changes. On re-deliberation, there had been differences between the two Houses on some of the sections. Therefore, he said that the Bill had been submitted to the Druk Gyalpo to command a Joint Sitting of Parliament. The SAARC Agreement on Trade in Services (SATIS) had also been ratified and submitted to the National Assembly and the ministry concerned.

The National Council had during its 6th session deliberated on the establishment of Relief Fund and submitted a resolution to the Government and the Ministry of Finance. Accordingly, Parliament had received the Relief Fund Bill, which was also included in the agenda of the National Council. However, deliberations could not take place since the procedures for deliberation on the Bill within the two Houses had not been finalized. The Hon'ble Chairperson said that the matter shall be taken up with the National Assembly for deliberation in the next session.

In addition, motion on the need of a National Flag Bill of Bhutan was moved. Likewise, discussions were held on the need to review relevant laws, rules and regulations related to pension and gratuity. The House resolved that a report on these issues should be submitted during the 8th session for deliberation.

Thorough deliberations on the Budget Estimates for the financial year 2011-12, Budget & Appropriation Bill 2011-12, Supplementary Budget & Appropriation Bill 2010-11 and Tax Revision Bill 2011 were also done. In keeping with the mandate of the National Council, a total of 26 amendments, objections and recommendations had been adopted and submitted to the National Assembly and the ministry concerned.

Under policy issues, discussions had been held on bifurcation of larger gewogs, recruitment of foreign laborers and review of irrigation policies for submission to the Government and relevant ministries as reminders and postulates. The Annual Report of the Anti-Corruption Commission 2010, too, had been thoroughly discussed and 12 recommendations been identified for submission to the relevant institutions. Besides, treatment of drug addicts and transfer of teachers before 10 years in service had been discussed on which the House has directed the relevant Committees and ministries to conduct reviews. The visit of the members to rural areas had helped understand the problems of fellow citizens during discussions in the House. The Hon'ble Chairperson said that such visits should be continued.

As resolved in the House, a national level committee would be established to study alternatives to state funding of political parties.

The Hon'ble Chairperson thanked the Cabinet Ministers headed by the Hon'ble Prime Minister for their kind cooperation and providing written as well as oral answers during Question Time of the National Council. He also thanked the Government for its report on the mid-term review of the 10th Five Year Plan and the Hon'ble Prime Minister's Annual State of the Nation report with impressive results. The Committees and individual members were directed to review the relevant sections of the report in accordance with the mandate of the National Council.

The Election Commission had successfully conducted the Local Government elections this year. The Hon'ble Chairperson expressed his deep appreciation and thanked the Election Commission for it as the completion of the establishment of all important democratic institutions in the country would ensure good progress of development activities in the remaining two years of the 10 Plan. He also thanked the Government for its full support to the Commission during the elections.

The Hon'ble Chairperson congratulated the newly elected local government leaders, and thanked those who had served as community leaders till now. He said that one of the aims after the conclusion of this session was for the members and Committees to share the National Council's experience of having worked in an apolitical manner with the newly elected local government leaders.

With the blessing of the Triple Gem and the grace of Their Majesties the Kings, the 7th session of the National Council concluded on the 7th Day of the 5th Month of the Iron Female Rabbit Year with prayers for the wellbeing of the country, the continued good health and long life of His Majesty the King, the Fourth Druk Gyalpo and the Royal Family.

Note:

1. *The House resolved that a separate deliberation was not required on the above resolution number (d) passed on 1/06/2011 on Policy of Private Education in Bhutan during adoption of agenda for the session. An oral question was scheduled on 22/06/2011 for the Hon'ble Education Minister during Question Time on the same subject.*
2. *Similarly, the House dropped deliberation on agenda item number (d) on implementation of past resolutions by the government and relevant ministries though it was included in the agenda.*

(Namgye Penjore)
Chairperson
National Council of Bhutan

**List of Hon'ble Members who participated in the
7th Session of the National Council of Bhutan**

1. His Excellency Namgye Penjore, Chairperson, Punakha Dzongkhag
2. Hon (Dr.) Sonam Kinga, Deputy Chairperson, Trashigang Dzongkhag
3. Hon Kuenlay Tshering, Eminent Member
4. Hon Karma Yezer Raydi, Eminent Member
5. Hon Tashi Wangmo, Eminent Member
6. Hon Karma Damcho Nidup, Eminent Member
7. Hon Tashi Wangyal, Eminent Member
8. Hon Tshewang Jurmi, Bumthang Dzongkhag
9. Hon Tshewang Lhamo, Chhukha Dzongkhag
10. Hon Sonam Dorji, Dagana Dzongkhag
11. Hon Sangay Khandu, Gasa Dzongkhag
12. Hon Tshering Dorji, Haa Dzongkhag
13. Hon Rinzin Rinzin, Lhuentse Dzongkhag
14. Hon Naichu, Mongar Dzongkhag
15. Hon Ugyen Tshering, Paro Dzongkhag
16. Hon Jigmi Rinzin, Pemagatshel Dzongkhag
17. Hon Jigme Wangchuk, Samdrupjongkhar Dzongkhag
18. Hon (Dr.) Mani Kumar Rai, Samtse Dzongkhag
19. Hon Karma Donnen Wangdi, Sarpang Dzongkhag
20. Hon Sangay Zangmo, Thimphu Dzongkhag
21. Hon Kesang Namgyel, Tashiyangtse Dzongkhag
22. Hon (Dr.) Jagar Dorji, Trongsa Dzongkhag
23. Hon Justin Gurung, Tsirang Dzongkhag
24. Hon Sonam Yangchen, Wangduephodrang Dzongkhag
25. Hon Pema Lhamo, Zhemgang Dzongkhag