

# OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 14 February 2001

The Council met at half-past Two o'clock

## MEMBERS PRESENT:

THE PRESIDENT

THE HONOURABLE MRS RITA FAN HSU LAI-TAI, G.B.S., J.P.

THE HONOURABLE KENNETH TING WOO-SHOU, J.P.

THE HONOURABLE JAMES TIEN PEI-CHUN, J.P.

THE HONOURABLE DAVID CHU YU-LIN

THE HONOURABLE CYD HO SAU-LAN

THE HONOURABLE ALBERT HO CHUN-YAN

IR DR THE HONOURABLE RAYMOND HO CHUNG-TAI, J.P.

THE HONOURABLE LEE CHEUK-YAN

THE HONOURABLE MARTIN LEE CHU-MING, S.C., J.P.

THE HONOURABLE ERIC LI KA-CHEUNG, J.P.

DR THE HONOURABLE DAVID LI KWOK-PO, J.P.

THE HONOURABLE FRED LI WAH-MING, J.P.

DR THE HONOURABLE LUI MING-WAH, J.P.

THE HONOURABLE NG LEUNG-SING

PROF THE HONOURABLE NG CHING-FAI

THE HONOURABLE MARGARET NG

THE HONOURABLE MRS SELINA CHOW LIANG SHUK-YEE, J.P.

THE HONOURABLE JAMES TO KUN-SUN

THE HONOURABLE CHEUNG MAN-KWONG

THE HONOURABLE HUI CHEUNG-CHING

THE HONOURABLE CHAN KWOK-KEUNG

THE HONOURABLE CHAN YUEN-HAN

THE HONOURABLE BERNARD CHAN

THE HONOURABLE CHAN KAM-LAM

THE HONOURABLE MRS SOPHIE LEUNG LAU YAU-FUN, S.B.S., J.P.

THE HONOURABLE LEUNG YIU-CHUNG

THE HONOURABLE SIN CHUNG-KAI

THE HONOURABLE ANDREW WONG WANG-FAT, J.P.

DR THE HONOURABLE PHILIP WONG YU-HONG

THE HONOURABLE WONG YUNG-KAN

THE HONOURABLE JASPER TSANG YOK-SING, J.P.

THE HONOURABLE HOWARD YOUNG, J.P.

DR THE HONOURABLE YEUNG SUM

THE HONOURABLE YEUNG YIU-CHUNG

THE HONOURABLE LAU CHIN-SHEK, J.P.

THE HONOURABLE LAU KONG-WAH

THE HONOURABLE LAU WONG-FAT, G.B.S., J.P.

THE HONOURABLE MRS MIRIAM LAU KIN-YEE, J.P.

THE HONOURABLE AMBROSE LAU HON-CHUEN, J.P.

THE HONOURABLE EMILY LAU WAI-HING, J.P.

THE HONOURABLE CHOY SO-YUK

THE HONOURABLE ANDREW CHENG KAR-FOO

THE HONOURABLE SZETO WAH

THE HONOURABLE TIMOTHY FOK TSUN-TING, S.B.S., J.P.

THE HONOURABLE LAW CHI-KWONG, J.P.

THE HONOURABLE TAM YIU-CHUNG, G.B.S., J.P.

DR THE HONOURABLE TANG SIU-TONG, J.P.

THE HONOURABLE ABRAHAM SHEK LAI-HIM, J.P.

THE HONOURABLE LI FUNG-YING, J.P.

THE HONOURABLE HENRY WU KING-CHEONG, B.B.S.

THE HONOURABLE TOMMY CHEUNG YU-YAN, J.P.

THE HONOURABLE MICHAEL MAK KWOK-FUNG

THE HONOURABLE ALBERT CHAN WAI-YIP

THE HONOURABLE LEUNG FU-WAH, M.H., J.P.

DR THE HONOURABLE LO WING-LOK

THE HONOURABLE WONG SING-CHI

THE HONOURABLE FREDERICK FUNG KIN-KEE

THE HONOURABLE IP KWOK-HIM, J.P.

THE HONOURABLE LAU PING-CHEUNG

THE HONOURABLE AUDREY EU YUET-MEE, S.C., J.P.

**PUBLIC OFFICERS ATTENDING:**

THE HONOURABLE MRS ANSON CHAN, G.B.M., J.P.

THE CHIEF SECRETARY FOR ADMINISTRATION

THE HONOURABLE DONALD TSANG YAM-KUEN, J.P.

THE FINANCIAL SECRETARY

THE HONOURABLE ELSIE LEUNG OI-SIE, J.P.

THE SECRETARY FOR JUSTICE

MR CHAU TAK-HAY, J.P.

SECRETARY FOR COMMERCE AND INDUSTRY

MISS DENISE YUE CHUNG-YEE, J.P.

SECRETARY FOR THE TREASURY

MR STEPHEN IP SHU-KWAN, J.P.

SECRETARY FOR FINANCIAL SERVICES

MRS LILY YAM KWAN PUI-YING, J.P.

SECRETARY FOR THE ENVIRONMENT AND FOOD

MRS REGINA IP LAU SUK-YEE, J.P.  
SECRETARY FOR SECURITY

MR LEE SHING-SEE, J.P.  
SECRETARY FOR WORKS

MRS CARRIE YAU TSANG KA-LAI, J.P.  
SECRETARY FOR INFORMATION TECHNOLOGY AND BROADCASTING

MRS FANNY LAW FAN CHIU-FUN, J.P.  
SECRETARY FOR EDUCATION AND MANPOWER

**CLERKS IN ATTENDANCE:**

MR RICKY FUNG CHOI-CHEUNG, J.P., SECRETARY GENERAL

MR LAW KAM-SANG, J.P., DEPUTY SECRETARY GENERAL

MRS JUSTINA LAM CHENG BO-LING, ASSISTANT SECRETARY  
GENERAL

MR RAY CHAN YUM-MOU, ASSISTANT SECRETARY GENERAL

**TABLING OF PAPERS**

The following papers were laid on the table pursuant to Rule 21(2) of the Rules of Procedure:

Subsidiary Legislation/Instruments	<i>L.N. No.</i>
Prevention of Copyright Piracy (Notices) Regulation ....	39/2001
Commodities Trading (Trading Limits and Position Limits) (Amendment) (No. 2) Rules 2001 .....	40/2001

## Other Papers

- No. 61 — Li Po Chun Charitable Trust Fund  
Annual Report for the period 1 September 1999 to  
31 August 2000
- No. 62 — Report by the Commissioner of Correctional Services of  
Hong Kong Incorporated on the Administration of the  
Correctional Services Department Welfare Fund for the  
year ended 31 March 2000
- No. 63 — Audited Statement of Accounts together with the Director  
of Audit's Report and Trustee's Report on the  
Administration of the Education Scholarships Fund for the  
year ended 31 August 2000
- No. 64 — Report of the Public Accounts Committee on the Reports  
of the Director of Audit on the Accounts of the  
Government of the Hong Kong Special Administrative  
Region for the year ended 31 March 2000 and the Results  
of Value for Money Audits (Report No. 35)  
(February 2001 — P.A.C. Report No. 35)

**ADDRESS**

**PRESIDENT** (in Cantonese): Mr Eric LI, Chairman of the Public Accounts Committee, will address the Council on the Committee's report on the Reports of the Director of Audit on the Accounts of the Government of the Hong Kong Special Administrative Region for the year ended 31 March 2000 and the Results of Value for Money Audits (Report No. 35).

**Report of the Public Accounts Committee on the Reports of the Director of Audit on the Accounts of the Government of the Hong Kong Special Administrative Region for the year ended 31 March 2000 and the Results of Value for Money Audits (Report No. 35)**

**MR ERIC LI:** Madam President, on behalf of the Public Accounts Committee (PAC), I have the honour to table our Report No. 35 today.

The Report corresponds with the Report of the Director of Audit on the Accounts of the Government of the Hong Kong Special Administrative Region for the year ended 31 March 2000 and his Report No. 35 on the results of value for money audits completed between March and September 2000, which were submitted to you on 30 October 2000 and tabled in the Legislative Council on 15 November 2000.

The PAC Report No. 35 contains three main parts:

- (a) the PAC's assessment of the actions taken by the Administration in response to the recommendations made by the PAC in our previous Reports Nos. 32, 33 and 33B;
- (b) our observations on the Report of the Director of Audit on the accounts of the Government for the year ended 31 March 2000; and
- (c) the conclusions reached by the PAC on the Director of Audit's Report No. 35.

As is the usual practice, we have selected for detailed examination only those chapters in the Director of Audit's Report No. 35 which, in our view, referred to more serious irregularities or shortcomings.

The Report tabled today covers our deliberations on six of the seven subjects selected.

The PAC had originally scheduled to hold a public hearing on the subject relating to "Construction of two bridges" on 7 December 2000. However, the Director of Highways requested that the hearing be conducted in camera. We have sought information from the Director, including justifications for his making the request and information relevant to our examination of the Director of Audit's Report. To allow ourselves more time to consider the various issues involved and the information that has been provided to us, we have decided to defer a full report on this subject, and will endeavour to finalize our report to the Council at the earliest opportunity.

Turning to the six substantive issues covered in this Report, I would like to mention first the Government's efforts to control flooding in the urban areas.

The PAC is seriously dismayed at the neglect of duties on the part of the Director of Drainage Services because, after the Drainage Services Department (DSD) had accepted its consultant's recommendation relating to the West Kowloon Stormwater Drainage Improvement Study, the DSD had not carried out a check on the hydraulic model of the Study some eight months after the acceptance of the Final Report on the Study. The omission of significant flow data in the hydraulic model had thus gone unnoticed for two years. Besides, there was a delay of almost two years in addressing the issue concerning the potential overflow from the Kowloon group of reservoirs. There will also be a delay of three years in the completion of all the drainage improvement works for West Kowloon.

The PAC is concerned that the Director of Drainage Services relies heavily on consultants in many facets of his work, and about the way the DSD monitors its consultants. The DSD used a consultant on the West Kowloon Stormwater Drainage Improvement Study, but did not closely monitor the consultant's work. In the end, another consultant had to be engaged later to review the West Kowloon drainage improvement strategy. The PAC considers that the Secretary for Works has the responsibility for ensuring that the Director of Drainage Services has the ability and procedures to monitor the consultants.



The PAC condemns the DSD and the Territory Development Department for dereliction of duties in the handing over of new culverts in the West Kowloon Reclamation. There was a lack of co-operation between the two departments as they tried to shirk the responsibility for the desilting works in order to avoid the cost, ignoring the public interest. This has resulted in the delay in handing over the new culverts. The delay in the handing over of new culverts to the DSD for proper maintenance resulted in the accumulation of silt in some of these culverts, aggravating the flooding problem in West Kowloon in 1997.

The PAC notes that, to forestall the recurrence of such a state of affairs, the Director of Territory Development has issued a technical memorandum emphasizing the importance of adequate consultation with the DSD on handing-over arrangements at the planning stage of the works, and the Secretary for Works has issued a new technical circular to remind works departments to refer unresolved interdepartmental works issues to heads of departments and the Works Bureau for an early resolution of the issues. However, we believe that the crux of the problem lies in the attitude of the government officials concerned. Circulars by themselves are unable to prevent the recurrence of similar incidents. We consider that having a responsible attitude when discharging public duties is as important as having a properly documented procedure.

Regarding the Government's support and administration of kindergarten education, the PAC is particularly concerned about the control of kindergartens' miscellaneous fees. The PAC is dismayed that there was a lack of control on miscellaneous fees and charges and many kindergartens had derived substantial profits from such fees and charges. Although the Education Department (ED) had issued guidelines on the profit limit of 15% in the sale of school items, many kindergartens did not follow these guidelines. The ED had not established any mechanism for ensuring compliance with the guidelines, nor had it issued any specific guidelines on the profit limit in the provision of paid services by kindergartens.

In this connection, the PAC urges the Director of Education to take expeditious measures to strengthen the control on miscellaneous fees and charges, including defining more clearly the components of "inclusive fee", which is referred to in section 14(1)(d) of the Education Ordinance. We also urge the Director of Education to require kindergartens to provide a breakdown of their optional fees and charges not regarded as the "inclusive fee", and including such information in the 2000-01 kindergarten profiles for parents' reference. We

further urge the Director of Education to take actions against those kindergartens which have failed to comply with the ED's guidelines on the charging of miscellaneous fees.

On the use of employers' returns and notifications for assessing and collecting salaries tax, the PAC is seriously concerned that there have been write-off cases of tax due from employees who were recruited from outside of Hong Kong and who left Hong Kong on termination of their employment without first paying their tax. The amount of the tax written off was \$213 million for the three years from 1997-98 to 1999-2000. In some of the write-off cases, the Inland Revenue Department (IRD) had taken a long time to obtain a departure prevention direction.

The Acting Commissioner of Inland Revenue has told the PAC that prior to the enactment of the Personal Data (Privacy) Ordinance, the IRD had kept a watch list of tax defaulters. When an individual's tax was written off, the IRD automatically advised the Director of Immigration to place the individual on the watch list. Then every time the tax defaulters entered or left Hong Kong, the Immigration Department would inform the IRD of such movements and his current address. Since the enactment of the Personal Data (Privacy) Ordinance, this information was not so readily available. The IRD had to comply with more stringent procedures for obtaining personal data for tax recovery purposes.

However, in examining the evidence, we have found that the Immigration Department has all along had a procedure to provide to the IRD a defaulting taxpayer's address or other information the same day an urgent request is made to the Immigration Department. Moreover, under the Personal Data (Privacy) Ordinance, personal data required for the "assessment or collection of any tax or duty" are exempt from the relevant data protection principles. The Acting Commissioner of Inland Revenue's response is clearly misleading. We are also seriously dismayed that he has sought to use the Personal Data (Privacy) Ordinance as an excuse and shift the blame to the Immigration Department. We urge the Commissioner of Inland Revenue to take expeditious action to recover tax without further excuse.

The PAC notes that the IRD has now set up an ad hoc committee to examine how best to implement the audit recommendations, including the tax treatments for employees who are more likely to evade tax by leaving Hong Kong. In this regard, the PAC is mindful of the need to safeguard the human

rights of all individuals. As such, we urge the Commissioner of Inland Revenue to ensure that the ad hoc committee, in considering the various proposals for securing payment of tax from taxpayers who are more likely to evade tax, will seek legal advice on whether such proposals are in compliance with human rights protection of individuals.

We have conducted two public hearings on the subject "Interdiction of government officers". The PAC finds it unacceptable that there are interdiction cases in which disciplinary proceedings have lasted even longer than criminal proceedings, and that it is not uncommon for disciplinary proceedings to last for more than one year. We urge the Secretary for the Civil Service to expeditiously streamline the existing disciplinary procedures with a view to speeding up the release of interdiction cases.

Regarding the withholding of salary during interdiction, we are concerned that whilst all other interdicting authorities follow the general guideline for implementing legal provisions authorizing the withholding of pay in respect of officers who are interdicted when disciplinary or criminal proceedings are being instituted or are about to be instituted against them, the Hong Kong Police Force alone grants full pay to all police officers below the rank of Superintendent who are interdicted for the same reason. We acknowledge the Commissioner of Police's admission that the current practice should be rectified because, by applying such a practice to all cases, he would have failed to exercise his discretion appropriately.

The PAC considers that the Commissioner of Police's proposed revised policy of making a direction on the proportion of pay to be withheld from a police officer below the rank of Superintendent, who has been interdicted under section 17(1)(a) of the Police Force Ordinance, is in line with the policy applicable to the rest of the Civil Service and should be supported.

The PAC has examined in detail the administration of the retraining courses of the Employees Retraining Board (ERB). We express dismay and serious concern over the ERB's unsatisfactory performance, as demonstrated by its failures to verify, on a regular basis, the accuracy of job placement information compiled by the training bodies under the Employees Retraining Scheme; to define the minimum period of employment before calculating job placement rates, thereby inflating the rates and the value of its retraining programmes; to adequately monitor the expenditure incurred by the training

bodies in operating retraining programmes; and to exercise sufficient controls over the frequency of retrainees attending full-time courses.

The PAC is aware that over the years, Members of the Legislative Council had time and again expressed concerns about the effectiveness of the retraining programmes. For instance, at the meeting of the Finance Committee held on 10 May 1996, Members expressed concern about the effectiveness of the retraining programmes in meeting the objective of helping the unemployed to rejoin the labour market and about the absence of objective yardsticks in assessing the usefulness of the courses. They were also concerned that given the short duration of the courses, it would be difficult to adequately equip the retrainees with the skills required for the purpose of joining a different trade. At the meeting of the Panel on Manpower on 7 January 1999, Members expressed concern about the monitoring of the training bodies' performance by the ERB. The PAC's current Report proves that the concerns of our colleagues were well-founded.

We recommend that the Executive Director of the ERB should adopt more objective and credible criteria, such as setting up a minimum period of continuous employment by a trainee, for arriving at job placement rates so as to establish the real value of its work.

The PAC notes that there are people who are unlikely to benefit from the existing short-term retraining programmes. In this connection, we urge the Secretary for Education and Manpower to review the criteria for admission to the ERB's programmes in order to identify other more effective and efficient options, in the light of job placement experience and the current higher unemployment rate compared to that in 1997 when the Executive Council's policy directives on target retrainees were set.

The PAC also urges the Secretary for Education and Manpower to critically review the anomalies that have been identified and ensure that the ERB has taken effective corrective actions on a timely basis, in advance of the next funding application.

In examining the subject "Comprehensive Redevelopment Programme of the Housing Authority", the PAC bears in mind the fact that housing resources are important and scarce resources of the community and the primary objective of the Comprehensive Redevelopment Programme is to improve the living

environment of the residents and the environment in the community, not to achieve savings. The PAC, therefore, does not accept the view that as the average length of redevelopment project delays was short and the number of vacant flats was small, the problems of project delays and vacant flats are not serious. Rather, we consider that any delay should be dealt with squarely, because families on the Waiting List for public housing will have to wait for a longer time as a result.

In order to make economic use of vacant flats pending redevelopment, the PAC urges the Director of Housing to review the feasibility of letting out such flats to the public and families on the Waiting List on a short-term basis, especially those that are situated at popular locations do not require much refurbishment and can be leased for at least two years prior to redevelopment.

Madam President, as always, the PAC has made its conclusions and recommendations in this Report with the best intentions and with the aim of achieving value for money in the delivery of public services. We hope that the Administration will respond constructively to the Report.

I wish to register my appreciation of the contributions made by members of the PAC. Our appreciation also goes to the representatives of the Administration and other organizations who have attended before the PAC. Last but not least, we are grateful to the Director of Audit and the staff of the Legislative Council Secretariat for their unfailing support and hardwork.

Thank you.

## **ORAL ANSWERS TO QUESTIONS**

**PRESIDENT** (in Cantonese): Questions. First question.

### **Motorists Required to Switch off Engines of Vehicles while Waiting**

1. **MR JAMES TIEN** (in Cantonese): *Madam President, regarding the plan to require motorists to switch off the engines of their vehicles while waiting (controlling idling engines), will the Government inform this Council of:*

- (a) *the latest progress of the study on the plan; and*
- (b) *the details of the various control options which are under consideration?*

**SECRETARY FOR THE ENVIRONMENT AND FOOD** (in Cantonese):  
Madam President,

- (a) Between July 2000 and January 2001, we consulted the 18 District Councils and transport trade groups representing taxis, public light buses, goods vehicles, tourist coaches, school coaches, school mini-buses and heavy construction site and works vehicles on the proposal to control idling engines. The majority of District Council members and transport trade groups supported the proposal in principle. However, quite a number of them had reservations about across-the-board control. Their three major concerns are as follows:

Firstly, drivers may due to various reasons, for example, in order to keep the air conditioning on when the weather is hot, choose to circulate around the streets instead of switching off the engine of their vehicles. As a result, the air will get more polluted.

Secondly, because of operational needs, many commercial vehicles have to keep their engines on after coming to a stop. Such commercial vehicles should be exempted from any control scheme.

Thirdly, since it is not easy to set objective criteria for enforcement purposes, there would be a lot of enforcement difficulties.

We plan to make a full report to the Panel on Environmental Affairs and the Panel on Transport of the Legislative Council at their joint meeting on 27 February on the views we collected during the consultation exercise and our analysis of those views.

- (b) We consider that any option for controlling idling engines must effectively reduce the nuisance caused by vehicle emissions to nearby pedestrians and residents while at the same time it must not

aggravate the air pollution problem. Moreover, objective, clear and practicable enforcement criteria must be set in order to achieve the expected results.

In overall terms, controlling idling engines will reduce the nuisance to nearby pedestrians and residents caused by smoke and heat emissions from waiting vehicles. However, controlling idling engines may not necessarily help improve the air quality. This is because many drivers may choose to circulate on the streets rather than switching off their engines in order to keep the air conditioning of their vehicles on. Some drivers do this due to operational needs. We estimate that moving private cars will emit two times more nitrogen oxides than when they are idling; moving diesel taxis and light buses will emit four times more particulates than when they are idling, and in the case of moving heavy goods vehicles, they will emit 13 times more particulates than when they are idling.

Furthermore, if we impose an across-the-board control scheme without setting clear enforcement criteria, there will be a lot of enforcement problems. We have to consider carefully which types of vehicles should be exempted without affecting the effectiveness of the control scheme. We have to consider the circumstances under which a driver should be considered to have contravened the requirement relating to idling engine. We also have to consider how enforcement agents could objectively judge the length of time a vehicle has left its engine on after coming to a stop.

We would like to listen to more views from Members before deciding on the way forward.

**MR JAMES TIEN** (in Cantonese): *Madam President, the Government always emphasizes executive-led administration and I seldom hear remarks similar to those made by the Secretary. The Secretary has stated at the end of her main reply that the Government would listen to more views from Members before deciding on the way forward. Madam President, although the main reply was read out by the Secretary for the Environment and Food, I believe it must have been drafted by the Transport Bureau which does not wish to take any action.*

**PRESIDENT** (in Cantonese): Mr TIEN, what is your supplementary question?

**MR JAMES TIEN** (in Cantonese): *My supplementary is very simple. The Secretary has stated in part (b) of her main reply that some drivers may choose to circulate on the streets rather than switching off their engines in order to keep the air conditioning of their vehicles on because of hot weather, and this causes traffic congestion. Does the Secretary for the Environment and Food support controlling idling engines? Will she tell Members here that they would like to take actions?*

**SECRETARY FOR THE ENVIRONMENT AND FOOD** (in Cantonese): Madam President, as the Secretary for the Environment and Food, I support any proposal that can effectively improve air quality. But I have just explained that we are not sure if the proposal to control idling engines can certainly improve air quality because drivers still have the right to choose after all. If we impose an across-the-board scheme to control idling engines, drivers can choose not to stop and continue to circulate on the streets. This is precisely our worry. I have just given some data to show that the emission by most vehicles circulating on the streets pollutes the air even more seriously than when they have come to a stop. Thus I have considered whether an across-the-board control scheme should be implemented from the realistic angle. Actually, there are enforcement difficulties with an across-the-board control scheme. For instance, the engines of some concrete mixers cannot be switched off. As far as I know, the engines of some engineering trucks can only be switched off after they have cooled down for a certain period of time. Moreover, as some ambulances and cash escort trucks are fully enclosed, we cannot require drivers of these vehicles to switch off the engines after they have come to a stop. We must give Members an account of the problems that will be encountered in implementing idling engine control. It is untrue that the Government does not wish to take actions. We still have doubts as to whether the resources to be invested and the manpower involved are proportional to the effectiveness of a compulsory across-the-board control scheme if it is implemented.

**MR AMBROSE LAU** (in Cantonese): *Madam President, point (b) of the Honourable James TIEN's main question asks about the details of the various control schemes under consideration. It is stated in the main reply that "the*



*Government would listen to more views from Members before deciding on the way forward". Has the Government studied how other densely populated cities deal with this problem when it considers the various control schemes? The Government has said that it would listen to more views from Members before deciding on the way forward. But when will it consult us?*

**SECRETARY FOR THE ENVIRONMENT AND FOOD** (in Cantonese): Madam President, we have not worked out any proposal on this. As I have just said, on 27 February, the Panel on Environmental Affairs and the Panel on Transport will hold a joint meeting and we will report in detail to the joint meeting the results and analyses of the consultation and explain the difficulties that will be encountered in implementing idling engine control.

The second part of Mr LAU's supplementary is about the practice in foreign cities. According to the information on hand, some cities in Britain, Toronto in Canada, Tokyo in Japan and Singapore have implemented idling engine control. But we are aware that they have encountered difficulties in enforcement. Moreover, New York also implements idling engine control under certain circumstances. Although we have not yet worked out a specific proposal, we can consider a few options. Apart from legislating on an across-the-board scheme on controlling idling engines, can we request the relevant sectors to exercise self-discipline as far as possible and implement idling engine control under certain circumstances? Taking franchised buses as an example, I know that the engines of buses stopped at bus terminals are switched on three to five minutes before departure. Can we give more explicit guidelines for franchised buses to make a better job of it? As for minibuses, can we request the trade to co-operate so that only the engines of the first two minibuses at the stand will be switched on while those of the other minibuses will be switched off? Some taxi stands have a faster hire rate but I wonder if some measures can be taken in respect of some sluggish ones? As far as I understand it, when we discussed this issue before, some Members were particularly concerned about coaches. Can we follow up the matter with the tourism sector so that they will do something?

On the whole, whether our plan will succeed and whether the public will support us depends largely on whether people are sitting in the car or walking on the streets. If they are walking on the streets, they certainly think that idling engines should be controlled, otherwise, the smoke and heat emissions from vehicles that have come to a stop will make them feel uncomfortable. But if they are sitting in the car waiting, they may think differently.

**MR MARTIN LEE** (in Cantonese): *Madam President, the Chairman of the Liberal Party and the Chairman of the Hong Kong Progressive Alliance have asked questions, so I must ask a question. (Laughter)*

*The Secretary said in part (b) of the main reply that we could not say that it is not good to control idling engines but if drivers choose to circulate on the streets, they will cause an even more serious problem. In fact, private cars are different from other vehicles. If taxis circulate on the streets, they may be looking for customers and we cannot stop them. Minibuses very often queue up and wait for passengers at the stands and they should not circulate on the streets. Perhaps the Government may exempt heavy goods vehicles running on diesel, but private cars really cause problems. As stated in the main reply, moving private cars will emit two times more nitrogen oxides. If four cars .....*

**PRESIDENT** (in Cantonese): Mr LEE, please come to your supplementary question direct.

**MR MARTIN LEE** (in Cantonese): *Madam President, my supplementary question is: Can the Secretary tell us if government vehicles and all vehicles prefixed by AM on their number plates have implemented idling engine control?*

**SECRETARY FOR THE ENVIRONMENT AND FOOD** (in Cantonese): Madam President, the answer is affirmative. We have given very explicit guidelines that all government vehicles must implement idling engine control.

**MRS MIRIAM LAU** (in Cantonese): *Madam President, I have heard many people say that vehicles, especially diesel vehicles, will emit more exhausts when their engines are re-started after being switched off. We all know that taxis waiting for passengers at taxi stands will keep stopping and moving. Based on this mode of operation, there may be more emissions if we implement idling engine control on taxis. If the Government does not exempt taxis from idling engine control, will it conduct more thorough studies in this respect?*

**SECRETARY FOR THE ENVIRONMENT AND FOOD** (in Cantonese): Madam President, I have earlier given some data on a comparison between different pollutants, the emissions from moving vehicles and the emissions from engines that are not switched off after the vehicles have come to a stop. But I believe Mrs LAU would like to know how much more emissions there will be at the moment an engine is started. We have not conducted any study in this respect, nor do we know if we can accurately measure whether more or less exhaust will be emitted at the moment an engine is started. If we wish to obtain accurate data, such data will depend on how many taxis there are at the taxi stands, and how many times does a taxi need to start its engine before picking up passengers and leaving. Therefore, I am not quite sure if it is worth spending time to conduct the relevant studies.

**MR LAW CHI-KWONG** (in Cantonese): *Madam President, I believe it is impossible for us to pass legislation to prohibit people from cruising and we cannot inhibit officials from "beating about the bush" here.*

*I think the reason why we need to legislate to prohibit waiting with engines idling is identical to the worries expressed by the Secretary in her main reply. If waiting is prohibited, drivers will circulate on the streets, but they will still choose to circulate on the streets with idling engine control. For the same reason, the Administration should permit waiting, otherwise, drivers will circulate on the streets and the environment will become more polluted. Therefore, we should discuss whether idling engine control should be enforced at places where drivers can stop their vehicles or even park and leave. Has the Secretary compared the idling engine control policy and the no waiting policy which have the same concerns, and has she compared the difficulties that will be encountered in enforcement and the actual situation?*

**SECRETARY FOR THE ENVIRONMENT AND FOOD** (in Cantonese): Madam President, the supplementary of Mr LAW is actually very complicated. I find the two policies share a common point, that is, as we enjoy freedom to a fairly large extent, the final decision lies with the motorists. I have worked in the Transport Department and I understand that people are very interesting. If we permit waiting, drivers will not consider the impact on the adjacent traffic condition. At peak hours, we can find the following situation on the streets in Central: so long as drivers can stop their vehicles to drop off or pick up

passengers, they will naturally stop there and wait. When a second vehicle arrives, it will stop and wait in a second file if there is not enough space. If no traffic policeman is there to enforce the law, another vehicle will stop and wait in the third file. Although it looks simple, the proposal to control idling engines is actually not simple at all. The result of our consultation is that everybody supports the proposal in principle, but when we get down to the details, everybody will request for exemption of the type of vehicles he is driving. Some have raised at a District Council meeting that the implementation of idling engine control will affect the operation and business of commercial vehicle operators, so we might as well control private cars first. Yet, I think that private cars have most choices and they can circulate on the streets. I am worried that this will cause a problem: the emissions released when they are circulating on the streets will be more serious than when they have come to a stop. Therefore, the problem cannot be solved easily. We are very willing to listen to Members' views and share their wisdom.

**PRESIDENT** (in Cantonese): The Council has spent more than 18 minutes on this question. Although several Members are still waiting to ask questions, I believe they can continue to discuss the matter on 27 February.

Second question.

### **Functions of Hong Kong Productivity Council**

2. **MR SIN CHUNG-KAI** (in Cantonese): *Madam President, according to the Hong Kong Productivity Council Ordinance, the main function of the public-funded Hong Kong Productivity Council (HKPC) is "to promote the increased productivity of industry in Hong Kong". In this connection, will the Government inform this Council:*

- (a) *of the number of contracts obtained by the HKPC since 1998 for the provision of information technology (IT) services to the Government and public-funded organizations and, in respect of each of these contracts, of the government department or organization, detailed type of service and value of contract involved;*
- (b) *of the monitoring measures in place to ensure that the HKPC actually performs its prescribed functions and does not compete with private organizations for profit; and*

- (c) *whether there are plans to change the funding arrangements for the HKPC to make it operate on a self-financing basis?*

**SECRETARY FOR COMMERCE AND INDUSTRY** (in Cantonese): Madam President,

- (a) The HKPC has obtained 119 contracts, with a total value of \$31 million, for the provision of IT services to the Government and a number of public-funded organizations since 1998. The services provided range from consultancy service, system development and maintenance, IT advisory service to training. Details are tabled in the Annex.
- (b) The funding of the HKPC comes from government subventions and self-generated income. Incomes are obtained from the provision of consultancy, training and supporting services. The pricing policy of the HKPC is governed by strict guidelines which require that the HKPC should determine its charges for services to large companies, organizations and the Government in a mature market with the presence of other suppliers in accordance with commercial principle and the charges should be based on cost plus profit. This will preclude unfair competition between the HKPC and private service providers.

The HKPC is led and monitored by a Council comprising government officials and representatives from the managerial, labour, professional and academic sectors in its activities and resource allocation. This is to ensure that the HKPC discharges its statutory functions properly and develops relevant services in response to the ever changing demands of local trades and industries. In the light of Hong Kong's rapidly changing economic circumstances, the Council of the HKPC will appoint in the coming few months a management consultant to conduct a fundamental study on the work of the HKPC on all fronts. The scope of the study will include, among others, the mode of operation and the pricing policy of the HKPC.

Moreover, the HKPC is required to forward its annual estimates and programme of activities to the Financial Secretary for approval. Section 19 of the Hong Kong Productivity Council Ordinance provides that the annual report of activities and statement of income and expenditure of the HKPC should be laid on the table of the Legislative Council.

- (c) The HKPC is to fulfil its public mission to promote the productivity of industries in Hong Kong through providing low-return supporting services which see a lack of participation by the private sector, conducting market development research and organizing promotional activities for various trades, providing services to small and medium enterprises, and liaising with relevant regional and international organizations. The Government, therefore, has no plans to change the funding arrangements for the HKPC to make it operate on a self-financing basis. However, as the HKPC only receives discretionary grants from the Government, it has been making every effort to increase its income and has succeeded in raising the ratio of income to total expenditure from 53% in 1995-96 to 59% in 1999-2000.

Annex

Details of the Contracts obtained by the HKPC since 1998  
for the provision of IT services to the Government and  
public-funded organizations

<i>Government department/public- funded organization</i>	<i>No. of contracts award</i>	<i>Range of value of contract</i>	<i>Total contract value</i>	<i>Type of Service</i>
Agency for Volunteer Service	1	\$20,000	\$20,000	Consultancy Service
Architectural Services Department	6	\$10,800 to \$400,660	\$1,031,369	Consultancy Service, System Development and Maintenance

<i>Government department/public-funded organization</i>	<i>No. of contracts award</i>	<i>Range of value of contract</i>	<i>Total contract value</i>	<i>Type of Service</i>
Central Health Education Unit	2	\$25,000 to \$25,500	\$50,500	Consultancy Service, System Development and Maintenance
City University of Hong Kong	1	\$98,000	\$98,000	Consultancy Service
Civil Engineering Department	1	\$280,000	\$280,000	Training
Civil Service Training and Development Institute	6	\$30,000 to \$260,000	\$988,000	System Development and Maintenance, IT Advisory Service
Correctional Services Department	1	\$103,000	\$103,000	Consultancy Service
Department of Health	3	\$51,200 to \$681,860	\$798,685	System Development and Maintenance
Drainage Services Department	5	\$74,660 to \$243,000	\$781,660	System Development and Maintenance, IT Advisory Service
Education and Manpower Bureau	1	\$330,550	\$330,500	System Development and Maintenance
Education Department	2	\$80,000 to \$498,000	\$578,000	IT Advisory Service
Employees Retraining Board	4	\$200,000 to \$700,000	\$1,300,000	Training

<i>Government department/public-funded organization</i>	<i>No. of contracts award</i>	<i>Range of value of contract</i>	<i>Total contract value</i>	<i>Type of Service</i>
Environmental Protection Department	8	\$5,000 to \$316,800	\$927,6000	System Development and Maintenance, Training
Hong Kong Examinations Authority	1	\$93,338	\$93,338	System Development and Maintenance
Hong Kong Federation of Youth Group	5	\$22,000 to \$55,000	\$143,000	System Development and Maintenance
Hong Kong Housing Authority	11	\$49,000 to \$4,870,000	\$11,370,441	System Development and Maintenance, Training
Hong Kong Polytechnic University	1	\$7,438	\$7,438	IT Advisory Service
Hong Kong Post Office	1	\$25,000	\$25,000	IT Advisory Service
Hong Kong Tourist Association	2	\$319,100 to \$515,000	\$834,100	Consultancy Service, System Development and Maintenance
Hong Kong Trade Development Council	2	\$135,500 to \$238,750	\$374,250	Consultancy Service, System Development and Maintenance
Hong Kong University of Science and Technology	1	\$26,920	\$26,920	System Development and Maintenance
Highways Department	5	\$22,500 to \$99,000	\$390,200	System Development and Maintenance, IT Advisory Service



<i>Government department/public-funded organization</i>	<i>No. of contracts award</i>	<i>Range of value of contract</i>	<i>Total contract value</i>	<i>Type of Service</i>
Information Services Department	1	\$351,000	\$351,000	IT Advisory Service
Information Technology Services Department	3	\$48,000 to \$96,000	\$192,000	System Development and Maintenance
Kowloon-Canton Railway Corporation	1	\$145,000	\$145,000	Training
Government Laboratory	4	\$35,700 to \$88,000	\$230,400	System Development and Maintenance
Labour Department	7	\$30,000 to \$300,000	\$687,000	System Development and Maintenance, Training
Lingnan University	1	\$14,950	\$14,590	Training
Prince Philip Dental Hospital	1	\$26,000	\$26,000	Training
Protection of Wages on Insolvency Fund Board	1	\$82,700	\$82,700	Consultancy Service
Queen Elizabeth Hospital	11	\$35,000 to \$379,440	\$1,604,240	System Development and Maintenance, IT Advisory Service
Social Welfare Department	7	\$6,800 to \$39,800	\$192,682	System Development and Maintenance
The Hong Kong Council of Social Services	1	\$1,207,805	\$1,207,805	IT Advisory Service

<i>Government department/public-funded organization</i>	<i>No. of contracts award</i>	<i>Range of value of contract</i>	<i>Total contract value</i>	<i>Type of Service</i>
The Salvation Army	1	\$164,400	\$164,400	IT Advisory Service
Transport Department	3	\$40,000 to \$344,250	\$424,250	IT Advisory Service
Former Urban Services Department	1	\$3,037,340	\$3,037,340	IT Advisory Service
Vocational Training Council	4	\$5,800 to \$817,500	\$857,050	System Development and Maintenance, IT Advisory Service
Works Bureau	2	\$49,950 to \$1,223,925	\$1,273,875	System Development and Maintenance, IT Advisory Service
Total	119		\$31,042,693	

**MR SIN CHUNG-KAI** (in Cantonese): *Madam President, the Government has stated in part (c) of the main reply that "the HKPC is to fulfil its public mission to promote the productivity of industries in Hong Kong through providing low-return supporting services which see a lack of participation by the private sector". As set out in the Annex, a lot of the services provided by the HKPC in fact involve system design and maintenance, and they are precisely service contracts that many private companies in the IT sector would wish to get. As the HKPC is a quasi-government organization subsidized by the Government, will it get these service agreements more easily when it tenders for the agreements? Has this type of services contravened .....*

**PRESIDENT** (in Cantonese): Mr SIN, please endeavour to raise your supplementary question direct.

**MR SIN CHUNG-KAI** (in Cantonese): *Madam President, I was about to raise my supplementary question. (Laughter) Since many private companies wish to provide the services set out in the Annex, from an objective perspective, had the HKPC done anything in the past that was competing with the people for profits?*

**SECRETARY FOR COMMERCE AND INDUSTRY** (in Cantonese): Madam President, I do not believe that the HKPC had done anything to compete with the people for profits. I have stated in the main reply that the HKPC charges for the services provided to large companies and organizations and the Government in a mature market with the presence of other suppliers should be based on cost plus profit. Therefore, there is no unfair competition, let alone competition with the people for profits.

**MR LAU PING-CHEUNG** (in Cantonese): *Madam President, the Secretary has stated in the last paragraph of his main reply that the HKPC will assist in promoting the productivity of industries in Hong Kong. Will the Secretary inform this Council if the HKPC will also assist in promoting professional services and the productivity of professional services?*

**SECRETARY FOR COMMERCE AND INDUSTRY** (in Cantonese): Madam President, the services mentioned in part (c) of my main reply include conducting market development research and organizing promotional activities. These are in fact technology-related services that include mainly the commercialization of technologies, promoting application of technologies as well as developing the mainland market and opportunities for co-operation with the Mainland for the industrial sector in Hong Kong. All this is related to technology and I believe the HKPC will assist professionals and professional bodies in respect of services relating to technologies and the promotion of productivity.

**MR JAMES TO** (in Cantonese): *Madam President, can the Secretary elaborate the commercial principle as stated in part (b) of the main reply? This is my supplementary.*

*In view of the background, since .....*

**PRESIDENT** (in Cantonese): Mr TO, be concise by all means.

**MR JAMES TO** (in Cantonese): *Madam President, does the commercial principle of the HKPC mean that the charges determined by the HKPC will not be too low or higher than those of other commercial organizations, otherwise, they will fail in contending for the agreements? Are the charges determined by the HKPC barely lower than those of other commercial organizations so that the HKPC will get all the agreements? As the HKPC is a quasi-government organization with reputation and is indirectly subsidized by the Government, the situation of other organizations competing against the HKPC is worrying. If the charges determined by the HKPC are so low that it seems like giving out gifts, other organizations will think that the HKPC has chosen to perform philanthropic acts.*

**SECRETARY FOR COMMERCE AND INDUSTRY** (in Cantonese): Madam President, the mission of the HKPC is to provide certain services to promote the productivity of industries in Hong Kong. In certain cases, there is really an element of subsidization. I wish to elaborate the policy of the HKPC in determining charges. Firstly, the HKPC will only fully recover the costs for services provided to small and medium companies in a mature market with the presence of other suppliers, and it will not factor in profits. The HKPC will only factor in the profits in the provision of services to large companies, organizations and the Government. In special markets with inadequate services, the HKPC will at least recover the staff and direct costs for the services provided for small companies; it will at least recover staff and direct costs and partly recover the indirect costs for the services it provides to medium companies and it will at least fully recover the staff, direct and indirect costs for the services it provides to large companies, organizations and the Government. The calculation of costs includes staff and direct costs (expenses required for individual services) and indirect costs (the operating expenses of the HKPC).

I believe Mr TO eagerly wishes to know how the HKPC determines the profit margin. At present, the HKPC does not have a set of established method for calculating the profit margin. In general, the HKPC will determine the profit margin for individual services on basis of such factors as clients, service targets, market situation, the nature of services and it will negotiate with the clients before setting a tender price and tendering for the services. The HKPC

will not know the tender price of its competitors when it participates in a tender, so there is no question of it setting a lower tender price after it has known the tender price of its competitors. Yet, a very important point is that, as I have stated in my main reply, the Council of the HKPC will appoint a management consultant to conduct a study on the mode of operation and the pricing policy of the HKPC. I hope that this review will draw up some criteria so that Members need not be so worried.

**PRESIDENT** (in Cantonese): Mr TO, which part of your supplementary has not been answered?

**MR JAMES TO** (in Cantonese): *Madam President, I wonder if my supplementary is not clear enough and I ask the President to give a ruling.*

*Certainly, the HKPC will not know the tender price of its competitors when it participates in a tender, but it will roughly know the range of market price on the basis of the experience it has accumulated. As the HKPC is subsidized by the Government and it can set a price that is slightly lower than the market price because of its experience, it certainly has conditions that are more favourable than other private organizations when it competes against them. How can there be fair competition?*

**SECRETARY FOR COMMERCE AND INDUSTRY** (in Cantonese): Madam President, I have just said that profits will be included in the charges for the services provided to large companies, organizations and the Government in a mature market with the presence of other suppliers. In that case, the HKPC factors in profits after it has fully recovered the costs and there is no subsidization. I wish this point could elucidate the reply I have just given.

**MR FRED LI** (in Cantonese): *Madam President, will the Secretary explain clearly whether the HKPC will first consult the industry before providing IT services and whether it will first consider whether relevant companies are providing the same services before deciding that the services should be provided by the HKPC?*

**SECRETARY FOR COMMERCE AND INDUSTRY** (in Cantonese): Madam President, the HKPC does make such consideration. Therefore, I have just said that in a mature market with the presence of other suppliers, the HKPC will handle the case in a certain way and in special markets without other suppliers and with inadequate services, the HKPC will handle the case in another way.

**PRESIDENT** (in Cantonese): Mr LI, which part of your supplementary has not been answered?

**MR FRED LI** (in Cantonese): *Madam President, the Secretary has not replied whether consultations will be conducted with the industry.*

**SECRETARY FOR COMMERCE AND INDUSTRY** (in Cantonese): Madam President, there are committees covering different areas under the HKPC, so I believe the HKPC does consult the industry.

**MR JAMES TIEN** (in Cantonese): *Madam President, as the former Chairman of the HKPC, as far as I understand it, the HKPC will fully recover the costs for services provided to large companies. As regards small and medium enterprises, since the Government has stated at the outset that it will provide subsidies, it is impossible for it to consult the industry in advance, otherwise, I wonder how it can assist small and medium enterprises if the same charges are collected. Will the Secretary inform this Council whether this policy has not been changed, that is, 59% of the services with full cost recovery are provided to large companies and the Government while 41% of the rest of the services with the costs not recovered are provided to assist weaker small and medium companies in promoting productivity?*

**SECRETARY FOR COMMERCE AND INDUSTRY** (in Cantonese): Madam President, I would like to thank Mr TIEN for raising this supplementary question. In respect of the provision of services by public and quasi-government organizations, the Government is often under pressure from two sides: on the one hand, some think that the relevant organizations are competing with the people for profits, on the other hand, some think that the Government should

subsidize small and medium enterprises more. I think the HKPC has struck a fairly good balance: as there are other service suppliers in a mature market, the HKPC will factor in profits in addition to recovering the costs for the services provided to large organizations or the Government. However, it will only recover the full costs but not the profits for the services provided to small and medium enterprises. Yet, in special markets with inadequate services, irrespective of the scale of the enterprises, the HKPC will not make profits and it will even only recover relatively less costs for the services provided to small and medium enterprises. The HKPC will recover the full costs only for services provided to large enterprises.

**PRESIDENT** (in Cantonese): Last supplementary.

**MR SIN CHUNG-KAI** (in Cantonese): *Madam President, will the Secretary inform this Council if the costs calculated include the rents of the HKPC or just wages? Actually, many services set out in the Annex include a lot of "intellectual" work such as consultancy and maintenance, and private companies will certainly include "expenses on sundries" when calculating the costs.*

**SECRETARY FOR COMMERCE AND INDUSTRY** (in Cantonese): Madam President, in answering a supplementary earlier, I said that costs include staff, direct and indirect costs (operating expenses) which certainly include rents and "expenses on sundries".

**PRESIDENT** (in Cantonese): Third question.

### **Policy on Access Control and Development Plans of Chung Ying Street**

3. **MISS CHAN YUEN-HAN** (in Cantonese): *Madam President, since 1 September last year, the Customs and Excise Department (C&E) and the police have set up a joint Police/Customs Control Post at the entrance to Chung Ying Street in the Closed Area of Sha Tau Kok, and the police have tightened the control of access to and from Chung Ying Street. These measures have aroused strong discontent among local residents. Regarding the policy on the access*

*control and development plans of Chung Ying Street, will the Government inform this Council:*

- (a) of the average number of permits issued per day in the three years prior to the reunification in respect of each type of Closed Area Permits (CAPs);*
- (b) of the reasons for implementing the new policy by the C&E and the police after the reunification and the details of the implementation; whether local business operators and residents had been consulted beforehand; if so, of the outcome of consultation; if not, the reasons for that; and*
- (c) whether it has drawn up development plans for Chung Ying Street; if so, of the details; if not, the reasons for that?*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President,

- (a) First of all, I would like to point out that the Administration has not tightened the control of access to and from Chung Ying Street. We have reviewed the system and procedures on the issue of CAPs in 1999 to ensure that they can balance policy and operational considerations against the concerns and needs of local residents. Under the revised procedure, the police may adopt a more flexible and liberal approach in assessing the applicants' needs when issuing CAPs. Similar criteria are also applicable to applications for CAPs to access Chung Ying Street. The number of CAPs of different categories issued by the police from 1995 to 2000 is listed below:

<i>Year (January to December)</i>	<i>Total</i>	<i>Sha Tau Kok CAPs</i>		<i>CAPs (Access to other parts of the Closed Area)</i>
		<i>Total</i>	<i>Access to Chung Ying Street</i>	
1995	60 600 (166)	42 400 (116)	2 100 (6)	18 200 (50)
1996	64 900 (178)	45 400 (124)	2 200 (6)	19 500 (53)



<i>Year (January to December)</i>	<i>Sha Tau Kok CAPs</i>			<i>CAPs (Access to other parts of the Closed Area)</i>
	<i>Total</i>	<i>Total</i>	<i>Access to Chung Ying Street</i>	
1997	56 100 (154)	39 300 (108)	1 700 (5)	16 800 (46)
1998	55 500 (152)	40 700 (112)	1 600 (4)	14 800 (40)
1999	63 500 (174)	47 100 (129)	2 500 (7)	16 400 (45)
2000	69 800 (191)	56 700 (155)	3 400 (9)	13 100 (36)

\* Figures in bracket denote daily average.

The above figures include the total number of CAPs and the breakdown of CAPs for Sha Tau Kok as well as CAPs for other parts of the Closed Area. As shown by the above, there was a significant increase in the number of CAPs issued by the police in 2000.

- (b) Law enforcement operations of the police and the C&E carried out at Chung Ying Street are determined by the prevailing circumstances at the location in question. They are not new policies. Due to its unique historical and geographical background, Chung Ying Street forms part of the land boundary between the Hong Kong Special Administrative Region (SAR) and the Mainland. It is an open boundary without any physical barrier or boundary control point facilities. In 1898, the old Sha Tau Kok Town was divided into two parts by the boundary between Shenzhen and Hong Kong (that is, Chung Ying Street). Due to this historical background, indigenous residents of Sha Tau Kok Town and their offspring have all along been allowed access to Chung Ying Street to conduct their daily activities in Sha Tau Kok Town in the Mainland as well as the Sha Tau Kok area in Hong Kong. They are also allowed to carry consumer goods across the boundary for

their own use. After the reunification, the SAR Government continues to respect this traditional arrangement in respect.

Law enforcement work at Chung Ying Street has all along been carried out mainly by the police's Border District. Police posts are maintained at three locations along the Street both before and after the reunification. On the other hand, the C&E carries out customs clearance and anti-smuggling duties mainly at the Sha Tau Kok Control Point and Shek Chung Au Check Post. From time to time the two departments conduct joint operations to combat illegal activities in the area.

With the implementation of open policy in the Mainland and the development of the Sha Tau Kok Town, many mainlanders travel to the Town for business, tours, family or relative visits; many of them also go to Chung Ying Street for sightseeing and shopping. At the end of last year, the police estimated that as many as 10 000 people passed through the Street each day. The volume of goods in transit via Chung Ying Street in recent years is huge. According to statistics kept by the C&E, the number of hand-push carts passing through the Street may reach 1 260 per day with a daily average of 660. Cargoes in transit via the Street may amount to 24 400 boxes with a daily average of about 12 800 boxes. The police have from time to time seized smuggled items such as fire crackers, duty-not-paid cigarettes/marked oil (industrial diesel oil) and illegally imported meat in the area. The Administration has reasons to believe that criminals are making use of the unique environment of Chung Ying Street for smuggling activities, and therefore sees a need to step up enforcement actions.

As the Customs check post at Shek Chung Au is over 2 km away from the boundary, it is difficult for the C&E to combat smuggling activities at Chung Ying Street from that check post. In view of this, an additional check post has been set up at the entrance to Chung Ying Street since September last year for conducting spot checks of goods transporting through the Street. We appreciated that local residents might not be accustomed to this new arrangement. The C&E has therefore organized a number of briefing meetings for the Sha Tau Kok Rural Committee, residents

of Sha Tau Kok Village, member of Sha Tau Kok District Council, and the two mainland cargo contractors operating in the area to explain the legislative import/export control and declaration procedures, which will be implemented in a flexible manner. Residents of Sha Tau Kok Village generally appreciated the need for the joint Police/Customs Check Post. Both sides have reached a consensus on the control and declaration procedures and agreed to continue to discuss the detailed arrangements and exchange views in future meetings.

To cope with the ever-increasing passenger flow and cross-boundary activities after the reunification, three more police constables have been deployed to the police posts at Chung Ying Street. More officers will be deployed to patrol the Street during daytime peak hours in order to maintain order and ensure effective control.

- (c) The purpose of establishing an area south of the SAR's boundary as a Closed Area is to provide a buffer zone to help the security forces to combat illegal immigration, smuggling activities and other cross-boundary crimes effectively, and to maintain the integrity of the boundary between the SAR and the Mainland. The Administration controls access to the Closed Area by issuing CAPs on a need basis to prevent excessive presence of people and activities in the area, which will hinder the operations of our law enforcement agencies. The development of Chung Ying Street involves not only the provision of suitable ancillary facilities but also security considerations. Any development plan might greatly increase the passenger flow and activities thereat, which will in turn undermine the Administration's effectiveness in combating illegal immigration and smuggling activities, and hence affecting the law and order. In view of these considerations, the Administration has currently no plans to develop Chung Ying Street.

**MISS CHAN YUEN-HAN** (in Cantonese): *Madam President, the Secretary mentioned in the third paragraph of part (b) of her main reply that the Administration implemented the new measure in order to cope with the increasing flow of passengers and cargoes at Chung Ying Street after the reunification. Since the new measure has caused great impact on the life of*

*local residents, it has aroused strong discontent among local residents and the respective District Council. As to illegal activities mentioned by the Secretary, I do not believe that they did not happen before the reunification. It is because in conjunction with commercial activities, such activities should also have taken place in the past as Chung Ying Street is lying in the middle of the SAR and the Mainland. May I ask the Secretary why it could be managed orderly before the reunification, but a control post has to be added after the reunification, causing impact on the life of local residents?*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, I thank Miss CHAN for this supplementary question. The information on hand indicates that after the reunification, the flow of passengers and cargoes has increased significantly. Just as I mentioned earlier, as many as 10 000 people and 1 260 hand-push carts are estimated to have passed through the Street each day, and up to 24 400 boxes of cargoes are in transit via the Street each day. Why does that happen? On the one hand, we consider that continuous reform and opening in the Mainland has made Chung Ying Street a shoppers' attraction to mainlanders living away from Sha Tau Kok Town. It is widely known that many goldsmith shops are doing business in the Street, and the business is extremely well because many mainlanders consider the relative purity and design of gold ornaments being sold there are superior to their mainland counterparts. Furthermore, there are also boutiques which sell local fashions. A lot of mainlanders consider clothes there are more trendy than those in the Mainland. As a result, people prefer going there to buy some trendy clothes. On the other hand, we are aware that some rascals take the advantage of the high flow of passengers and cargoes for certain illegal activities. One of the problems prevailing before and after the reunification was illegal immigration activity. Residents in Sha Tau Kok are aware of this kind of illegal activity. For example, some pregnant women from the Mainland will mingle themselves with the passenger flow of Chung Ying Street; they will then suddenly dash across the boundary so that they may stay in hospitals in the North District in order to give birth to their children. Moreover, as the number of students going to and from Chung Ying Street has increased, we found that some rascals have been making use of those children for their smuggling activities, such as importing meat into Hong Kong illegally. Smuggling activities are far worse than before. We have also noted the loophole in the importation of contrabands and control goods. As the Customs check post at Shek Chung Au is over 2 km away from the boundary, even if customs officers have found someone carrying certain items

when he crosses the boundary, it is still very difficult for them to determine whether such items are imported from the Mainland or purchased locally. Therefore, it is very difficult for them to enforce the Import and Export Ordinance. As a result, the Government considers it necessary to set up a joint check post at the entrance to Chung Ying Street.

**MR ANDREW WONG** (in Cantonese): *Madam President, I have no intention to discuss problems of Sha Tau Kok during question time. I just wish to ask some more practical issues. The Secretary mentioned in her main reply that as many as 10 000 people were passing through the Street each day. However, given that the total number of Sha Tau Kok CAPs issued by Hong Kong was 56 700 in 2000, the daily average was just 155 CAPs, in which only 3 400 holders of CAPs might have access to Chung Ying Street, and the daily average was just nine CAPs; therefore, people going to Sha Tau Kok Town each day should be special permit holders from the Mainland. I am not sure of the crux of the matter being discussed, does it have something to do with smuggling activities or some other issues? As a matter of fact, the business of shops at Chung Ying Street is no longer as burgeoning as before. In the past, it was trendy for mainland shoppers to buy gold ornaments at the Street, but now most of the goldsmith shops there have closed down. May I ask the Secretary whether or not she knows the crux of the matter, and whether it is simply a matter of smuggling activities? If so, it is probably another issue regarding how to put an end to all the smuggling activities. I hope I can understand the figures enumerated in the table of the main reply. Can the Secretary explain clearly that whether those are CAPs issued by the Hong Kong authority, and whether they are valid on a year-round basis or on a daily basis? It is indicated that the figures in brackets denoted the daily average. I have no idea of their meaning. For instance, I have the Sha Tau Kok CAP.....*

**PRESIDENT** (in Cantonese): Mr WONG, have you asked your supplementary question yet?

**MR ANDREW WONG** (in Cantonese): *Madam President, I only wish to make my question clearer. I have a CAP for my car, but it does not give me access to Chung Ying Street, therefore I do not know if the CAP is only for my car, or it is applicable to me, if .....*

**PRESIDENT** (in Cantonese): Mr WONG, please face the President when you ask your question.

**MR ANDREW WONG** (in Cantonese): *Madam President, can the Secretary explain clearly what exactly do the figures enumerated in the table of the main reply mean?*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, the figures enumerated in the table represent the number of CAPs issued, they are not equivalent to the number of passenger trips of people visiting Chung Ying Street. Validity of these CAPs is not that short, as holders may get in and out of the Closed Area on a multiple basis. Perhaps the daily average figures have misled Mr WONG. In 2000, an average of nine CAPs were issued each day, but it does not mean that only nine Hong Kong residents were allowed access to Chung Ying Street every day. The passenger flow at Chung Ying Street derives from two sources; Hong Kong residents are one of the sources. Restriction on access of Hong Kong residents to Chung Ying Street was relaxed after a police review in 1999. In the past, only indigenous residents or persons residing or working at Chung Ying Street were allowed access to the Street. However, after the review, the police adopted a more liberal approach in handling applications from persons other than the abovementioned category who have needs or justifiable reasons to go to Chung Ying Street. For example, residents living in Sha Tau Kok area but outside Chung Ying Street who have the need to go there for visit or shopping purposes are allowed access to Chung Ying Street now. On the Hong Kong side, due to such a more liberal policy of the police, more people have the chance to gain access to the Street. Correspondingly, the number of mainlanders gaining access to the Street has also gone up. However, the figures of CAPs issued are unable to reflect the number of mainland visitors. Due to its historical background, Chung Ying Street is an open boundary without any physical barrier or boundary control facilities for identity inspection. Mainlanders do not have to be one-way exit permit or two-way exit permit holders if they only go to Chung Ying Street. Accordingly, we have paid more attention to mainlanders going in and out of the Street. As figures in the table are unable to reflect the exact number of these people, we can only estimate that the daily average is around 10 000 people.

**MISS LI FUNG-YING** (in Cantonese): *Madam President, the Secretary mentioned in part (a) of her main reply that the Administration had reviewed the CAPs issuing system and had taken the needs of local residents into consideration. May I ask the Secretary whether the Administration has thoroughly considered the needs of indigenous residents despite the Closed Area is no longer their principal place of residence due to many reasons; especially those indigenous female residents who have moved out of the Closed Area after marriage, and whether the Administration will consider issuing them CAPs to facilitate their access to Chung Ying Street?*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, the answer is positive. In fact, when the police conducted the review in 1999, the New Territories Heung Yee Kuk and Northern District Council were consulted extensively. Moreover, the Legislative Council Panel on Security was also briefed on this policy. This policy liberalizes the scope of the issuance of CAPs to the extent that in addition to indigenous residents and people living or working at Chung Ying Street, people who have the need for access to the Street may also apply for CAPs, such as people living or working in the Closed Area, people who need to travel to and from their residence via the Close Area, people who need to maintain ties with the community in the Closed Area owing to family or historical factors (I believe this category has included the group of people mentioned by Miss LI), as well as people who have to visit their relatives and friends in the Closed Area. We have simplified the categorization so that residents living within the Closed Area of Sha Tau Kok but outside Chung Ying Street, people who have proper reasons to travel to and from the Street, and people who need to visit relatives and friends in the vicinity may apply for CAPs. Just as I have mentioned earlier, after the implementation of this system, the number of CAPs issued in 2000 increased drastically, irrespective of CAPs for Sha Tau Kok or Chung Ying Street, by 20% to 30%.

**PRESIDENT** (in Cantonese): This Council has spent more than 17 minutes on this question. Although several Members are waiting to ask questions, I can only allow one Member to ask the last supplementary question.

**MR CHAN KWOK-KEUNG** (in Cantonese): *Madam President, I remember that in the last term, members of the Northern District Council had conveyed*

*complaints of indigenous residents who were unable to gain access to Chung Ying Street. My supplementary question is that has the Government evaluated the financial losses incurred as a result of the tightened control of access to and from Chung Ying Street?*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, we have not conducted any evaluation in this respect, but we think there should not be any loss. It is because in addition to liberalizing the criteria for issuance of CAPs, we have also simplified the procedure by consolidating the categories, so that more people may obtain CAPs. Regardless of the number of CAPs issued or the passenger flow, we can see growth in both respects. Furthermore, the police have also established an appeal mechanism. If any resident wishes to appeal against a decision by the authority, he may appeal to a police officer of a higher rank. Therefore, we think the new system is working quite well so far.

**PRESIDENT** (in Cantonese): Fourth question.

### **Basis in Calculating Salary of a Senior Graduate Master Taking up a Graduate Master Post**

4. **MR YEUNG YIU-CHUNG** (in Cantonese): *Madam President, I have received a complaint in which a veteran Senior Graduate Master (SGM) who has changed his job from a Direct Subsidy Scheme secondary school to take up a Graduate Master (GM) post in an aided secondary school is paid a salary equivalent to the starting pay of a newly-inducted GM plus incremental credit for his recognized experience. In this connection, will the Government inform this Council:*

- (a) *given that the starting salary of newly-inducted GMs has been lowered from point 17 to point 12 on the Master Pay Scale (MPS) following the Civil Service Starting Salary Review 1999, of the reasons for taking the starting salary of a newly-inducted teacher as the base for calculating the salary of a serving SGM appointed as a GM of a lower rank in another school;*



- (b) *whether it has assessed if the above practice contravenes the Education Department's stated policy of "encouraging teachers to seek teaching post in another school"; if the assessment result is in the negative, of the justifications for that; and*
- (c) *whether it will consider amending the existing stipulation; if not, of the reasons for that?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese):  
Madam President, on appointment, the salary of a government or aided school teacher, whether he/she is a new recruit or a staff on in-service transfer, has all along been determined by taking the prevailing starting salary of the appointed rank as the base, plus the incremental credit for his/her recognized experience and professional qualifications, and is capped by the maximum pay point of the relevant rank.

This established practice has been adopted for a long time and has proved to be effective. It puts into practice the principle of determining remuneration on the basis of job nature on the one hand, and accords recognition to a teacher's relevant qualifications and experience upon his/her transfer on the other.

The Government accepted in 2000 the Standing Commission on Civil Service Salaries and Conditions of Service's recommendation to lower the starting pay point of Education Officers from point 17 to point 12 on the MPS. The new pay scales apply to all new recruits and staff on in-service appointment with effect from 1 April 2000. The Education Department issued in June last year an administration circular detailing the salary arrangements for new recruits and in-service teachers transferred from other categories of schools to aided schools.

In implementing the revised starting salaries for the education grades, the Government has made special pay on appointment arrangements for three teaching grades (that is, Education Officer/ Graduate Master/Mistress, Primary School Master/Mistress and Certified Master/ Mistress). According to these special arrangements, when a teacher serving in a government, aided and other schools receiving subsidies<sup>Note</sup> transfers to another government or aided school

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Note These schools include Caput, Bought Place Scheme and Direct Subsidy Scheme schools.

without a break in service, and if his/her existing pay is higher than the prevailing starting salary of the new post plus incremental credit for experience and professional qualifications, he/she will be offered his/her existing pay upon appointment to the new post, but capped by the maximum pay point of the new post.

Take a GM serving in an aided school with three years' recognized teaching experience but without any recognized professional qualification as an example. Before he/she was appointed to another aided school as a GM on 1 September 2000, he/she was drawing salary at MPS 20 (that is, the starting point of MPS 17 when appointed as a GM post plus three points) in his/her former post. Upon transfer to the new post, he/she should receive salary at MPS 15, that is, the prevailing starting point of MPS 12 for a GM post plus incremental credit for experience (three points). However, since he/she was appointed to a teaching post of the same rank, he/she could continue to receive his/her existing salary point of MPS 20 upon transfer to the new post under the special pay arrangement.

However, if a teacher of a graduate teaching grade transfers to a non-graduate teaching grade, or is appointed to a teaching post of a lower rank during the transfer, he/she will not be offered his/her existing pay since his/her responsibilities will no longer be the same. He/she will be offered a pay based on the established principle of determining the pay for new recruits and teachers on transfer. In other words, he/she will be offered the prevailing starting salary of the new teaching post plus incremental credit for experience and professional qualifications, but capped by the maximum pay point of the new post.

Take an SGM serving in an aided school with 17 years' recognized teaching experience (including four years' experience as an SGM) and recognized professional qualifications as an example. Before he/she was appointed to a GM post in another aided school on 1 September 2000, he/she was drawing salary at MPS 38 (that is, the starting point of MPS 34 for an SGM post plus four points) in his/her former post. Upon his/her transfer to the new post, he/she should receive salary at MPS 31, that is, the prevailing starting point of MPS 12 for a GM post plus incremental credit for experience (17 points) and incremental credit for qualification (two points) (a total of 19 points). Since he/she was appointed to a post of a lower rank, the special pay arrangement did not apply to him/her. Thus, he/she should be remunerated at MPS 31 upon transfer to the new post.

To cater for the need of the education sector, the Government has already taken into account various aspects of the issue and made appropriate special arrangements within the overall policy framework. The Government does not intend to revise the current provisions.

**MR YEUNG YIU-CHUNG** (in Cantonese): *Madam President, I appreciate that if a teacher transfers from a higher-ranking teaching post to a lower one in another school, he cannot be remunerated on his existing salary point. However, why is a SGM not accorded the same treatment as a GM on transfer when he transfers to a GM post? In fact, SGMs and GMs belong to the same grade.*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): *Madam President, for transfers within the same grade at the same rank, the teacher concerned is normally allowed to retain his existing salary point. However, for transfers from a higher-ranking post to a lower one, the teacher concerned will not be allowed to do so. His salary will be determined by taking the starting salary of the new rank, plus an incremental credit for his recognized experience and professional qualifications. This practice is on a par with the general practice of the whole Civil Service. Moreover, such cases are very few and far in between, for very few teachers will opt for voluntary demotion on transfer. However, if the number of SGM posts has to be cut due to reduction in the number of classes or closing down of schools, thus leading to the demotion of surplus teachers, special arrangements will be made to allow such teachers to retain their existing salary point.*

**MR CHEUNG MAN-KWONG** (in Cantonese): *Madam President, the policy of the Government is both unfair and ridiculous, for under the existing practice in government and aided schools, though the responsibilities of a GM will change if he is promoted to a SGM post, his salary point will not be affected. That means it will start at MPS 34. However, if a SGM opts for voluntary demotion to GM, his salary will be substantially reduced to MPS 12, the starting salary of GM, plus incremental credit for his length of service. Why is it that under the existing government policy, the salaries of teachers will not be affected, if there are changes in their responsibilities on promotion, but will be affected on demotion? In reality, such cases do happen. For example, if a teacher plans*

*to further his studies and ask for voluntary demotion because he does not wish to affect the work of other teachers, he will suffer a substantial cut in salary. In that case, his salary will be calculated on the basis of the starting salary at MPS 12. I have received such a complaint case.*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam President, in the case of SGM just described by Mr CHEUNG, the starting salary is certainly not affected. This is due to the fact that the review of the Standing Commission on Civil Service Salaries and Conditions of Service only touched upon the starting salary point of an entry rank but had no impact on that of a promotional rank.

If a teacher is demoted, his responsibilities are indeed also reduced, therefore we do not think that he should be allowed to retain his existing salary point for taking up a post with less responsibilities. Furthermore, there are also practical difficulties from an administrative point of view, because we do not maintain records on all past changes after the pay scale is revised. Today, of course Members can remember that the starting salary point last year was MPS 17 since the pay scale was only revised a year ago, and this is still fresh in their memory. However, in 10 years' time, if a teacher asks for voluntary demotion, it will be impossible for the Government to tell from our records that the teacher concerned had joined the service at the starting salary point of MPS 17. The Government can only determine his salary point in accordance with the prevailing salary scale and his qualifications and experiences. This is an established practice which applies to all ranks and grades in the Civil Service. What happened last year was very exceptionally for the salary scale was unprecedentedly adjusted downwards instead of upwards, and thus caused the disputes.

**MR CHAN KAM-LAM** (in Cantonese): *Madam President, the Secretary said earlier that special arrangements would be made if SGMs lost their jobs because of a reduction in the number of teaching posts in a school. However, after all, the number of SGM posts are not that many, and if a teacher affected by reduction are forced to take up a teaching post in another school, his salary will be revised. Is this fair to the teacher concerned? Will the Government revise this system?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam President, as I have said in my main reply, we do not intend to revise the current provisions. I believe no policy can cover each and every special case. As I said earlier, if a SGM is demoted due to reduction in the number of classes or closing down of schools, he can retain his existing salary point, provided that he teaches in the same school. If there are vacancies for SGM in other schools of the same school sponsoring body, the teacher concerned can also fill those vacancies. Under the value for money principle, a teacher remunerated on the salary of a certain rank needs to take up the responsibilities of that rank. Therefore, the special arrangement will not apply, if a teacher transfers to another school or opt for demotion on voluntarily.

**MR NG LEUNG-SING** (in Cantonese): *Madam President, in an example quoted by the Secretary for Education and Manpower in her main reply, the teacher in question were granted incremental credits for 17 years of recognized teaching experience. Will the Secretary tell us whether increments will be automatically granted for the so-called "recognized teaching experience"? Will the Government consider to peg performances in teaching with the length of service which is counted as recognized teaching experience? Will increments be granted automatically under the existing policy?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam President, so far "recognized teaching experience" has simply been calculated on the basis of the number of years a teacher has engaged in teaching since registration. As regards whether salary will be pegged to performances in the future, I think it is still too early to say.

**MISS CHOY SO-YUK** (in Cantonese): *Madam President, since the number of SGM posts is very limited, I think the existing policy of the Government will inhibit SGMs from transferring to another school. Is this not unfair to SGMs for this will mean that they will be forced to teach in the same school if they want to get the same pay? Will the Government introduce any changes to this policy?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam President, in fact, we do not inhibit teachers from transferring to another

school. If there are vacancies in other schools, they will naturally transfer to those schools to fill the vacancies. However, we are now talking about certain rather exceptional and rare cases, where a teacher gives up a SGM post in the school he is serving to take up a post at a lower rank in another school. He will certainly have his own reasons for making such a choice. Under such circumstances, no special arrangements will be made for him to retain his existing salary point.

**PRESIDENT** (in Cantonese): Last supplementary question.

**MR YEUNG YIU-CHUNG** (in Cantonese): *Madam President, there are actually only two different teaching grades, namely GM and CM. Will the Secretary please tell us why GM and SGM are regarded as two different grades?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam President, GM and SGM do belong to the same grade, but they are two different ranks. SGM is a higher rank. There are two cases in which special arrangements will be inappropriate. One of these is when a different grade is involved, and the other is when a different rank is involved. Mr YEUNG has just referred to a case where different ranks are involved, that is, in relation to transfer from a post at a higher rank to a lower one.

**PRESIDENT** (in Cantonese): Fifth question.

### **Performance of Public Works Consultants**

5. **MR LAU PING-CHEUNG** (in Cantonese): *Madam President, regarding the performance of public works consultants and their consultancy fees, will the Government inform this Council:*

- (a) *of the details of consultancy contracts for infrastructure and superstructure projects awarded in the past three years, including the respective percentages of consultancy fees in the total expenditure on these two types of projects, the number of consultants*

*which obtained contracts at the lowest tender price, the number of such consultants which subsequently claimed additional consultancy fees from the Government, the number of such claims which were lodged as a result of variation of works requirements by the Government, the number of successful claims put in for other reasons, and the ratio of the additional amounts successfully claimed to the original amounts of consultancy fees in each case;*

- (b) in terms of quality of work and completion time, how the performance of consultants which obtained their consultancy contracts at the lowest tender price compares to that of other consultants awarded such contracts at other tender prices; and*
- (c) whether a mechanism has been set up to ensure that consultants awarded the contracts will commit sufficient resources for the smooth completion of their contract?*

**SECRETARY FOR WORKS** (in Cantonese): Madam President,

- (a) Consultancy contracts for major public infrastructure and superstructure projects are assessed by the Engineering and Associated Consultants Selection Board (EACSB) and the Architectural and Associated Consultants Selection Board (AACSB) respectively.

In the past three years, there were respectively 200 and 71 consultancy contracts for infrastructure and superstructure projects assessed and awarded by the EACSB and the AACSB. The percentages of consultancy fees in the total expenditure (if any) on these two types of projects vary. Overall, for mega consultancies, the percentages are lower and for consultancies of smaller scale, the percentages are higher. But the percentages of the vast majority of these projects do not exceed 10%.

Out of the 200 consultancy contracts for infrastructure projects, all have been awarded in compliance with the principle of cost-effectiveness and technical capabilities. A total of 102 contracts (that is, 51%) were awarded at the lowest tender price. Among

these contracts, 24 involved claims for additional consultancy fees subsequently lodged against the Government and all of them involved claims due to variation of works requirements by the Government. Also, out of the 102 consultancy contracts, only one involved claims put in for other reasons and was successful. The additional amount awarded for successful claim accounted for an average of 27% of the original consultancy fee.

As regards consultancy contracts for the 71 superstructure projects, the number of contracts awarded at the lowest tender price was 31 (that is, 41%). Among these contracts, five involved claims for additional consultancy fees subsequently lodged against the Government. Four of these claims were lodged on the ground of variation of works requirements by the Government and one successful claim was lodged on other grounds. The additional amount awarded for successful claim represented an average of 4% of the original consultancy fee.

- (b) In terms of quality of work and completion time, the performance did not differ much for the consultants which had obtained the contracts at the lowest tender price and the consultants which had obtained the contracts not at the lowest tender price. The vast majority of the consultants performed satisfactorily or better and the contracts were also completed on time.
- (c) To ensure that consultants awarded the contracts will commit sufficient resources for the smooth completion of their contracts, we have put in place the following measures and mechanism:

First of all, we do not employ consultants which do not have sufficient resources. In assessing a consultant's proposal, we will consider the cost-effectiveness of the consultancy fee and the consultant's capacity, including the manpower and resources to be provided for the contract concerned. The proposal will not be accepted if the manpower and resources proposed by the consultant are inadequate.



Secondly, we will require that the level of manpower deployed for the consultancy work must be consistent with that stated in the proposal. Change of the staff list by the consultant will be allowed under special circumstances, such as resignation of staff, but qualification and experience of the new staff member should not be of a poorer standard than that of the one who has left.

Thirdly, the work of the consultant will be closely monitored. Should there be any probable delay in the completion of work or unsatisfactory performance, the consultant will have to furnish an explanation, recommend remedies and take follow-up action right away. If the situation is not improved, the department concerned will immediately report the poor performance of the consultant to the related consultants selection board. A warning letter will be issued to the consultant and supervision will be strengthened by the department to ensure that sufficient resources are committed by the consultant for the completion of contract.

Fourthly, the major part of the consultancy fee will not be paid unless and until the consultant has completed the services on time according to the contract. Such payment system encourages the consultant to commit sufficient resources and to satisfactorily complete the services on time.

Lastly, we will conduct constant reviews of the existing measures. Last year we examined and explored ways of enhancing the aforesaid mechanism, and we are now consulting the relevant sector on our recommendations. On the other hand, the Construction Industry Review Committee had also examined the mechanism and its report was submitted to the Chief Executive last month. We will give serious consideration to the Committee's comments.

**MR LAU PING-CHEUNG** (in Cantonese): *Madam President, in the main reply, the Secretary mentioned the need for cost-effectiveness and that the consultant must have sufficient manpower and resources. Last week, I asked the Chief Executive a question in this Council concerning the recent award of a consultancy contract for works by a government department at a very low price — of \$1. In this connection, what objective definition does the*

*Government have for the so-called "cost-effectiveness" and how cost-effectiveness is linked with the consultant having sufficient manpower?*

**SECRETARY FOR WORKS** (in Cantonese): Madam President, in selecting a consultant, we attach the greatest importance to the consultant's manpower and its past performance and experience. In terms of the tender price, the most important criterion is cost-effectiveness, as I said in the main reply just now. I am fully aware of the recent case mentioned by Mr LAU, in which the consultancy contract was awarded at a very low price. We are reviewing the relevant contract. With regard to that contract, our main consideration is still the consultant's capability and whether it has adequate manpower to undertake the job. We have great confidence in that consultant and we think that it is capable of doing the contract work and doing it very well. Still, we agree that the price appears to be debatable. We are reviewing this matter to see if we should disqualify a consultant from bidding in the future if the tender price is unreasonable.

**PRESIDENT** (in Cantonese): Mr LAU Ping-cheung, which part of your supplementary question has not been answered?

**MR LAU PING-CHEUNG** (in Cantonese): *Madam President, my supplementary question was whether the Government has an objective definition for cost-effectiveness and if cost-effectiveness will be linked with the manpower and resources of the consultants.*

**PRESIDENT** (in Cantonese): Secretary for Works, do you have anything to add?

**SECRETARY FOR WORKS** (in Cantonese): Madam President, I have probably answered the greater part of the question with what I said just now. The Government takes into account mainly the manpower and experience of the consultants. As for the tender price, we will need to measure it with a reasonable method. As I said, we will review the practice.

**MR ALBERT CHAN** (in Cantonese): *Madam President, if someone is willing to bid at such a low price and is capable of doing the job, I see no reason why the Government should review it. If a consultant is willing to bid with the price of \$1, I believe the Government should accept it by all means. We have no reason to discriminate against firms that are willing to work for almost nothing.*

*Madam President, I am more concerned about the quality of the consultants and the accuracy of their reports. If, after the consultancy fees are paid, it is found that the data or the estimates in the reports are seriously flawed, and the Government suffers great losses in the projects or the expenditure on the works increases as a result, does the Government have any recourse? For instance, in the past, many consultancy reports on sewage disposal and aircraft noise were found to contain erroneous conclusions and data. Moreover, if a consultant has performed unsatisfactorily, will its chances of winning contracts in future be affected?*

**SECRETARY FOR WORKS** (in Cantonese): Madam President, this question covers many points. First, in terms of the tender price, we still think that we should consider whether to accept a tender from the perspective of cost-effectiveness. If the tender price is extremely unreasonable, I think there is a need to review it. Second, the Government will monitor the performance of the consultants regularly. If they perform unsatisfactorily, the Government will issue a warning to them in the course of the work and discuss ways of improvement with them. If a consultant is found to have performed unsatisfactorily after the completion of the contract, there is an existing mechanism whereby the Government will issue a report retrospectively on the poor performance of the consultant during the course of the work. Poor performance will certainly affect their future chances of winning contracts.

**MR ALBERT CHAN** (in Cantonese): *Madam President, the Secretary said just now that there was an existing mechanism whereby the Government could issue letters .....*

**PRESIDENT** (in Cantonese): Mr CHAN, you can only ask questions on the parts that have not been answered by the Secretary.

**MR ALBERT CHAN** (in Cantonese): *Madam President, what recourse does the Government have if it suffers losses as a result of the poor performance of the consultants?*

**PRESIDENT** (in Cantonese): Secretary for Works, do you have anything to add?

**SECRETARY FOR WORKS** (in Cantonese): Madam President, actually, the consultancy contracts stipulate that if the Government suffers losses as a result of the work of the consultant, the Government is entitled to demanding compensations from the consultant.

**DR TANG SIU-TONG** (in Cantonese): *Madam President, in the last paragraph of the main reply, the Secretary said that the existing measures would be reviewed and ways of enhancing the aforesaid mechanism would be examined. When will this review be completed and submitted to the Panel on Planning, Lands and Works of the Legislative Council for discussion?*

**SECRETARY FOR WORKS** (in Cantonese): Madam President, in the last paragraph of the main reply, I mentioned that we would conduct constant reviews of the existing measures. Indeed, we do this regularly. Last year, we made several recommendations, including enhancing the supervision on the performance of consultants and setting a performance index for consultants. We are now consulting the industry on these recommendations. We would be happy to discuss them with the Panel on Planning, Lands and Works of the Legislative Council.

**DR TANG SIU-TONG** (in Cantonese): *When will this take place?*

**PRESIDENT** (in Cantonese): Secretary for Works, Dr TANG was asking when the discussion would take place.

**SECRETARY FOR WORKS** (in Cantonese): Madam President, we will discuss with the Legislative Council maybe after we have collected the views of the industry.

**MR LEE CHEUK-YAN** (in Cantonese): *Madam President, chickens are sold \$1 each in restaurants. Now, we have a consultancy fee of \$1. When restaurants charge \$1 for a chicken, they can recover the cost from other dishes. I cannot help but ask how the cost is to be recovered if a consultant charges \$1 in consultancy fee. Is the answer to be found in the first paragraph of the main reply? The Secretary said that there would be many claims if the Government changed the work requirements. Do consultants which have won the contracts at the lowest tender price mainly use these claims to reap the profits they should have made, since the Government is more lenient in vetting and approving these claims? The average of 27% quoted by the Secretary is meaningless. Will the Secretary please inform us of the highest and lowest percentage? Only in this way can we know the real range. With an average figure, sometimes we cannot know what the true picture is. Will the Government review the system of awarding contracts to the bidder with the lowest price from this angle, so as to ensure that consultants will not try to get the profit they should have made through other means?*

**SECRETARY FOR WORKS** (in Cantonese): Madam President, as Members can gather from my main reply, only 51% of consultants were awarded contracts for infrastructure projects at the lowest tender price, while less than 50% were awarded contracts for superstructure projects at the lowest price. Thus, we do not award contracts simply to the lowest bidder. I do not wish to speculate why consultants would offer such a lower tender price for a certain contract. But as I said, if the tender price is unreasonable, we must review it.

**MR LEE CHEUK-YAN** (in Cantonese): *Madam President, actually, I wanted to ask what the highest and lowest percentage was.*

**PRESIDENT** (in Cantonese): Mr LEE, please sit down first. Your supplementary question was too long. If you can keep your question more concise, I am sure the Secretary can answer your supplementary question fully.

**MR LEE CHEUK-YAN** (in Cantonese): *Madam President, this could test the Secretary's IQ. (Laughter)*

**SECRETARY FOR WORKS** (in Cantonese): Madam President, I do not have the figures on hand. I will be happy to provide Mr LEE with the figures in writing after the meeting. (Annex I)

**MISS EMILY LAU** (in Cantonese): *Madam President, in the course of the selection of these consultants, which part of the mechanism can prevent consultants and senior civil servants who are on very good terms with one another from doing something irregular or unlawful? I believe the public would be deeply concerned about this, since enormous public funds are involved. Will the Secretary inform us how the relevant mechanism works and whether any irregularities have been discovered?*

**SECRETARY FOR WORKS** (in Cantonese): Madam President, we are indeed very concerned about the possibility of irregularities in the selection process. The present selection procedure has been assessed by the Independent Commission Against Corruption. In the course of selection, different representatives who may come from different departments will study the consultants' proposals and give the score jointly. There would hardly be any case where a consultant is given a higher score for being on good terms with a certain senior official. I think such problems should not exist.

**PRESIDENT** (in Cantonese): We have spent more than 17 minutes on this question. Since several Members are still waiting for their turn to ask questions, I will allow one last supplementary question.

**DR RAYMOND HO** (in Cantonese): *Madam President, in part (a) of the main reply, the Secretary mentioned that the additional amount awarded for successful claim accounted for an average of 27% of the original consultancy fee. This is quite a high percentage. I wonder if one possible explanation could be the Government often discovers that there is more work to do after the commencement of the projects, so that for convenience's sake, it will assign the*

*work to the relevant consultant, without inviting tenders again to find a new consultant. This is one possibility. Another possibility is, could it be that the Government does not know very well its requirements of the consultants at the initial period of inviting tenders, so that variations may have to be made after the project has begun, thus leading to higher fees?*

**SECRETARY FOR WORKS** (in Cantonese): Madam President, at present, we award the majority of consultancy contracts on a lump sum. This only applies to cases where the scope of works to be studied is very clear. However, in many consultancy contracts, although the price or the scope of work can be fixed for the majority of works, the scope of some works may not be too clear. Thus, the majority of consultancy contracts contain some parts which may be modified later. As I said in the main reply, the majority of variations were proposed by the Government and the consultants did not deliberately demand the Government to undertake additional works.

**PRESIDENT** (in Cantonese): Sixth question.

### **Cases of Business Assignment Involving Provision of Environmental Hygiene Management Services**

6. **MISS CHOY SO-YUK** (in Cantonese): *Madam President, it was learnt that the Government had entered into contracts with a private company whereby the latter was commissioned to manage one landfill, two refuse transfer stations and the only chemical waste treatment plant in Hong Kong. On 31 August last year, the parent company of the private company announced the assignment of its waste services operations in Hong Kong to another company. In this connection, will the Government inform this Council:*

- (a) *whether it knows the details of the transaction; if it does, whether it has examined if the company taking over the operations is capable of fulfilling the management contracts signed between the original company and the Government; if it has, of the results of its examination; if it does not know the details, of the reasons for that, and how the matter will be followed up;*

- (b) *of the number of cases of business assignment in the past five years involving the provision to the Government of environmental hygiene management services, as well as the respective years in which the cases took place and the nature of the management contracts involved in each of such cases, and how it dealt with the management contracts involved; and*
- (c) *whether it has formulated any policies in relation to such matters, including specifying the circumstances under which the relevant management services will be re-tendered?*

**SECRETARY FOR THE ENVIRONMENT AND FOOD** (in Cantonese):  
Madam President,

- (a) The Environmental Protection Department (EPD) awarded four contracts to four consortia for managing the Southeast New Territories Landfill, the Chemical Waste Treatment Centre, the West Kowloon Transfer Station and the North Lantau Transfer Station.

All these four contracts allow the parent companies of the contractors' shareholders to transfer their ownership, but the new parent companies are required to guarantee that the contractors would be able to discharge their contractual obligations. As regards the contracts for the Southeast New Territories Landfill, the West Kowloon Transfer Station and the North Lantau Transfer Station, the parent companies of the contractors' shareholders are also required to obtain the EPD's approval before transferring their ownership.

Pacific Waste Management (PWM) is a shareholder of the four consortia mentioned above, and Waste Management, Inc (WMI) is the parent company of PWM. In August 2000, WMI applied to the EPD for the transfer of its shareholding in PWM to Vivendi Environnement S.A. (Vivendi).

Vivendi is the third largest waste management company in the world. Having conducted a detailed evaluation of Vivendi's financial status,



technical capability and experience, the EPD considers that the company is capable of providing adequate support to PWM in continuing to discharge its contractual obligations. Hence, the EPD gave in December 2000 conditional approval to the application. The conditions are that Vivendi should provide a new Guarantee and Undertaking to replace WMI's Guarantee and Undertaking, and that it should retain the existing management staff or replace them by qualified substitutes acceptable to the EPD. The EPD will grant formal approval after Vivendi has provided all the documents.

- (b) In the past five years, there were two other cases that involved changes in ownership. They took place in 1998 and 2000, and were related to construction and management contracts for waste facilities under the EPD.

The EPD had assessed the financial status and technical capability of the new companies and was satisfied that they were able to provide support to the contractors in discharging their contractual obligations. Approval was thus given in both cases.

- (c) With regard to changes in the ownership of contractors, the Government's policy is to ensure that the changes will not affect the contractors' ability to discharge their contractual obligations. If the changes in ownership only involve the parent companies, and the contractor is still able to discharge its contractual obligations, then there is no legal basis for the Government to terminate the contract unilaterally. The Government will only consider terminating the contract and re-tendering the services if the contractor fails to discharge its contractual obligations.

**MISS CHOY SO-YUK** (in Cantonese): *Madam President, the Secretary mentioned in the last part of paragraph (a) of the main reply that the EPD had in December 2000 given conditional approval to the application and that the EPD will grant formal approval after Vivendi has provided all the documents required. However, in December last year, WMI made a formal press release that on 21 December it had sold its Hong Kong and Brazil subsidiaries to Vivendi at a price close to HK\$1 billion. The sale and purchase agreement was complete. In this connection, may I ask the Secretary, since obviously the Government has not*

*yet granted formal approval to the application even to this day, if this shows that the WMI was playing a trick when it sold its subsidiaries, or that the Government had given verbal approval to the company that the application would certainly be approved?*

**SECRETARY FOR THE ENVIRONMENT AND FOOD** (in Cantonese): Madam President, I believe this is only a matter of formalities. In fact, the EPD completed an evaluation of the new company in December 2000 and it specified the three conditions mentioned in my main reply. These are: that Vivendi should provide a new Guarantee and Undertaking; that it should obtain the EPD's approval before transferring its ownership; and that it should retain the existing management staff or replace them by qualified substitutes acceptable to the EPD. Therefore, the EPD completed the evaluation in last December, but as a matter of formalities, formal approval would only be granted after the new company has provided a new Guarantee and Undertaking. In other words, we have approved of the application in principle, and formal approval will be granted pending the submission of a new Guarantee and Undertaking.

**PRESIDENT** (in Cantonese): Miss CHOY, which part of your supplementary question has not been answered?

**MISS CHOY SO-YUK** (in Cantonese): *Madam President, may I ask the Secretary to give a clear answer as to whether it is true to say that formal approval has not been granted?*

**SECRETARY FOR THE ENVIRONMENT AND FOOD** (in Cantonese): Madam President, it is only a matter of formalities. In principle, we have granted approval to the application and we are waiting for the company to complete the relevant formalities.

**MR FREDERICK FUNG** (in Cantonese): *Madam President, the Secretary mentioned in the second paragraph of part (a) of the main reply that these four contracts allow the parent companies of the contractors' shareholders to transfer*

*their ownership. I am not sure whether the Government is aware that in the transfer of ownership by the parent companies to the new company, they may reap profits by virtue of the contracts they have entered into with the Government. It is reported that the profits made are as much as HK\$1 billion. May I ask the Secretary whether the Government is willing to allow companies to use government contracts to make profits in the transfer of ownership while these companies have not done anything to fulfil the contractual obligations? The profits made by the original companies, for example, the \$1 billion which I have mentioned, would in effect increase the cost of the new company. When the Government, especially the Financial Secretary, keeps on saying that the "user pays" principle should apply, will the new company raise the waste treatment fees as a result of the increase in costs? My question is: Is the Government aware that it has been taken advantage of and that the waste treatment fees will increase?*

**SECRETARY FOR THE ENVIRONMENT AND FOOD** (in Cantonese): Madam President, I do not quite understand what Mr FUNG is trying to say. Is he saying that the Government is being taken advantage of by others? As I have pointed out just now, the shareholders of the contractors have not changed, and so are the terms of the contract. The change is only about one of the parent companies of the shareholders of the contractors. For the Government and the public, the terms of the contracts remain totally unchanged. As for other details, it is only a matter of commercial transaction between companies.

**PRESIDENT** (in Cantonese): Mr FUNG, which part of your supplementary question has not been answered?

**MR FREDERICK FUNG** (in Cantonese): Madam President, what I would like to ask is, the parent companies may make profits as they transfer their ownership to a new company, for what I heard in this case, the profits made are \$1 billion. Will this incur higher costs to the new company as compared to the companies holding the old contract when it is to discharge its obligations in respect of these four contracts? I am worried that when the new company begins its work, it will increase the waste treatment fees as a result of the increase in costs.

**PRESIDENT** (in Cantonese): Mr FUNG, are you trying to ask the Secretary whether the waste treatment fees may be increased?

**MR FREDERICK FUNG** (in Cantonese): *Madam President, as the Secretary has said that she does not understand why the parent company has reaped profits, so I need to make myself clear. I hope that she can add something against this background.*

**SECRETARY FOR THE ENVIRONMENT AND FOOD** (in Cantonese): Madam President, since Mr FUNG has said that that is something he has heard, it is hard for me to comment on things that are only hearsay. I have made it clear earlier that the contents of the contracts and the combination of the contractors have not changed at all.

**MR NG LEUNG-SING** (in Cantonese): *Madam President, according to part (c) of the Secretary's main reply, it seems to indicate that if the changes in ownership only involve the parent companies and that everything remains unchanged with the subsidiaries, then there is no legal basis for the Government to terminate the contract unilaterally. However, after listening to the views expressed by Members, would the Government consider making a review of the contents of the contracts so that when there is a change of ownership involving the parent company which may prejudice the future provision of service, then the Government may abolish or change the subsidiary or even the original contractor?*

**SECRETARY FOR THE ENVIRONMENT AND FOOD** (in Cantonese): Madam President, as I have explained in the main reply, as regards the new contracts such as the four contracts in question, three of them require the parent companies of the contractors' shareholders to provide an Undertaking. An Undertaking specifies when there is a change of ownership, the prior approval of the EPD must be obtained. In other words, the EPD will not allow the parent companies to change their ownership in such a way as to affect their subsidiaries in discharging their contractual obligations. In addition, the EPD will assess the financial status, technical capability and professional competency of the new companies to see whether these would affect the discharge of their contractual

obligations. If the EPD is not satisfied with the results of the assessment, it can object to the changes in ownership. In the four contracts mentioned in the main question, the EPD is satisfied that such a situation would not arise. It is because Vivendi, the company which has been transferred the ownership, is the third largest waste management company in the world. The EPD made the decision after a detailed evaluation of Vivendi. Moreover, the approval given is conditional. The conditions are that Vivendi should provide a new Undertaking to pledge that approval will be sought from the EPD before any changes in ownership are made. Vivendi is also required to provide a new Guarantee to guarantee that the shareholders of the existing contractors, that is, PWM is able to discharge the obligations under the contracts it has entered into with the EPD.

**MR FREDERICK FUNG** (in Cantonese): *I would like to thank the President for allowing me to raise a second supplementary question. In fact, this question is related to the first one raised by me. When a parent company is changed, as the contractual period is quite long, will the Government monitor the expenses of the new company so that its expenses will not be transferred onto waste treatment fees in an unreasonable manner?*

**SECRETARY FOR THE ENVIRONMENT AND FOOD** (in Cantonese): Madam President, we will make very stringent supervision on a routine basis. Since concern has been expressed by Honourable Members in this regard, we would try our best to make our supervisory efforts more effective.

**DR RAYMOND HO** (in Cantonese): *Madam President, as the original company and the new company are foreign firms, I believe they would contract out some of the work to local companies. When the new company has acquired the ownership from the original company, it will need to reduce the project costs, for the contracts it receives will certainly cost more than when the contracts are held by the original company. I made a visit to the Southeast New Territories Landfill and I found that there were only three workers engaging in the recycling work when there were more than 6 000 tonnes of construction waste there. Originally, I thought that some dozens of workers would be there to pick up waste materials which would be useful for recycling, but I found only three workers were doing this. If the new company needs to lower the costs, will it cut all the workers involved in this kind of work? In circumstances as these, would the*

*Government give serious thoughts to setting up a system of registration of the sub-contractors in respect of the contracting out of jobs by the new company to local companies?*

**SECRETARY FOR THE ENVIRONMENT AND FOOD** (in Cantonese): Madam President, it seems that Honourable Members still fail to understand the circumstances of the case despite my repeated explanations. As a matter of fact, PWM, being one of the contractors, has not changed. Even its former parent company is not directly involved in the execution of these four contracts. In other words, there is no change in the combination of contractors. The only change is that the parent company of PWM has sold PWM to Vivendi. However, PWM remains one of the shareholders of the contractors. Therefore, things have not changed. As to the question of costs, operation and expenses and so on, there should not be any great changes, for items such as costs are all stipulated in the contract. Dr HO expressed his concern earlier that there were only three workers engaging in picking up the useful waste materials in the landfill, I think that is also specified in the contract. However, I would try to find out why only three workers were doing that kind of work.

**PRESIDENT** (in Cantonese): Last supplementary question.

**MISS CHOY SO-YUK** (in Cantonese): *Madam President, the Secretary has mentioned that Vivendi is presently the largest shareholder of PWM and it is the only experienced waste management company among the shareholders. Other shareholders are investment companies and small shareholders. The Secretary mentioned in the main reply that the new company should provide a new Guarantee and Undertaking and that it should pledge that the existing management staff would be retained. However, almost three months have lapsed since last December and the Government has not yet received this Undertaking. May I ask the Secretary if the Government does not receive the Undertaking and if the new company does not want to provide such a document and when the original parent company has sold the ownership and there are new shareholders, what the Government can do in such circumstances? Why did the Government give consent to this transfer of ownership by the parent company before it has received the Undertaking from the new company?*

**SECRETARY FOR THE ENVIRONMENT AND FOOD** (in Cantonese): Madam President, I do not have any information on hand which shows the time limit given by the EPD to that company to complete the required procedure and what criteria have been adopted to set the time limit for such purpose. I would find out and provide the Honourable Member with the information in writing. (Annex II)

## WRITTEN ANSWERS TO QUESTIONS

### Reduction of Sulphur Dioxide Emissions from Power Stations

7. **MR LEE CHEUK-YAN** (in Chinese): *Madam President, regarding the reduction of sulphur dioxide emissions from power stations, will the Government inform this Council:*

- (a) *of the amount of sulphur dioxide emitted from power stations in each of the past three years and how such amounts of emission compare to those from vehicles;*
- (b) *whether it knows if the two power companies have taken measures to reduce the emission of sulphur dioxide; if so, of the details and effectiveness of such measures; and*
- (c) *whether it knows if the two power companies have introduced the latest technology from foreign countries for reducing the emission of sulphur dioxide; if so, of the details; if not, the reasons for that?*

**SECRETARY FOR THE ENVIRONMENT AND FOOD** (in Chinese): Madam President,

- (a) We are currently assessing the emissions from major local sources for the year 2000 and do not yet have the statistics on the sulphur dioxide emissions from power plants and motor vehicles for that year. The sulphur dioxide emissions from power plants and motor vehicles for the years 1997 to 1999 were as follows:

	<i>Power plants (tonnes)</i>	<i>Motor vehicles (tonnes)</i>
1997	54 434	1 620
1998	60 961	1 538
1999	47 750	1 629

The sulphur dioxide emissions from power plants in 1998 were higher than in 1997 and 1999 because of higher electricity output in that year. Moreover, the coal-fired units were used more intensively during that year because a number of gas-fired units had to undergo major modification work. The sulphur dioxide emissions from motor vehicles in 1998 were lower than in 1997 and 1999 because of lower vehicle mileage in that year.

(b) Power plants in Hong Kong are subject to control under the Air Pollution Control Ordinance. The Ordinance requires the power plants to use the best practicable means to control air pollutant emissions. In accordance with the relevant requirement, the two power companies in Hong Kong have implemented the following measures to reduce sulphur dioxide emissions from their power plants:

- using low sulphur coal that has a sulphur content of less than 1% in their coal-fired units;
- installing in coal-fired units commissioned after 1993 flue gas desulphurization equipment that could remove 90% or more of the sulphur dioxide emissions; and
- using natural gas, which has a very low sulphur content, in new units installed after 1996.

Between 1993 and 1999, the electricity output of the local power plants fell by 18%. The reduction in output and the implementation of the above measures resulted in a substantial reduction of more than 70% in sulphur dioxide emissions from the power plants, from 162 600 tonnes to 47 750 tonnes.



- (c) As mentioned in (b) above, the two power companies in Hong Kong have followed the requirement in the relevant ordinance by adopting flue gas desulphurization equipment and introducing gas-fired electricity generation units to reduce sulphur dioxide emissions from their power plants. The flue gas desulphurization equipment and gas-fired electricity generation units were manufactured overseas.

### **Issuance of Employment Visas to Chinese Medicine Practitioners outside Hong Kong**

8. **DR LO WING-LOK** (in Chinese): *Madam President, it has been reported that a commercial organization successfully applied on behalf of a group of Chinese medicine practitioners (CMPs) from the Mainland for entry to Hong Kong to conduct clinical researches at a local university. However, upon the arrival of these CMPs, the organization arranged for them to practise full-time on a fee-charging basis. In this connection, will the Government inform this Council of:*

- (a) *the criteria adopted by the Administration in issuing employment visas to CMPs outside Hong Kong for conducting clinical researches in local tertiary institutions; the qualifications required of these CMPs, their permitted scope of activities; and whether such criteria are the same as those adopted in processing similar applications from other organization; if not, of the details of the differences;*
- (b) *the total number of such employment visas granted in the past two years and whether a quota is set on the number of applications for such visas that can be made by each tertiary institution; if it has, of the details; and*
- (c) *the respective mechanisms and measures now in place and to be adopted upon the full implementation of the Chinese Medicine Ordinance (Cap. 549) to regulate the practice of these CMPs in Hong Kong and monitor their professional standard and conduct?*

**SECRETARY FOR SECURITY** (in Chinese): Madam President, the Administration will not comment on individual cases. Our reply to the three questions on overall government policies and measures is as follows:

- (a) In processing applications for employment visas or entry permits for CMPs outside Hong Kong for conducting clinical researches in local tertiary institutions, the Immigration Department (ImmD) will, in consultation with other relevant government departments, consider and examine two aspects. Regarding the institutions, the ImmD will assess whether the scope of activities set out in their invitations or appointment letters is genuinely related to medical researches; whether the remuneration and benefit package offered to the applicants is comparable to the market rate; the period of appointment, and so on. As for the applicants, the ImmD will examine their qualifications, academic certificates, professional certificates or proof of employment so as to determine whether the professional standards of the applicants are relevant to the scope of researches they will undertake in their employment, and whether such standards meet the requirements set out in the appointment letters or invitations.

The ImmD will also assess whether the admitted CMPs possess experience and expertise in scientific researches that are not readily available in Hong Kong. In addition, the applicant should have obtained limited registration in accordance with the Chinese Medicine Ordinance. Under the Ordinance, any local educational or scientific research institution which intends to engage a CMP registered outside Hong Kong to carry out clinical teaching or research in Chinese medicine may apply to the Practitioners Board under the Hong Kong Chinese Medicine Council for limited registration of that person. The CMP concerned should provide evidence to the Practitioners Board to prove that he/she has satisfactorily completed such undergraduate degree course of training in Chinese medicine practice or its equivalent acceptable to the Practitioners Board; and possesses adequate and relevant full-time experience in Chinese medicine practice involving clinical teaching or scientific research. In general, the period of limited registration would not normally exceed one year, but the applicant can apply for an extension. The Practitioners Board has published

in the Gazette a list of five local universities which may apply for limited registration on behalf of persons whom they intend to engage for clinical teaching and research. The five universities are the University of Hong Kong, the Chinese University of Hong Kong, City University of Hong Kong, Hong Kong Baptist University and Hong Kong Polytechnic University.

If the application is approved, the CMP concerned should only engage in clinical teaching or research in Chinese medicine in the named institution, and should not practise Chinese medicine in any other organization.

As set out above, only the gazetted institutions may apply for limited registration for the engagement of CMPs who are not registered locally. The criteria adopted by the ImmD in assessing similar applications submitted by all eligible organizations are the same.

- (b) The ImmD does not keep a statistical breakdown on applications for visas or entry permits to conduct clinical researches in local tertiary institutions. As the ImmD issued a total of about 15 000 and 19 000 employment visas or entry permits in 1999 and 2000 respectively, we are unable to go through the individual files to compile the relevant statistics. We do not set a quota on the number of applications for such employment visas or entry permits.
- (c) A CMP with limited registration should observe such conditions and restrictions regarding his/her practice as may be specified by the Practitioners Board, including the requirement to perform clinical teaching or research only at the named educational or scientific institution and the prohibition to practise Chinese medicine in any other organization. In addition, the professional standard and conduct of these CMPs will be regulated under the Code of Practice for registered CMPs stipulated by the Chinese Medicine Council, which will be implemented shortly. A CMP who breaches the code of practice or is guilty of professional misconduct will be subject to disciplinary actions by the Practitioners Board. The Practitioners Board may also refuse his/her application for renewal of limited registration.

**Quota Set for Green Form Applicants for Home Purchase Loan Scheme**

9. **MR WONG YUNG-KAN** (in Chinese): *Madam President, regarding the Home Purchase Loan Scheme (HPLS) of the Hong Kong Housing Authority, will the Government inform this Council:*

- (a) *of the channels through which people who plan to apply by means of green forms for a loan under the Scheme in a certain year are informed of the loan quota allocated for green form applicants in that year; and*
- (b) *whether a green form loan applicant not issued with an approval-in-principle letter in the year in which he is placed on the Waiting List will have his name automatically included in the loan application list of the following year?*

**SECRETARY FOR HOUSING** (in Chinese): Madam President, the quota for Green Form applicants under the HPLS is announced through a press release at the time of decision. Publicity of the Scheme will then be launched through newspapers, posters and Announcements of Public Interest. Applicants may also obtain information on quota availability from the Housing Authority Home Ownership Hotline on telephone 2712 8000 or approach the Home Purchase Loan Unit on telephone 2794 5350.

Green Form applicants who have not been given approval in principle owing to the quota being used up for a particular year will automatically be rolled forward to the next financial year on a first-come-first-served basis. There is no need for them to re-apply. The Housing Department has already notified applicants concerned of this arrangement in writing individually.

**Demolition Works for Tsuen Wan Seven Streets Redevelopment Project**

10. **DR TANG SIU-TONG** (in Chinese): *Madam President, regarding the demolition works for the Tsuen Wan Seven Streets redevelopment project currently undertaken by the Land Development Corporation (LDC), will the Government inform this Council:*

- (a) *whether the LDC has submitted an asbestos investigation report and an asbestos abatement plan in accordance with the Air Pollution Control Ordinance (Cap. 311); if so, of the results of the investigation, including the structural members of the buildings concerned which are found to be containing asbestos and the number of such structural members; and*
- (b) *if the buildings are proven to contain asbestos-based materials, of the safety measures required to be taken by the appointed registered asbestos contractor to prevent the demolition works from posing any health hazard to on-site workers and residents nearby, and whether the Government has conducted site inspections before the commencement of the demolition works to assess if the necessary safety measures had been adopted on the sites; if so, of the results; if not, the reasons for that?*

**SECRETARY FOR THE ENVIRONMENT AND FOOD** (in Chinese):  
Madam President,

- (a) In accordance with the Air Pollution Control Ordinance, the LDC has engaged a registered asbestos consultant to carry out an investigation for asbestos in the demolition works for the "Tsuen Wan Seven Streets" redevelopment project. The Corporation submitted an investigation report and an asbestos abatement plan to the Environmental Protection Department (EPD) in December 1999. The investigation report indicates that 8 500 sq m of corrugated cement slabs to be removed may contain 10% to 20% of low-risk white asbestos. Materials such as vinyl floor tiles, electricity switch boxes and drainage pipes also contain a small quantity of asbestos.
- (b) To ensure that the asbestos removal works will not affect the health of workers and residents in the vicinity of the works site, the registered asbestos contractor has to follow the asbestos abatement plan and the code of practice issued by the Government for asbestos control. Included in the code of practice is a requirement for the contractor to surround the buildings to be demolished with nylon canvas that will serve as a wind and dust barrier. The contractor is

required to spray water on materials containing asbestos as far as possible to keep them moist and to prevent them from cracking so as to avoid releasing asbestos fibre. All workers are required under labour legislation to use protective respiratory equipment and clothing when carrying out asbestos removal works. The contractor is required to monitor the air quality within the works site and its vicinity to ensure that the asbestos concentrations in the air do not exceed the legal limit. Moreover, the LDC has appointed a registered asbestos consultant to be stationed at the works site to supervise the asbestos abatement works. The EPD conducted inspections at the works site before the asbestos removal works began and found that the contractor had adopted all the necessary safety measures.

### **Impact of Demolition Works on the Environment**

11. **MR TAM YIU-CHUNG** (in Chinese): *Madam President, regarding the impact of building demolition works on the environment, will the Government inform this Council:*

- (a) *whether it knows if the contractor responsible for demolition of the buildings in the "Tsuen Wan Seven Streets"*
  - (i) *has conducted regular air quality tests inside and outside the site to monitor the level of asbestos dust in the air; if such tests have been conducted, of the results; if not, the reasons for that; and*
  - (ii) *has put in place any measures to alleviate the nuisances caused to the neighbouring residents by dust, noise and effluent and so on arising from the demolition works; and*
- (b) *whether it plans to require contractors of major demolition works to be carried out in future, such as the forthcoming demolition of Wah Kai Industrial Centre, to put in place measures to alleviate the nuisances caused to the neighbourhood; if so, of the details, if not, the reasons for that?*

**SECRETARY FOR THE ENVIRONMENT AND FOOD** (in Chinese):  
Madam President,

- (a) (i) In connection with demolition works for "Tsuen Wan Seven Streets", the registered asbestos contractor engaged by the Land Development Corporation in accordance with the Air Pollution Control Ordinance has to measure the asbestos fibre concentrations in the air within the works site and its vicinity regularly. Up to present, the measurement results have shown that the asbestos fibre concentrations have not exceeded the legal limit of one fibre in every hundred millilitre of air. The Environmental Protection Department monitors the conduct of the asbestos removal works regularly and takes additional measurements to verify the measurement results of the contractor. Up to present, the additional measurements taken by the Department have shown that the asbestos fibre concentrations within the works site and its vicinity have not exceeded the legal limit.
- (ii) In addition to following the Air Pollution Control Ordinance, the contractor responsible for the demolition works for Tsuen Wan Seven Streets has to observe other ordinances and regulations relating to abatement of environmental pollution, such as the Air Pollution Control (Construction Dust) Regulation, the Noise Control Ordinance and the Water Pollution Control Ordinance, to reduce the nuisance caused to neighbouring residents by the environmental pollution arising from the works project.

The contractor also has to abide by the regulation relating to control of construction dust and take appropriate measures to reduce emission of dust during the demolition work. Such measures include spraying within the demolition works area and covering materials that are prone to create dust. The contractor has to cover the sides of a building to be demolished adjoining or facing the street or pedestrian passage, open areas accessible to the public, and all the walls of a building to be demolished with non-permeable dust barriers. The barriers have to be at least one metre higher than the building to be demolished.

As regards noise, the contractor must use low-noise mechanical equipment where practicable. Moreover, it has to close the engine cover of any air compressor when they are being used and to install a noise reduction device on any crushing machine. To reduce the nuisance caused to residents in the vicinity, the Environment Protection Department as a general practice would only allow the contractor to carry out demolition works between 7 am and 7 pm on non-holidays.

On sewage, the contractor concerned has obtained a licence for discharge from the Environmental Protection Department and has to follow strictly the licensing conditions. Generally, all sewage generated from the works site has to go through proper treatment to meet the licensing standard before it can be discharged through specified outlets.

- (b) All contractors carrying out building demolition works have to adopt the environmental pollution abatement measures mentioned above to protect public safety and reduce the nuisance caused to the public. Staff of the local pollution control offices of the Environmental Protection Department closely monitor the operation of works sites during their routine inspections to ensure that contractors have adopted the environmental pollution abatement measures mentioned above.

### **Work of Steering Committee on Parent Education**

12. **MISS CYD HO** (in Chinese): *Madam President, the Administration has set up a Steering Committee on Parent Education and provided it with \$50 million for enhancing parent education. In this connection, will the Government inform this Council:*

- (a) *of the terms of reference and the membership list of the Committee, as well as the rationale for the appointments of the individual members;*



- (b) *how long the above amount of funding is expected to last; whether it has set any time limit on the exhaustion of the amount; if so, of the details; if not, the reasons for that; and*
- (c) *whether it plans to turn the Committee into a standing committee and provide it with recurrent funding; if it has, of the long-term work plan of the Committee; if not, how it will ensure that those parents in need can have the necessary support after the funding has exhausted?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Chinese): Madam President,

- (a) At present, parent education and home-school co-operation are provided through a variety of channels, including government departments and non-governmental organization (NGOs), and recurrent resources are provided for this purpose. The provision of an additional capital sum of \$50 million announced by the Chief Executive in his 2000 policy address is to further strengthen efforts in this area. A Steering Committee on Parent Education has been set up to formulate an overall strategy on parent education, to consider how the earmarked \$50 million may best be used, to co-ordinate implementation by various parties, and to monitor progress. Detailed terms of reference are at Annex A.

The membership list of the Steering Committee is at Annex B. It includes representatives from relevant department/NGOs as well as key stakeholders, such as schools, tertiary institutions, parents, employers and community members. The wide and balanced membership should help the Committee carry out its tasks effectively.

- (b) The Steering Committee is now considering how best to use the earmarked capital sum of \$50 million. Our plan is to seek funding approval from the Finance Committee by mid-2001. Since the provision is capital in nature, there is no specific time limit within which it must be exhausted. The preliminary thinking of the Steering Committee is to phase the expenditure over a period of two to three years.

- (c) The Steering Committee will remain in place until its tasks set out in (a) above are completed. At present, we have no intention of turning it into a standing committee with recurrent funding. That said, as mentioned in (a) above, various departments/NGOs have already been provided with recurrent funding for organizing parent education and home-school co-operation programmes. This will ensure that parents, schools, and parent-teacher associations will continue to have the necessary support after the capital sum of \$50 million has been exhausted.

Annex A

#### Terms of Reference of the Steering Committee on Parent Education

- (a) To devise an overall strategy to encourage a wider participation of the community in parent education.
- (b) To better co-ordinate the efforts of relevant government departments and NGOs on parent education.
- (c) To ensure effective deployment of the \$50 million earmarked in the 2000 policy address, and to support parent education, encourage the participation of parents in educational affairs and produce reference materials featuring children's physical, psychological and intellectual development for parents and child care workers.
- (d) To monitor, review and evaluate the implementation of parent education initiatives.

Annex B

#### Membership List of the Steering Committee on Parent Education

Mr Matthew CHEUNG	Director of Education	Chairman
Mrs Patricia CHU	Deputy Director of Social Welfare	Representative of the Social Welfare Department

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Mrs Agnes ALLCOCK	Deputy Director of Home Affairs	Representative of the Home Affairs Department
Mrs Betty IP	Assistant Director of Education	Representative of the Education Department
Mr Peter LEUNG	Assistant Director of Education	Representative of the Education Department
Miss Jenny CHOI	Assistant Secretary for Education and Manpower	Representative of the Education and Manpower Bureau
Dr Shirley LEUNG	Principal Medical and Health Officer, Department of Health	Representative of the Department of Health
Ms Annie LO	Principal Social Worker, Hong Kong Family Welfare Society	Representative of NGOs
Ms Wendy WU	Co-ordinator for Group and Community Service, the Salvation Army	Representative of NGOs
Mr TIK Chi-yuen	Chairman, Committee on Home-School Co-operation	Parent representative
Mr LEUNG Chung-wan	Advisor, Hong Kong East Parent Teacher Association Federation	Parent representative
Mr FUNG Ho-keung	President, the University of Hong Kong Graduates Association	Parent representative
Mrs Julie LEE	Chairperson, Parents' Association of Pre-school Handicapped Children	Parent representative
Mr Stephen HUI	Chairman, Hong Kong Subsidized Secondary Schools Council	School representative

Mr FUNG Man-ching	Chairman, Hong Kong Subsidized Primary Schools Council	School representative
Mrs Laura LING	Chairperson, Hong Kong Special Schools Council	School representative
Mrs CHAN NGAI Yuk-ying	Committee Member, Union of Government Primary School Headmasters and Headmistresses	School representative
Mr Samuel YUNG	Chairman, Outstanding Young Persons' Association	Community member
Mr Michael TIEN	Director, The G2000 Group	Employer representative
Dr HO Sui-chu	Assistant Professor, Chinese University of Hong Kong	Representative of tertiary institutions
Mrs Grace WONG	Senior Lecturer, Hong Kong Polytechnic University	Representative of tertiary institutions

### **Relocation Plan for Castle Peak Wholesale Marine Fish Market**

13. **MR ALBERT CHAN** (in Chinese): *Madam President, the Administration has planned for many years to relocate the existing Castle Peak Wholesale Marine Fish Market, which is situated close to residential premises in Area 27 of Tuen Mun, to the quieter Area 44. In this connection, will the Government inform this Council:*

- (a) *of the progress of the relocation plan;*
- (b) *of the causes for the delay in implementing the relocation plan; and*
- (c) *when it will decide on the date for relocating the market?*

**SECRETARY FOR THE ENVIRONMENT AND FOOD** (in Chinese):  
Madam President,

- (a) The Architectural Services Department is conducting an environmental impact assessment (EIA) study on the proposed relocation of the Castle Peak Wholesale Fish Market to a planned joint-user building at Area 44 of Tuen Mun.
- (b) The relocation plan cannot be implemented earlier mainly because some residents' groups in Area 44 in 1998 raised concerns about the environmental impact of the plan. The Planning Department, the Agriculture, Fisheries and Conservation Department and other departments then examined the feasibility of relocating the fish market to alternative sites as requested by these groups. As alternative sites could not be found, the Tuen Mun District Office explained to the then Tuen Mun Provisional District Board in 1999 that it was impracticable to relocate the fish market to other sites.
- (c) The Architectural Services Department, the Agriculture, Fisheries and Conservation Department and other departments will review the relocation timetable, in the light of the outcome of the EIA study.

### **Traffic Safety on Tung Chung Road**

14. **DR RAYMOND HO** (in Chinese): *Madam President, with regard to Tung Chung Road and other roads which cannot meet the current traffic safety standards, will the Government inform this Council of:*

- (a) *the number of traffic accidents on Tung Chung Road and the total casualties caused in such accidents over the past three years;*
- (b) *the number of complaints concerning traffic safety on Tung Chung Road received in the past three years, and how it dealt with such complaints; and*
- (c) *the other roads not up to the traffic safety standards at present, and its plans to upgrade the safety level of these roads?*

**SECRETARY FOR TRANSPORT** (in Chinese): Madam President, according to our statistics, there were a total of 111 traffic accidents occurring on Tung Chung Road from 1998 to 2000, of which 20 involved personal injuries (five serious and 15 slight). These 20 accidents have resulted in 50 casualties (10 serious and 40 slight injuries). The details are set out in the table below:

	<i>No. of Accidents Involving</i>		<i>No. of Casualties Involved</i>		<i>Total No. of Accidents</i>
	<i>Serious Injuries</i>	<i>Slight Injuries</i>	<i>Serious Injuries</i>	<i>Slight Injuries</i>	
1998	1	3	1	4	33
1999	1	6	1	7	35
2000	3	6	8	29	43
Total	5	15	10	40	111

During the same period, we received 15 complaints from the public. In response to these complaints, the Administration identified and carried out over 30 localized road improvement works on Tung Chung Road. These works include the addition of five passing bays, the lengthening of four existing passing bays, the widening of 20 local road sections, sightline enhancement, and the installation of street lighting. In addition, we have widened two sections of Tung Chung Road from single lane to a standard two-lane carriageway to improve road safety conditions. We will continue to carry out a series of minor road improvement works in the coming six months including road widening works, provision of additional passing bays, and the laying of anti-skid materials. In parallel, we are pushing ahead with the implementation of a better standard Lantau north-south road along the existing Tung Chung Road alignment with a target completion date of 2006.

Roads in Hong Kong are built to meet basic safety standards which take into account projected usage and physical constraints. Improvement works are carried out wherever possible to meet the changing needs of the community and new safety standards. Over the years, we have carried out a series of reconstruction and improvement works to roads such as Hiram's Highway, Tai Po Road, Castle Peak Road and Chai Wan Road in response to changes in the pattern of use.

**Competition in Local Fixed Wireline-based Telecommunication Network Services Market**

15. **MR HOWARD YOUNG** (in Chinese): *Madam President, the local fixed wireline-based telecommunication network services market was opened up in June 1995 and licences were issued to three new operators. Recently, the head of one of the new operators commented that the dominant operator, Pacific Century CyberWorks, was allowed to adopt anti-competitive practices, such as refusing to supply adequate Type I interconnection lines, to impede the provision of services by the new operators. As a result, the current aggregate market share of these new operators is only 5%. In this regard, will the Government inform this Council:*

- (a) *whether, when opening up the market, it had estimated the market share to be gained by the new operators; if so, how the total market share estimated to be gained by the new operators 5.5 years after they had entered the market compares to the actual situation at present; if there is significant discrepancy, of the reasons for that and the follow-up actions to be taken; if no such estimation has been made, the reasons for that;*
- (b) *whether it has assessed if the arrangement for network operators to negotiate on a commercial basis among themselves for interconnection agreements is one of the reasons for the slow development of the new operators' businesses; if it is, of the measures to tackle the problem; if the assessment result is in the negative, the justifications for that;*
- (c) *whether it has assessed if unfair competition exists in the market; and*
- (d) *of the specific measures to break the domination of the market by one network operator?*

**SECRETARY FOR INFORMATION TECHNOLOGY AND BROADCASTING** (in Chinese): *Madam President,*

- (a) *As the market share of the operators should be determined by the market, the Government did not evaluate the market share that*

might be gained by the new operators when the local fixed telecommunications network market was opened in 1995. The objectives of the Government are to liberalize the market, introduce competition and provide more choices to consumers. In creating an environment of fair and effective competition, the main responsibilities of the Office of Telecommunications Authority (OFTA) are to implement the interconnection regime and the competition safeguards.

- (b) The regulatory framework for network interconnection is based on a well-established market-led principle in Hong Kong. The OFTA has always encouraged the operators to reach agreements through commercial negotiations. Nevertheless, if commercial negotiations fail, the Telecommunications Authority (TA) may make a determination in accordance with section 36A amended by the Telecommunication (Amendment) Ordinance passed in June 2000. Our existing interconnection regulatory framework is comparable with those in many telecommunications market, and so is the principle on the preference for commercial negotiations.

Our policy objective is to provide a regulatory environment which encourages competition and maintains investment incentives at the same time. As in other places which have introduced similar pro-competition policies, understandably, the interconnection arrangements may not be welcomed by the incumbent operator due to commercial reasons as it has the most extensive local loop systems and would initially be providing lines to competitors in most cases. Despite such resistance, the TA has taken practical measures to implement the interconnection arrangements. These arrangements, including setting out the principles for determination of fair interconnection charges, facilitating through mediation the commercial agreement of interconnection charges, and convening an industry forum to prepare a code of practice for interconnection procedures so that interconnection can be made in a co-ordinated and timely manner. As such, we do not agree that the existing network interconnection regulatory framework is the reason for the relatively slow pace of development of any operator's business.



- (c) To safeguard competition, we have incorporated anti-competition provisions in the Telecommunication (Amendment) Ordinance enacted in June 2000. According to sections 7K to 7N of the amended Telecommunications Ordinance, the licensees are forbidden to engage in conduct which prevents competition in a telecommunications market, as well as conduct which is misleading or deceptive. The licensee in a dominant position should further observe provisions against the abuse of dominant position and price discrimination that affect adversely competition. The OFTA has been monitoring market competition closely to ensure compliance of the provisions concerned. Complaints on anti-competitive conduct received by the OFTA and the results of investigation have all been posted at the OFTA's website <[www.ofta.gov.hk](http://www.ofta.gov.hk)>
- (d) The Government is committed to liberalizing the fixed telecommunications network services (FTNS) market in order to enhance competition. The measures are as follows:
- (i) *to accelerate network rollout of the new fixed network operators*

In 1999, the three new fixed network operators undertook to expand their network coverage, with a view to providing at least one alternative fixed line supplier to over 50% of residential line users by the end of 2002.

The Government has also helped resolve difficulties encountered by the three fixed network operators in Type II interconnection for expanding their network. For instance, in end-1998, with the participation of Hongkong Telecom (now PCCW-HKT Limited) and the three new fixed network operators, the OFTA established an industry forum to draft an industry Code of Practice on "local loops", with the aim of resolving problems encountered by the fixed network operators in facilitating Type II interconnection and speeding up progress of connection. The industry forum meets regularly to discuss and resolve problems concerning the implementation of the industry Code of Practice. The provisions of the Code may be subject to amendments if necessary.

- (ii) *to accelerate the establishment of "Customer Access Network"*

Limited space in buildings for laying telecommunications cable is one of the reasons for the slow progress and the difficulty in laying "Customer Access Network". As such, the Government has amended the Buildings Ordinance and its supplementary code of practice to provide new buildings with adequate space and facilities for laying telecommunications cables. The OFTA has set up a task force to co-ordinate arrangements of access to the buildings by FTNS operators. In addition, the Telecommunications Ordinance was amended in June 2000 to clarify the FTNS operators' rights of access to buildings, and to provide the TA with solid legal basis for determining the terms and conditions regarding interconnection arrangements. New FTNS operators may provide telephone services to customers by way of "Type II Interconnection" prior to the full establishment of "Customer Access Network".

- (iii) *to enhance market competition*

In 1998, the Government issued a public consultation paper with a view to reviewing the fixed telecommunications services and announced the decision subsequent to the review in May 1999. While we had decided on a moratorium on the issue of further local wireline-based FTNS licences by the end of 2002, the Government had also decided to issue five licences for the operation of local wireless FTNS licences and a licence to the Hong Kong Cable Television Limited for operation telecommunications services. These networks to be rolled out have the ability to provide telephony services. Furthermore, the Government has announced in the 2000 policy address that new applications for local wireline-based FTNS licences will be invited this year.

- (iv) *to enable the price of residential lines to be set on an economic basis*

For a long time, the price of residential lines was below its costs, and the residential line services were cross-subsidized

by external telecommunications services, that is IDD. Undoubtedly, this would impact on the commercial incentives of the new FTNS operators to develop residential line services.

With the liberalization of external telecommunications services market, the cross-subsidization on local services from external services could not be maintained. The PCCW-HKT was therefore allowed to gradually increase the price of residential lines to cost level so as to remove the existing cross-subsidization from external services. This serves as a commercial incentive for the three new FTNS operators to develop local telephone line services on an economic basis.

### **Absence Periods Set for Old Age Allowances**

16. **MR LEUNG YIU-CHUNG** (in Chinese): *Madam President, the eligibility requirements set for higher and normal old age allowances stipulate that applicants must have resided in Hong Kong for at least five years during which the period of absence from the territory should not exceed 280 days (that is, an average of 56 days each year), while persons who are receiving such allowances may leave Hong Kong for up to 180 days a year. In this connection, will the Government inform this Council:*

- (a) *of the reasons for setting, and how it arrived at, the permitted periods of absence;*
- (b) *of the reasons for the discrepancy between the above two permitted periods of absence;*
- (c) *whether it has reviewed the permitted periods; if so, of the results of the review; and*
- (d) *whether it has plans to relax or abolish the permitted periods; if so, of the details; if not, the reasons for that?*

**SECRETARY FOR HEALTH AND WELFARE** (in Chinese): Madam President, introduced in 1973, the Old Age Allowance (OAA) is a cash allowance given to eligible elders of 65 or above to meet their special needs arising from old age.

Regarding the Honourable LEUNG Yiu-chung's inquiry on the permitted periods of absence of the OAA, our response is as follows:

(a) and (b)

As the OAA is a non-contributory scheme funded entirely by general revenue, there is a need to set a residence requirement (defined by the number of days present in and absent from Hong Kong) to ensure that the funds are used for Hong Kong residents who normally reside here.

The permitted period of absence is determined on the basis of administrative convenience. With a permitted absence period of up to 280 days in five years, an OAA applicant can be away from Hong Kong for an average of up to eight weeks a year in the past five years. And there is flexibility in when in the five years the 280 days' absence can be taken. We consider such requirement as reasonable for anyone residing permanently in Hong Kong.

The longer absence period of 180 days a year for OAA recipients has been introduced since 1 July 1993 to permit greater flexibility for elders to spend extended period of time outside Hong Kong, particularly in the Mainland, in recognition of their family links outside the Special Administrative Region.

(c) and (d)

As pointed out in (a) and (b) above, the absence limit for OAA recipients has been relaxed since 1993.

We consider the residence requirements reasonable and indeed generous by international standard. While currently we have no plans to relax or abolish them, we shall keep them under review in light of changing circumstances.

**Children Receiving Education at Home**

17. **MR CHEUNG MAN-KWONG** (in Chinese): *Madam President, given the recent case in which a parent refused to let his daughter receive school education and would educate her at home instead, will the Government inform this Council:*

- (a) *whether there are policy, guidelines or standards allowing parents to not send their children to schools but to educate them at home instead; if so, of the details; if not, the reasons for that;*
- (b) *of the number of cases handled in the past five years involving parents choosing to let their children stay home to receive education and, in these cases, of the attitude of these parents, the learning of the children, the handling procedure of the Education Department (ED), and the counselling and support actions provided for these families; and*
- (c) *whether it will review the policy on whether children should be allowed to receive education at home; if it will, of the details; if not, the reasons for that?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Chinese): Madam President, the Government's policy is to provide nine years of free and universal education to children aged between six and 15. Accordingly, children within these ages must attend school. We have no plans to review/change this policy. We firmly believe, having regard to Hong Kong's present socio-economic situation, it is in the best interest of children that they should all go to school. The school provides a more balanced and structured formal curriculum as well as extra curriculum activities, and opportunities for interaction with peers and teachers. All these are essential for all-round development, covering the domains of ethics, intellect, physique, social skills and aesthetics.

If parents persistently do not send their children to school without valid reasons, the Director of Education (DE) may issue an attendance order under the Education Ordinance, requiring the parents to send their children to school. It is an offence if parents do not comply with an attendance order.

When the attention of the ED is drawn to cases involving parents keeping their children away from school, officers of the ED will first conduct home visits to understand the situation. The Department will also arrange school inspectors to visit the families to see if the educational needs of the children have been properly addressed through home teaching. Educational psychologists will also assess whether the psychological development of the children has been affected. Counselling and other support services, such as remedial teaching services, will also be provided as necessary. If the parents insist on keeping their children at home without valid reasons, the DE may issue an attendance order mentioned in the above paragraph.

In the past five years, there were two such cases, including the one referred to in this question. In both cases, the parents believed that they could provide better education at home for their children. Both cases are followed up in accordance with the established procedures described above. The child involved in the earlier case will return to school shortly after the ED's intervention.

### **Increasing Trend of Credit Card Holders Unable to Make Repayments**

18. **MRS SOPHIE LEUNG** (in Chinese): *Madam President, it has been reported that there is an increasing trend of credit card holders being unable to make credit card repayments after spending or borrowing with multiple credit cards, and in one such case the cardholder owed debts involving 57 credit cards. In this connection, will the Government inform this Council:*

- (a) *whether it will consider amending the Code of Practice on Consumer Credit Data (the Code) to allow credit reference agencies to collect more comprehensive personal credit information for the reference of credit card issuers in vetting credit card applications; if so, of the details; if not, the reasons for that; and*
- (b) *of the means to raise the public's awareness of good financial management, such as reminding them to live within their means when using credit cards and promoting the use of direct debit cards, in order to reduce the incidence of failure to clear credit card debts?*

**SECRETARY FOR HOME AFFAIRS** (in Chinese): Madam President,

Part (a)

The Code was published by the Privacy Commissioner for Personal Data (PC) under the Personal Data (Privacy) Ordinance. The PC is an independent authority. He published the Code in 1998 after consideration of the views collected from a public consultation exercise.

In order to protect privacy, the Code, among other things, limits the information that credit reference agencies may collect and disclose about individual borrowers. The main items of information that a lender may disclose to a credit reference agency include information relating to:

- any default in making a repayment;
- any application for credit within the previous 90 days;
- any loss of a credit card by the lender that has resulted in the lender suffering a financial loss due to an unauthorized transaction on the lost credit card; and
- a motor vehicle or equipment that is subject to a hire-purchase or leasing arrangement with the lender.

In addition, a credit reference agency may also collect information about a person from official public records about any court actions against him to recover monies owed, judgement for monies owed and declarations and discharges of bankruptcy.

The PC considers that the current provisions in the Code strike a balance between the protection of personal data and financial risk management of credit providers. However, he has ongoing liaisons with relevant parties including the Hong Kong Monetary Authority (HKMA) and credit reference agencies, and has been reviewing the provisions of the Code.

The HKMA has initiated discussions with the PC on expanding the use of credit information from the angle of enhancing banks' credit risk management and alleviating abusive debt collection practices. The Debt Collection Sub-

Committee of the Law Reform Commission, which has recommended in a consultation paper a review of the existing limitations on the collection and use of certain credit data, is studying the public comments received on the paper.

Part (b)

The question of living within one's means should more appropriately be a matter of the individuals' judgement. Our education curriculum has included components to equip students with knowledge on personal finance and investment.

In secondary schools, elements of personal finance and investment, in terms of knowledge, skills and values, are currently covered in a number of subjects such as Economics, Economic and Public Affairs, Commerce, Principles of Accounts and Home Economics.

The Curriculum Development Council has included personal finance and investment education as learning objectives in the consultation documents of the Key Learning Areas of Technology Education and Personal, Social and Humanities Education. The consultation period will end on 15 February 2001 and the final report will be ready by June/July 2001.

Students of tertiary institutions can enhance their understanding on personal finance and investment by ways such as taking relevant courses or joining relevant interest groups (for example, investment clubs). If students encounter any problems on personal finance, they can seek assistance and advice from their respective Student Affairs Office.

### **Trial Scheme for Electric Light Buses**

19. **MR LAW CHI-KWONG** (in Chinese): *Madam President, regarding the six-month trial scheme for electric light buses launched by the Administration in June last year, I have learnt that the company providing these electric light buses has encountered considerable difficulties in setting up power charging facilities for electric light buses, which include the long time required for various government departments to vet the relevant applications, and the potential sites being often found to be unsuitable for setting up power charging facilities due to the presence of other underground facilities which are found only after the road*



*surface has been dug open. In this connection, will the Government inform this Council:*

- (a) of the current procedure and time required for vetting applications for setting up power charging facilities for electric light buses;*
- (b) of its plans to shorten the time required for vetting these applications; and*
- (c) whether it will help the relevant company overcome the technical difficulties encountered in setting up power charging facilities for electric light buses; if so, of the details?*

**SECRETARY FOR THE ENVIRONMENT AND FOOD** (in Chinese):  
Madam President,

- (a) A company has to obtain approval from the Transport Department and an excavation permit from the Highways Department before it can install charging facilities at the roadside or at a light bus terminal. According to experience from the trial scheme, the entire approval process required eight to 10 weeks. That included the time required for the Transport Department to consult other government departments and the time required for the departments concerned to consult affected members of the local community.
- (b) and (c)

The alternative-fuel light bus trial scheme has just been completed. The monitoring committee comprising government departments, representatives of the transport trade, light bus manufacturers and vehicle experts is reviewing the results, including the problems encountered during the trial. The committee will forward a report to the Government shortly. If the Government decides to implement an alternative-fuel light bus scheme that includes replacing diesel light buses with electric models, we will, based on the experience from the trial scheme, consider how we could approve the setting up of charging facilities more efficiently and assist in resolving any technical problems arising from the installation works.

**Inadequate Power Supply Installations in Estate Units Sold under TPS**

20. **MR FRED LI** (in Chinese): *Madam President, the Hing Tin Estate in Lam Tin will soon be put up for sale under the Tenants Purchase Scheme (TPS). However, the power supply installations in the units of its buildings are inadequate to meet the power demand when high power consumption appliances, such as air-conditioners and water heaters, are used. Furthermore, the distribution boards in the units are not installed with high-ampere circuit breakers. Consequently, overloading of electricity demand often results in black-outs in the housing units. In this regard, will the Government inform this Council:*

- (a) of the public housing estates with the above problems in their power supply installations; of the number of buildings involved, and the year of completion for and the number of units in each building; and among them, the estates which have been included in the TPS; and*
- (b) whether it will solve the above problems in those estates before putting up their units for sale; if so, of the details; if not, the reasons for that?*

**SECRETARY FOR HOUSING** (in Chinese): Madam President, as part of the Electrical Reinforcement and Rewiring Programme, improvement works were undertaken in 1996 to upgrade the electricity supply at Hing Tin Estate. All flats have been provided with high-ampere (up to Amp) circuit breakers and residual current device. Current electricity supply should be adequate to cater for peak demands in summer months.

There are still 27 public housing estates which are in need of power supply upgrading: details are set out at the Annex. They are scheduled for upgrading in phases by 2003-04 under the Electrical Reinforcement and Rewiring Programme. Four of these estates (that is, Lei Cheng Uk, Pok Hong, Tung Tau (II) and Fu Shin) have been included in the TPS for sale after the upgrading of power supply.

## Annex

Names of 27 Public Rental Housing Estates  
In Need of Power Supply Upgrading under the  
Electrical Reinforcement and Rewiring Programme

<i>Name of Estate</i>	<i>No. of Blocks</i>	<i>No. of Units</i>	<i>Year of Completion</i>
1. Wan Tsui	6	1 939	1987
2. Model Housing	6	633	1979
3. Sai Wan	5	638	1958
4. Shun Lee	4	2 350	1979
5. Shek Lei (I)	4	2 991	1986
6. Tai Wo Hau	8	3 855	1989
7. Ma Tau Wai	5	2 075	1962
8. Oi Man	7	2 874	1975
9. Shek Kip Mei	9	3 152	1964
10. Lei Cheng Uk	4	2 254	1989
11. So Uk	16	5 067	1963
12. Pok Hong	5	3 050	1985
13. Sha Kok	14	6 344	1982
14. Wo Che	6	1 776	1980
15. Mei Lam	7	4 175	1985
16. Shek Wai Kok	8	6 502	1982
17. Sam Shing	3	1 834	1980
18. On Ting	6	5 075	1982
19. Wu King	6	4 386	1984
20. Chuk Yuen (South)	8	6 649	1986
21. Lower Wong Tai Sin (II)	3	1 703	1983
22. Lok Fu	7	2 050	1996
23. Tung Tau (II)	4	1 523	1985
24. Mei Tung	1	133	1983
25. Choi Yuen	6	5 136	1982
26. Fu Shin	6	5 518	1986
27. Shui Pin Wai	3	1 120	1981
Total	167	84 802	

**BILLS****First Reading of Bills**

**PRESIDENT** (in Cantonese): Bills: First Reading.

**FIRE SAFETY (BUILDINGS) BILL****TELECOMMUNICATIONS (AMENDMENT) BILL 2001**

**CLERK** (in Cantonese): Fire Safety (Buildings) Bill  
Telecommunications (Amendment) Bill 2001.

*Bills read the First time and ordered to be set down for Second Reading pursuant to Rule 53(3) of the Rules of Procedure.*

**Second Reading of Bills**

**PRESIDENT** (in Cantonese): Bills: Second Reading.

**FIRE SAFETY (BUILDINGS) BILL**

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, I move that the Fire Safety (Buildings) Bill be read the Second time.

The Administration's policy objective is to take progressive steps to upgrade the statutory fire safety standards of old buildings to better protect people working or living there from the risk of fire. As a general indication, the fire safety construction and fire service installations (FSIs) in pre-1987 buildings do not meet present-day standards. We introduced the Fire Safety (Commercial Premises) Ordinance and its Amendment Ordinance in 1997 and 1998 respectively to require the upgrading of fire safety measures in commercial premises with heavy traffic of people (such as banks, supermarkets, off-course betting centres, jewellery or goldsmith shops, department stores and shopping arcades) and pre-1987 commercial buildings to modern standards. Our next priority is old composite and domestic buildings. We propose to introduce the present Bill to deal with them.

According to the findings of a territory-wide buildings survey conducted by the Fire Services Department (FSD) in 1998, the fire safety condition in old composite (commercial/domestic) buildings was the most unsatisfactory. Only about 10% of these buildings were found satisfactory. In view of the high fire load and heavy traffic of people in the commercial parts of these buildings, we have to deal with them as a priority. Upon implementation of the legislation, we will undertake a 10-year programme comprising two phases to require owners or occupiers of composite buildings to upgrade FSIs and the fire safety construction in their buildings. In the first six years, we will deal with about 5 000 pre-1973 private buildings. In the remaining four years, we will cover some 4 000 private buildings built between 1973 and 1987. It is necessary to tackle pre-1973 private buildings first as the installation of sprinkler systems in the commercial parts was not made a mandatory requirement for these buildings when they were built.

Upon completion of the improvement programme for composite buildings, we will deal with about 3 000 pre-1987 private domestic buildings above three storeys, with priority given to the pre-1973 buildings.

The new legislation will also apply to buildings sold by the Housing Authority under the Home Ownership Scheme or the Tenants Purchase Scheme, as well as public rental housing blocks.

The new fire safety standards for the commercial parts of composite buildings are modelled on those stipulated under the Fire Safety (Commercial Premises) Ordinance. These include the installation of sprinkler systems to contain the spread of fire, and improvements to fire safety construction in buildings to protect exit routes and fireman's access, and to prevent spread of fire between compartments of different uses or adjoining buildings.

For the domestic parts of composite buildings and for domestic buildings generally, taking into account the lower fire load and fire risks normally associated with residential purposes, we require the provision of only the most essential items (such as fire hydrant and hose reel systems), and the protection of exit routes.

Regarding the enforcement mechanism, we will follow the arrangements under the Fire Safety (Commercial Premises) Ordinance and empower the enforcement authorities, that is, the FSD and the Buildings Department, to issue directions to require owners or occupiers of composite buildings and domestic buildings to upgrade the fire safety measures of their buildings to the required standards. If an owner or occupier fails to comply with the requirements in a direction without a reasonable excuse, the authorities may apply to a magistrate court for a compliance order. If an owner or occupier fails to comply with a direction or a compliance order, the authorities may apply to the Court for a prohibition order prohibiting the occupation of the relevant building or part of the building in case of substantial fire risks and when it is reasonable and necessary to do so. Failure to comply with the requirements specified in a direction or compliance order shall be an offence punishable by a fine, whilst failure to comply with a prohibition order shall be punishable by a fine and by imprisonment.

Upon implementation of the legislation, the enforcement authorities will progressively carry out inspection to buildings covered by the legislation and issue fire safety directions. They will undertake a flexible and pragmatic approach in handling cases where owners encounter practical difficulties in comply with the fire safety directions. For example, the owners may propose other effective fire safety measures in place of the original requirements specified in the directions. To ensure fair and impartial consideration of any alternative proposals made by the owners themselves, we propose the setting up of independent advisory bodies which the Director of Fire Services and the Director of Buildings may consult if necessary. Membership of such bodies will include professionals from the building industry, representatives of institutions and academics. Moreover, we will encourage owners of old buildings to employ qualified professionals to inspect their buildings and put forward proposals to the enforcement authorities for upgrading fire safety measures to the required standards of the Bill so that the improvement works can start as early as possible. The owners may also employ qualified professionals to inspect and certify the satisfactory completion of the improvement works. This would help the enforcement authorities to confirm that the fire safety condition of the buildings has complied with the new statutory standards. With the co-operation of the owners, the trade, the enforcement authorities, and so on, we look forward to expeditious implementation of the whole programme to improve the fire safety of old buildings, so that those working or living in these buildings will benefit from the enhanced fire safety measures as soon as possible.

To optimize the use of market forces to help achieve the objective of improving fire safety in old buildings, we propose to empower the enforcement authorities to register in the Land Registry a compliance order or a prohibition order issued by the Court against a building or such parts of it to which the order relates. Such registration would make the fact of potential liability known to any prospective property buyers who may be interested to do a land search. It would thus help to provide an incentive for a building owner to comply with the outstanding court order so as to maintain the value of his property.

To help alleviate possible cash flow problems that some building owners may encounter, we plan to extend the scope of the existing Fire Safety Improvement Loan Scheme (FSILS), so that eligible owners affected by the Bill can have recourse to a non-means-tested loan. A Task Force under the Planning and Lands Bureau is spearheading a proposal to merge the FSILS and the Building Safety Improvement Loan Scheme (BSILS) to form a \$700-million loan scheme under broader terms of reference to provide comprehensive financial assistance to building owners. Among others, owners affected by the Bill will be covered. The revised loan scheme, with details being worked out, will be submitted to the Finance Committee of the Legislative Council for consideration.

The Security Bureau and the Home Affairs Bureau jointly conducted public consultation on a package of proposals to improve fire safety in private buildings from June to August 1998. The public was supportive of the Administration's objective. Subsequently, the Building Management (Amendment) Bill 2000 was approved by the Legislative Council in June 2000 to improve building management; this Bill aims to take forward those measures for upgrading fire safety standards of buildings. We briefed the Legislative Council Panel on Security on the proposals in November 2000. We will also brief the 18 District Fire Safety Committees to help the public understand better the requirements specified in the Bill.

I hope Members will support the above proposal and pass the Bill at an early date.

With these remarks, Madam President, I beg to move.

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the Fire Safety (Buildings) Bill be read the Second time.

The debate is now adjourned and the Bill referred to the House Committee.

## **TELECOMMUNICATIONS (AMENDMENT) BILL 2001**

**SECRETARY FOR INFORMATION TECHNOLOGY AND BROADCASTING:** Madam President, I move the Second Reading of the Telecommunications (Amendment) Bill 2001.

Under the Telecommunications (Amendment) Ordinance 2000 (Cap. 106) passed by the Legislative Council in June 2000, the Telecommunications Authority (TA) is empowered to issue various telecommunications licences under section 7, including the carrier licences for third generation (3G) mobile services, and allocate frequencies of the radio spectrum under section 32H. Section 32I provides that the Secretary for Information Technology and Broadcasting may by regulation prescribe the level of, or the method for determining, the spectrum utilization fee which is above the simple recovery of cost of government service. There is, however, no express provision to empower the TA to consider the payment of spectrum utilization fees in issuing telecommunications licences and in allocating spectrum, as would be required in a licensing or allocation exercise where spectrum auctioning is involved.

As regards the licensing of 3G mobile services, we have widely consulted the industry and the community in March and October last year respectively. Following this consultation, we announced yesterday that we are going to issue four licences for 3G mobile services by a pre-qualification exercise followed by the spectrum auctioning. We believe that this method will be generally accepted by both the industry and the public. Given that this is the first time the spectrum auctioning is involved in issuing telecommunications licences in Hong Kong, and taking into account the recent experience of European auctions for the 3G licences, we propose to make some technical amendments to the Telecommunications Ordinance to provide a firm legal basis for the chosen licensing method.



The proposed amendments to the Bill aim at clarifying the power of the TA and the Secretary for Information Technology and Broadcasting in spectrum auctions and tenders. Specifically, the Bill has two main objectives as follows:

Firstly, the Bill seeks to remove any uncertainty on whether the TA has the power, in issuing licences and allocating spectrum, to take into account considerations such as the spectrum utilization fees of qualified bidders in a spectrum auction. And secondly, the Bill will establish clearly the respective roles of the Secretary for Information Technology and Broadcasting and the TA. The Secretary for Information Technology and Broadcasting will prescribe the level of, or the method for determining, the spectrum utilization fee (for example, by cash or royalty auction), and the TA to set the terms and conditions of the auctions and tenders apart from issuing licences and allocating spectrum.

Now, may I go on to brief Members on the major provisions of the Bill.

Clauses 2 and 3 amend sections 7 and 32H of the Ordinance to expressly provide that, in issuing licences or assigning spectrum frequency, the TA is empowered to regard the fees arising from the auction, tender or other methods under section 32I(2)(b) as a determining factor. This aims to stipulate clearly the relevant considerations that the TA may take into account in exercising his power.

Clause 4 amends section 32I of the Ordinance to clarify that the Secretary for Information Technology and Broadcasting will prescribe by Regulation the level of spectrum utilization fees, or the methods for determining the spectrum utilization fees, including auction, tender or any other method that she thinks fit. The Regulation may also empower the Secretary for Information Technology and Broadcasting to specify the minimum amount of the fees. In case of an auction or tender, the Regulation may empower the TA to specify the terms and conditions of the auction or tender. Breaches of these terms and conditions may lead to penalties including disqualification, forfeiture or enforcement of the security lodged, and where the applicant has already obtained the licence, cancellation, withdrawal or suspension of the licence. Such penalties are intended to serve as a deterrent against collusion or other malpractices during and after the bidding process which are detrimental to public interest. To prevent the abuse of this avenue for delaying or challenging the grant of licence by a dissatisfied bidder, the newly added section 32I(6) provides that such power could only be exercised by the TA if the complaint is made by the bidder within

three months after the date on which the outcome of the exercise has been publicly announced.

Lastly, clause 5 amends section 34 of the Ordinance to expressly exclude from consideration by the TA and the Chief Executive in Council the payment of spectrum utilization fees under section 32I of the Ordinance or other licence fees a licensee may have already made when they exercise their power to cancel, withdraw or suspend any licence. This is to avoid undermining the effectiveness of the deterrent power under section 34. Moreover, the clause also provides that, like other licence fees, no spectrum utilization fees would be refunded.

The Telecommunications (Amendment) Bill 2001 is an important Bill proposing technical amendments to the Ordinance. It aims to provide a firm legal basis for the 3G licensing exercise and any future licensing exercises involving the payment of spectrum utilization fees.

To tie in with the grant of licences for 3G mobile services, we plan to finalize as soon as possible the proposed Regulation to be made by the Secretary for Information Technology and Broadcasting under the new section 32I(2) after tabling the Bill to the Legislative Council. The Regulation is to prescribe the method of spectrum auctioning based on royalty payment, subject to a minimum guaranteed payment, as we announced yesterday. We intend to make public the proposed Regulation shortly not only to allow the Legislative Council to consider the proposed Regulation in conjunction with the Bill, but also make clear to the interested bidders the legal basis on which the 3G licences will be granted. The Regulation will implement the chosen method which, as I mentioned yesterday, is the best way to balance the views of various parties after the extensive consultation we had conducted, taking into account the fast changing developments in global telecommunications market, as well as characteristics of the Hong Kong market. It best meets our policy objectives and is in line with the long-term interests of Hong Kong.

The enactment of the Bill is the prerequisite to the invitation of applicants for the licences for 3G mobile services. I, therefore, appeal to this Council for support in passing the Bill as soon as possible. The timely issue of 3G licences will allow Hong Kong to enjoy 3G services at the same time as other advanced economies and keep Hong Kong in the forefront of the mobile services of Asia.

I hereby commend the Bill to Members. Thank you, Madam President.

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the Telecommunications (Amendment) Bill 2001 be read the Second time.

The debate is now adjourned and the Bill referred to the House Committee.

## **MEMBERS' MOTIONS**

**PRESIDENT** (in Cantonese): Members' motions. Seven motions under the Interpretation and General Clauses Ordinance.

First motion.

## **PROPOSED RESOLUTION UNDER THE INTERPRETATION AND GENERAL CLAUSES ORDINANCE**

**MR CHAN KAM-LAM** (in Cantonese): Madam President, the House Committee has set up a Subcommittee to study the four items of subsidiary legislation relating to revision of fees gazetted on 12 January 2001. In my capacity as Chairman of the Subcommittee, I move the motion standing in my name on the Agenda.

The motion seeks to extend the deliberation period of the four items of subsidiary legislation related to revision of fees.

At the meeting of the Subcommittee on 8 February 2001, members agreed that I should move a motion to extend the deliberation period to the date of the meeting of this Council on 21 February 2001 to give the Subcommittee time to consider the relevant subsidiary legislation and report to the House Committee the outcome of deliberation.

With these remarks, I urge Members to support this motion. Thank you, Madam President.

**Mr CHAN Kam-lam moved the following motion:**

"That in relation to the -

- (a) Clubs (Safety of Premises) (Fees) (Amendment) Regulation 2001, published as Legal Notice No. 13 of 2001;
- (b) Builders' Lifts and Tower Working Platforms (Safety) (Fees) (Amendment) Regulation 2001, published as Legal Notice No. 14 of 2001;
- (c) Fire Service (Installation Contractors) (Amendment) Regulation 2001, published as Legal Notice No. 15 of 2001; and
- (d) Timber Stores (Amendment) Regulation 2001, published as Legal Notice No. 16 of 2001,

and laid on the table of the Legislative Council on 17 January 2001, the period referred to in section 34(2) of the Interpretation and General Clauses Ordinance (Cap.1) for amending subsidiary legislation be extended under section 34(4) of that Ordinance to the meeting of 21 February 2001."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr CHAN Kam-lam be passed. Does any Member wish to speak?

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the motion moved by Mr CHAN Kam-lam be passed. Will those in favour please raise their hands?

(Members raised their hands)

**PRESIDENT** (in Cantonese): Those against please raise their hands.

(No hands raised)

**PRESIDENT** (in Cantonese): I think the question is agreed by a majority respectively of each of the two groups of Members, that is, those returned by functional constituencies and those returned by geographical constituencies through direct elections and by the Election Committee, who are present. I declare the motion passed.

**PRESIDENT** (in Cantonese): Second to sixth motions. Mr LAU Chin-shek and Mr James TIEN have each given notice to move five proposed resolutions under the Interpretation and General Clauses Ordinance. The five resolutions proposed by Mr LAU Chin-shek and Mr James TIEN are identical. As Mr LAU Chin-shek submitted his notice at an earlier date, I will call upon Mr LAU Chin-shek to move his proposed resolutions. Irrespective of whether Mr LAU Chin-shek's proposed resolutions are passed or not, Mr James TIEN may not move his proposed resolutions.

### **PROPOSED RESOLUTION UNDER THE INTERPRETATION AND GENERAL CLAUSES ORDINANCE**

**MR LAU CHIN-SEK** (in Cantonese): Madam President, I move that the motion as set out on the Agenda, be passed.

Today, Mr James TIEN and I have proposed to move six resolutions at the same time; and as I have stated before, my position is that since the prevailing economy and people's livelihood have not yet fully recovered, we should continue to freeze all government and public utility charges. As I uphold the view that "opposing the surge of fees and charges" is a serious demand of the public, I will not approve fee increase on a selective basis and I request that all fee increases be frozen instead. As regards the 62 fee increase proposals to be dealt with today, only an additional revenue of about \$220,000 annually is involved, whereas for the fee increase proposed under the Estate Agents Ordinance (that is, the last resolution to be dealt with today), irrespective of whether such fee increase is frozen or otherwise, the Government may not gain

"a single cent" in revenue. This is because so far no registration and notice of appeal has ever been filed with the District Court in relation to the determinations of the Estate Agents Authority, and thus no fee has ever been paid. However, I still believe that we should pass on this important message of "opposing the surge of fees and charges" to the Government and community.

Today, I reckon many colleagues will still cast their vote in accordance to "whether the fees increase proposal will have a direct impact on the people's livelihood". However, it appears that the standard applied by many colleagues in defining fees which have an impact on the people's livelihood or otherwise is baffling. Last week, this Council passed a resolution to freeze the fee increase on charges for testing of water meters, and as most Members were of the view that as long as charges have to be borne by the general public, it would impact on the people's livelihood, even though it may not be a regular payment. Then, how can we say that the fee increases today, especially the increase in animals (including cats and dogs) pound fees, do not have an impact on the people's livelihood? When government officers detain stray dogs, their owners will have to pay pound fees before they can reclaim their dogs. Honourable colleagues, the former Governor Christopher PATTEN's "Whiskey" is not the only dog that was reported missing; and members of the public have to pay the fee when they reclaim their missing cats and dogs. Therefore, the increase in pound fees does have a 100% impact on the people's livelihood.

Moreover, apart from "people's livelihood", I think we should also look at this issue from another angle, and that is, from the angle of "animal's livelihood". The increase in pound fees means an increase in fees which owners have to pay to reclaim their pets, and pet owners may refuse to do so if the fees are too high, thus depriving the animals of their right to survival.

I think colleagues should carefully consider these points before voting on the resolution.

Finally, I would like to stress on the resolution to be moved later in relation to the fee increase under the Estate Agents Ordinance. In respect of this resolution, four Members have proposed to freeze the fees in question; though as I have just said, no matter whether the fee increase is frozen or not, the Government may eventually gain "nothing" from the increase for there may not be any case which will require action of the District Court. However, as regards fees for services on judicial proceedings, my position remains the same

as that of last month when I moved to freeze the fee increase on charges for other District Court services. I resolutely oppose all fee increases in relation to administration of justice.

With these remarks, Madam President, I beg to move. Thank you.

**Mr LAU Chin-shek moved the following motion:**

"That the Dairies (Amendment) Regulation 2001, published as Legal Notice No. 1 of 2001 and laid on the table of the Legislative Council on 10 January 2001, be repealed."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr LAU Chin-shek be passed.

I will now call upon Mr James TIEN to speak on the motion.

**MR JAMES TIEN** (in Cantonese): Madam President, first of all, I would like to say a few words in my capacity as Chairman of the Subcommittee. The House Committee agreed on 12 January 2001 to set up a Subcommittee to study these series of fee increase proposals. The Subcommittee held a meeting with the Government on 1 February to discuss the seven items of subsidiary legislation, which Mr LAU Chin-shek has explained earlier. The conclusion of the Subcommittee was, like before, that any amendment should be proposed by individual Members. As a result, the Subcommittee has not reached any consensus.

Madam President, now I would like to elaborate on my personal views. Just as on previous occasions, the Liberal Party considers the existing business environment not good, as Hong Kong encountered deflation last year, the costs of government services should not have gone up. Therefore, irrespective of whatever type of increase, we will not support the proposal of the Government to increase fees and charges.

As to these six items of subsidiary legislation and the last, I would like to make a supplementary point to the argument of Mr LAU Chin-shek. For example, when an animal is lost and caught afterwards, who would be its owner?

It is very unlikely that its owner is a company, so the owner must be a person. In fact, the fee is directly related to the livelihood of the people. Perhaps to the other political parties, a fee charged is livelihood-related only if everybody is involved, otherwise it is non-livelihood-related. This I can understand. Maybe there are not so many cats or dogs owners and the number of people being affected is very limited. However, it is indeed livelihood-related.

Finally, I would like to talk about the sixth item of subsidiary legislation under the Estate Agents Ordinance. It is because both members of the Democratic Party and the Democratic Alliance for Betterment of Hong Kong (DAB) have moved amendments, as they consider the opinions of Mr LAU Chin-shek and me are right, therefore they also request to freeze the fee increase. In this connection, I have a feeling that they are only putting up a show for they move amendments just for pretentious purposes. It is because Mr LAU Chin-shek has just mentioned earlier that the Government gained nothing from the Ordinance last year, as nobody made any appeal. As a result, two Members from the Democratic Party and the DAB support our proposal of freezing this fee increase, but the action will have no impact on the income of the Government. Actually, they support the fee increases proposed by the Government, and their only objection was to the sixth item, and that item will accrue no income for the Government at all.

Thank you, Madam President.

**MR CHAN KAM-LAM** (in Cantonese): Madam President, the motion proposed by Mr LAU Chin-shek today mainly concerns a series of fees and charges under the Environment and Food Bureau in relation to dairies licence, plant import/export control, pounds, veterinary surgeon registration and application for dog licence. The DAB has consulted the industry and the public through the Honourable WONG Yung-kan who represents the agriculture and fisheries sector.

As the industry thinks that the impact of this proposed fee revision is negligible, the DAB supports the Government's proposal to increase the fees of such items and we oppose the motion proposed by Mr LAU Chin-shek. The second item just mentioned by Mr James TIEN is actually the first item to which I will propose an amendment later. He thinks that there will not be any impact after the Government has increased such fees because no such appeals have been



made with the Court, and we will be putting up a show in proposing the amendments. This, I have to disagree. When the same charges of the Judiciary were deliberated in mid-January, we said time and again that we did not approve of the criteria adopted by the Judiciary for the determination of charges. The problem is, if we approve of the fee increase by the Government, a situation will arise in which the same government department may levy different charges for the same service. Later on, I will elaborate the reasons held by the DAB and I hope Members will not speculate on what other Members may think on basis of their feelings when they are dealing with different motions.

We also know that after a few debates over fee revision, as Mr LAU Chin-shek has said, Members have drawn different interpretations of the term "people's livelihood", and I hope that different voices and interpretations will be maintained in this Council. Certainly, we oppose any increase in fees related to the people's livelihood, but we will not oppose everything. We do not find it reasonable to oppose everything.

Thank you, Madam President.

**MR SIN CHUNG-KAI** (in Cantonese): Madam President, I wish to explain the position of the Democratic Party. Today, we support the Government to increase fees and charges that are not related to the people's livelihood, so we oppose Mr LAU Chin-shek's motion.

What is "people's livelihood"? It has a lot of elements such as some services that are essential and inevitable to the people. However, many of the services under discussion are not inevitable to some people. Why are water meters related to the people's livelihood? Evidently, everybody needs to use water and he cannot do away with a water meter unless he lives in the rural area and digs a well for water. Therefore, water meters are related to the people's livelihood.

Concerning estate agents, we wonder whether the Government should learn a lesson from the fee increase by the Judiciary turned down by us previously. In the Judiciary, it is unreasonable for the Courts to charge more than other places for copying documents. As we have turned down the said fee increase, from the policy perspective, the fees and charges of the Judiciary should be standardized and so we should turn down this proposed fee increase.

As Mr LAU Chin-shek and Mr James TIEN have just said, this will not have any particular impact on public finance for there have been no such cases so far. Yet, I wish to emphasize that we are not putting up a show and we wish to make policies consistent. Besides, we have already turned down the previous proposal made by the Government on fee revision. I believe we should handle the proposals of the Government for fee revision in the same way during this financial year. Thus, we support turning down the proposal to increase fees in respect of estate agents.

Thank you, Madam President.

**PRESIDENT** (in Cantonese): Does any Member wish to speak?

**MR AMBORSE LAU** (in Cantonese): Madam President, the Hong Kong Progressive Alliance (HKPA) will not object to the passage of the five items of subsidiary legislation in relation to revision of fees by the Government. The five amendment regulations are related to fees regarding dairies, plant control, pounds, veterinary surgeons registration and rabies. The increase will not affect the livelihood of the people, directly or in real terms.

The HKPA, however, has some reservations about the proposed increase of fees under the Estate Agents Ordinance, not because the item or the increase will affect the livelihood of the people or the businesses, but rather because the Administration can only provide the overall cost of the relevant service by the Judiciary. It is for this reason that the HKPA voted against the proposed revision of the relevant fees and charges by the Judiciary on 10 January this year. Today, for the same reason, the HKPA will object to the increase in fees under the Estate Agents Ordinance.

We understand that it would be difficult for the Administration to change the formula for calculation of costs for services provided by the Judiciary within a short time, but we suggest that the Government submit the relevant fee increase proposal after consultations with the Legislative Council.

Madam President, I so submit.

**PRESIDENT** (in Cantonese): Does any other Member wish to speak?

(No Member responded)

**SECRETARY FOR THE TREASURY** (in Cantonese): Madam President, Mr LAU Chin-shek will move a motion to veto six items of subsidiary legislation relating to revision of government fees which are not related to the people's livelihood and the businesses in general. These fees include fees payable for licence to maintain a dairy, fees for the control of plants and animals, registration fees for veterinary surgeons, and court fees in respect of disputes in estate agents' commissions. As regards court fees in respect of disputes in estate agents' commissions, I am aware that the Honourable CHAN Kam-lam will also move a motion to veto the fees revision proposal. Madam President, I would like to respond to the above motions together.

In these six items of subsidiary legislation, the first is about the fees payable for a licence to maintain a dairy and there are two items of related fees. These fees were last revised in December 1997. The fees charged at present can only recover about 96% of the costs. We propose to increase the relevant fees by 4% to achieve full cost recovery. The actual amounts of fees to be raised are \$7 and \$280 respectively, and they are insignificant compared to the operating costs of a dairy, and the number of dairies to be affected is only three. So we believe the increases will not be transferred onto the public at large.

The second item of subsidiary legislation is related to the fees for the quarantine of plants. It includes three major categories of fees relating to examination of plants, quarantine maintenance of plants and treatment of plants and soil. The people to be affected would be those who engage in the importation of plants. The purpose of providing such services is to prevent the spreading of plant pests on an international scale. The fees were last revised in December 1997. There are 37 items of fees under the category relating to examination of plants and currently they can only recover about 95% of the costs. We propose to increase the fees by about 5% to achieve full cost recovery. The actual amounts of increase range from \$2 to \$14 only. There are 17 items of fees relating to quarantine maintenance of plants and the treatment of plants and soil. To encourage the trades concerned to comply with the requirements on quarantine maintenance, we propose to increase these fees by 3% to maintain

their real values, based on the movement of the Government Consumption Expenditure Deflator. The amount of increase ranges from \$1 to \$4 only.

In 2000, there were 1 500 cases of examination of plants service and there is one application each for the services of quarantine maintenance of plants and treatment of plants and soil. As the proposed increase is very mild, it is believed that no impact will be made on the trades concerned or to the public at large.

The third item of subsidiary legislation is about pounds fees. According to the law, authorized persons can catch and impound stray animals until the owner pays the pounds fees to the Director of Agriculture, Fisheries and Conservation on the release of these animals. The proposed revisions in the pounds fees include three items that were last revised in December 1997. To encourage owners of animals to claim their impounded animals, we suggest an increase of 3% to maintain the real values of the fees, based on the movement of the Government Consumption Expenditure Deflator. The actual amounts of increase range from \$1 to \$7 only. Past cases of animals being impounded are very rare and they are mainly stray cattle. Therefore, the proposed increase in fees will not cause any impact on the people's livelihood and commercial activities.

The fourth item of subsidiary legislation is about the registration fees for veterinary surgeons and there are five items of related fees and charges. The last revision was made on November 1998. The existing level of fees charged can only recover 94% of the costs. We propose that the fees be increased by 6% to recover the full costs. The amounts increased range from about \$20 to \$50 only and they will not cause any impact on the costs of the provision of veterinary services. The chances of transferring the increased fees onto the public are very slim.

The fifth item of subsidiary legislation is about 12 items of fees payable under the Rabies Regulation. The proposal is to reduce six items of fees and increase six others. The latter are about licence fees in respect of vaccination of dogs, and the fees relating to the detention of cats, dogs or other animals in an observation centre. The Rabies Regulation stipulates that licences for dogs can only be issued after the dogs are vaccinated. Authorized persons can detain animals in order to prevent or control the outbreak and spread of rabies. Presently, these six items of fees can recover only 37% to 84% of the costs.

These fees were last revised in June 1997. We propose to increase the fees by \$6 to \$15. It is believed that the impact of such increases on those who keep pets would be minimal.

We consulted the Panel on Health Services of the last term of the Legislative Council on 16 June 2000. Members did not object to the fees revision proposals in respect of the abovementioned five items of subsidiary legislation. Besides, we have also consulted the trades concerned on the proposals and no objection has been raised.

The last item is about the fees payable under the Estate Agents Ordinance. Under the Ordinance, the Estate Agents Authority (EAA) has jurisdiction to determine commission disputes referred to it by estate agents and their clients. Both parties may register a determination of the EAA with the District Court. If any party is not satisfied with a determination, an appeal can be lodged with the District Court.

The three items of fees payable for the registration of a determination with the District Court, the filing of notice of appeal in the District Court and the copying and certification of documents in the register of the District Court came into force in March 2000. We propose to increase these fees by 8% to achieve full cost recovery. The amounts of increase range from \$0.5 to \$55.

Since the fees came into force in last March, the EAA has handled two cases of commission disputes. Both parties in the disputes accepted the determinations made by the EAA. There was no filing of any notice of appeal with the District Court. It can thus be seen that the number of people affected by the above fee revisions is actually very small and the impact on the public at large is minimal. When the Legislative Council Panel on Housing of the last term was consulted on the proposed revision of fees on 5 June 2000, members of the Panel raised no objection to the fee revision proposal.

Thank you, Madam President.

**PRESIDENT** (in Cantonese): Mr LAU Chin-shek, do you wish to speak in reply?

(Mr LAU Chin-shek indicated that he did not wish to reply)

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the motion moved by Mr LAU Chin-shek be passed. Will those in favour please raise their hands?

(Members raised their hands)

**PRESIDENT** (in Cantonese): Those against please raise their hands.

(Members raised their hands)

Mr LAU Chin-shek rose to claim a division.

**PRESIDENT** (in Cantonese): Mr LAU Chin-shek has claimed a division. The division bell will ring for three minutes.

**PRESIDENT** (in Cantonese): Will Members please proceed to vote.

**PRESIDENT** (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Functional Constituencies:

Mr Kenneth TING, Mr James TIEN, Dr Raymond HO, Mr Eric LI, Mr Howard YOUNG, Mr LAU Wong-fat, Mrs Miriam LAU, Mr Abraham SHEK, Mr Tommy CHEUNG, Mr Michael MAK and Mr LAU Ping-cheung voted for the motion.

Dr LUI Ming-wah, Mr CHEUNG Man-kwong, Mr HUI Cheung-ching, Mr Bernard CHAN, Mr SIN Chung-kai, Dr Philip WONG, Mr WONG Yung-kan, Mr Timothy FOK, Mr LAW Chi-kwong, Miss LI Fung-ying, Mr Henry WU, Mr LEUNG Fu-wah, Dr LO Wing-lok and Mr IP Kwok-him voted against the motion.

Geographical Constituencies and Election Committee:

Miss Cyd HO, Mr LEE Cheuk-yan, Mr LEUNG Yiu-chung, Mr LAU Chin-shek, Miss Emily LAU and Mr Frederick FUNG voted for the motion.

Mr Albert HO, Mr Martin LEE, Mr Fred LI, Mr James TO, Miss CHAN Yuen-han, Mr CHAN Kam-lam, Mr Andrew WONG, Dr YEUNG Sum, Mr LAU Kong-wah, Miss CHOY So-yuk, Mr Andrew CHENG, Mr SZETO Wah, Mr TAM Yiu-chung, Dr TANG Siu-tong, Mr Albert CHAN, Mr WONG Sing-chi, Ms Audrey EU, Mr NG Leung-sing and Mr Ambrose LAU voted against the motion.

THE PRESIDENT, Mrs Rita FAN, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 25 were present, 11 were in favour of the motion and 14 against it; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 26 were present, six were in favour of the motion and 19 against it. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the motion was negatived.

**MR FRED LI** (in Cantonese): In accordance with Rule 49(6) of the Rules of Procedure, I move that in the event of further divisions being claimed at this meeting in respect of motions on subsidiary legislation, the Council do proceed to each of such divisions immediately after the division bell has been rung for one minute.

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr Fred LI be passed.

**PRESIDENT** (in Cantonese): Does any Member wish to speak?

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

**PRESIDENT** (in Cantonese): Those against please raise their hands.

(No hands raised)

**PRESIDENT** (in Cantonese): I think the question is agreed by a majority respectively of each of the two groups of Members, that is, those returned by functional constituencies and those returned by geographical constituencies through direct elections and by the Election Committee, who are present. I declare the motion passed.

**PRESIDENT** (in Cantonese): The third motion under the Interpretation and General Clauses Ordinance.

### **PROPOSED RESOLUTION UNDER THE INTERPRETATION AND GENERAL CLAUSES ORDINANCE**

**MR LAU CHIN-SHEK** (in Cantonese): Madam President, I move that the motion, as printed on the Agenda, be passed.

This resolution seeks to amend the Plant (Importation and Pest Control) (Fees) (Amendment) Regulation 2001 to freeze the fees related to plant quarantine.

With these remarks, Madam President, I beg to move. Thank you.

**Mr LAU Chin-shek moved the following motion:**

"That the Plant (Importation and Pest Control) (Fees) (Amendment) Regulation 2001, published as Legal Notice No. 2 of 2001 and laid on the table of the Legislative Council on 10 January 2001, be repealed."



**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr LAU Chin-shek be passed.

**PRESIDENT** (in Cantonese): Does any other Member wish to speak?

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the motion moved by Mr LAU Chin-shek be passed. Will those in favour please raise their hands?

(Members raised their hands)

**PRESIDENT** (in Cantonese): Those against please raise their hands.

(Members raised their hands)

**PRESIDENT** (in Cantonese): I think the question is not agreed by a majority respectively of each of the two groups of Members, that is, those returned by functional constituencies and those returned by geographical constituencies through direct elections and by the Election Committee, who are present. I declare the motion negatived.

**PRESIDENT** (in Cantonese): The fourth motion under the Interpretation and General Clauses Ordinance.

### **PROPOSED RESOLUTION UNDER THE INTERPRETATION AND GENERAL CLAUSES ORDINANCE**

**MR LAU CHIN-SHEK** (in Cantonese): Madam President, I move that the motion, as printed on the Agenda, be passed.

This resolution seeks to amend the Pounds Fees (Amendment) Regulation 2001 to freeze the pounds fees.

The law stipulates that authorized persons may capture and impound stray animals, until the owners of the animals pay the relevant pounds fees to the Director of Agriculture, Fisheries and Conservation. In her letter lobbying colleagues, the Secretary for the Treasury said that there were very few cases of animals being impounded in the past and that they were mainly stray cattle. But no matter whether the impounded animals are cattle, horses or mules, such fees are collected from the public. Nor are they professional registration fees or business administration fees. Thus, I hope colleagues will support the freeze on the fees. Madam President, I so submit. Thank you.

**Mr LAU Chin-shek moved the following motion:**

"That the Pounds Fees (Amendment) Regulation 2001, published as Legal Notice No. 3 of 2001 and laid on the table of the Legislative Council on 10 January 2001, be repealed."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr LAU Chin-shek be passed.

**PRESIDENT** (in Cantonese): Does any other Member wish to speak?

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the motion moved by Mr LAU Chin-shek be passed. Will those in favour please raise their hands?

(Members raised their hands)

**PRESIDENT** (in Cantonese): Those against please raise their hands.

(Members raised their hands)

**PRESIDENT** (in Cantonese): I think the question is not agreed by a majority respectively of each of the two groups of Members, that is, those returned by functional constituencies and those returned by geographical constituencies through direct elections and by the Election Committee, who are present. I declare the motion negatived.

**PRESIDENT** (in Cantonese): Mr LAU Chin-shek, please move the fifth motion.

### **PROPOSED RESOLUTION UNDER THE INTERPRETATION AND GENERAL CLAUSES ORDINANCE**

**MR LAU CHIN-SHEK** (in Cantonese): Madam President, I move that the motion, as printed on the Agenda, be passed.

This resolution seeks to amend the Veterinary Surgeons Registration (Fees) (Amendment) Regulation 2001 to freeze the registration fees of veterinary surgeons.

With these remarks, Madam President, I beg to move. Thank you.

#### **Mr LAU Chin-shek moved the following motion:**

"That the Veterinary Surgeons Registration (Fees) (Amendment) Regulation 2001, published as Legal Notice No. 4 of 2001 and laid on the table of the Legislative Council on 10 January 2001, be repealed."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr LAU Chin-shek be passed.

**PRESIDENT** (in Cantonese): Does any other Member wish to speak?

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the motion moved by Mr LAU Chin-shek be passed. Will those in favour please raise their hands?

(Members raised their hands)

**PRESIDENT** (in Cantonese): Those against please raise their hands.

(Members raised their hands)

**PRESIDENT** (in Cantonese): I think the question is not agreed by a majority respectively of each of the two groups of Members, that is, those returned by functional constituencies and those returned by geographical constituencies through direct elections and by the Election Committee, who are present. I declare the motion negated.

**PRESIDENT** (in Cantonese): Mr LAU Chin-shek, please move the sixth motion.

## **PROPOSED RESOLUTION UNDER THE INTERPRETATION AND GENERAL CLAUSES ORDINANCE**

**MR LAU CHIN-SHEK** (in Cantonese): Madam President, I move that the motion, as printed on the Agenda, be passed.

This resolution seeks to amend the Rabies Regulation (Amendment of Schedule 1) Notice 2001 to freeze 12 items of fees under the Rabies Regulation, including the fees for impounding cats, dogs or other animals.

With these remarks, Madam President, I beg to move. Thank you.

**Mr LAU Chin-shek moved the following motion:**

"That the Rabies Regulation (Amendment of Schedule 1) Notice 2001, published as Legal Notice No. 6 of 2001 and laid on the table of the

Legislative Council on 10 January 2001, be amended by repealing section 2(a)(iii) and (iv) and (b)(v), (vi), (vii) and (viii)."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr LAU Chin-shek be passed.

**PRESIDENT** (in Cantonese): Does any other Member wish to speak?

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the motion moved by Mr LAU Chin-shek be passed. Will those in favour please raise their hands?

(Members raised their hands)

**PRESIDENT** (in Cantonese): Those against please raise their hands.

(Members raised their hands)

**PRESIDENT** (in Cantonese): I think the question is not agreed by a majority respectively of each of the two groups of Members, that is, those returned by functional constituencies and those returned by geographical constituencies through direct elections and by the Election Committee, who are present. I declare the motion negatived.

**PRESIDENT** (in Cantonese): The seventh motion under the Interpretation and General Clauses Ordinance.

Mr CHAN Kam-lam, Mr SIN Chung-kai, Mr LAU Chin-shek and Mr James TIEN have each given notice to move a proposed resolution under the Interpretation and General Clauses Ordinance relating to the Estate Agents (Registration of Determination and Appeal) (Amendment) Regulation 2001.

The resolutions proposed by the four Members are identical. As Mr CHAN Kam-lam submitted his notice at an earlier date, I will call upon Mr CHAN Kam-lam to move his proposed resolution.

### **PROPOSED RESOLUTION UNDER THE INTERPRETATION AND GENERAL CLAUSES ORDINANCE**

**MR CHAN KAM-LAM** (in Cantonese): Madam President, I move that the seventh motion under the Interpretation and General Clauses Ordinance, as printed on the Agenda, be passed.

The resolution proposed by me mainly seeks to freeze the fees relating to the registration of a determination, filing of notice of appeal and the copying and certification of document in the register of the District Court.

Madam President, many years ago, the quality of estate agents in Hong Kong varied. Therefore, the Real Estates Ordinance was enacted during the years of the former Legislative Council to protect consumer interests, so that when disputes arise between members of the public and estate agents in respect of commission or other problems in the course of property transaction, the Estate Agents Authority can make a determination. If any party is dissatisfied with the determination, it can seek justice through the judicial channel.

When we discussed various fees for judicial services last month, quite a few colleagues pointed out many anomalies in the calculation of the costs of judicial services. Concerning the proposed fee revision today, we also do not understand why the cost for filing a notice to the Court is \$685 and the fee for copying a document in the register is \$5.5. We pointed out in the last debate that such a fee level was very unreasonable and it was caused by the Judiciary's costing. The DAB will not support the Government's proposal to revise such fees and we hope that the Government will expeditiously re-adjust the fee level in the Judiciary.

Although the Secretary for the Treasury has stated in the letter lobbying Members to support the fee increase by the Government that since the Ordinance came into effect in March 2000, the Estate Agents Authority has only handled two cases of commission disputes. In these cases, the disputing parties have accepted the determination of the Authority and they have not registered the

relevant determination or filed an appeal in the District Court. This proves that a fee revision will affect few people. However, the DAB thinks that we should definitely consider the number of people affected, but a more important factor in our consideration of fee increase proposals by the Government is the important principle of a consistent fee level. We turned down the revision of certain judicial charges in mid-January and we must similarly turn down the proposed fee revision, otherwise, a peculiar phenomenon will arise in which different fees are charged for the same judicial services.

Madam President, I hope other colleagues will support my resolution to freeze these fees. Thank you.

**Mr CHAN Kam-lam moved the following motion:**

"That the Estate Agents (Registration of Determination and Appeal) (Amendment) Regulation 2001, published as Legal Notice No. 7 of 2001 and laid on the table of the Legislative Council on 10 January 2001, be repealed."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr CHAN Kam-lam be passed.

**PRESIDENT** (in Cantonese): Does any Member wish to speak?

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the motion moved by Mr CHAN Kam-lam be passed. Will those in favour please raise their hands?

(Members raised their hands)

**PRESIDENT** (in Cantonese): Those against please raise their hands.

(Members raised their hands)

**PRESIDENT** (in Cantonese): I think the question is agreed by a majority respectively of each of the two groups of Members, that is, those returned by functional constituencies and those returned by geographical constituencies through direct elections and by the Election Committee, who are present. I declare the motion passed.

**PRESIDENT** (in Cantonese): Two motions with no legislative effect. I have accepted the recommendations of the House Committee as to the time limits on speeches for the motion debates. As Members are already very familiar with the rules in respect of time limits on speeches, I will not repeat them here. I wish to remind Members that I am obliged to direct any Member speaking in excess of the specified time to discontinue.

First motion: Protecting the interests of small depositors of banks.

### **PROTECTING THE INTERESTS OF SMALL DEPOSITORS OF BANKS**

**MR LAU CHIN-SHEK** (in Cantonese): Madam President, I move that the motion, as printed on the Agenda, be passed.

In the past, whenever we mentioned banks, the ordinary members of the public would conjure up a cordial impression. As I can recall, the television commercial of a certain bank during the Chinese New Year period ..... Madam President, should I wait until the Secretary has returned to this Chamber to make my speech?

**PRESIDENT** (in Cantonese): Mr LAU, please continue, the Secretary is already here listening to you.

**MR LAU CHIN-SHEK** (in Cantonese): The television commercial of a certain bank during the Chinese New Year period used to feature "Uncle Po" (LEUNG Sing-po) casting as the God of Fortune descending from heaven to wish the people good fortune. Every person was happy to hear him say, "Wishing you of good luck and good fortune!" Moreover, most banks would give away "red envelopes" or even "God of Fortune" festive posters to their savings account



clients free in the run-up to the Chinese New Year. On being given the "God of Fortune" festive posters after waiting in line, members of the public would always smile very happily.

In fact, the general public always consider banks as their "trustworthy friends" because the money they deposit there are secure and capable of earning them interest income. At least, in the eyes of the people, the money deposited in banks will never grow less. What is more, the services provided by banks in public housing estates and residential areas are even closely related to the daily lives of the residents in the local community. For example, with the money boxes given out by banks, parents can teach their children that many a mickle makes a mickle and help them to develop the habit of saving. As regards the elderly, when they go to the bank to update their passbooks once in a while, they would always have a small chat with the tellers there. So, the relationship struck up is indeed much more than customer and teller.

Without a doubt, in addition to laying the foundation on which banking businesses developed in the past, the savings accounts opened by the people at large are also one of the important factors on which the banks in Hong Kong have been relying for their development over the past decades. In some ways, the reputation of a bank is closely linked to the mutual trust established between the bank and the general public over a long period of time.

I believe this can explain to a certain extent why the public opinion and the community responded so strongly to the announcement made last month by the Standard Chartered Bank (SCB) to substantially increase the fees payable by small depositors. As some depositors closed their accounts with the SCB in anger, members of the Committee on Social Affairs under the Confederation of Trade Unions also burned passbooks of the SCB at its head office. I feel that the public are not simply concerned about the rates of fee increase by individual banks. Rather, they are angered by the way certain banks have trampled on the weak and helped the strong; they are angry because those banks have visibly discriminated against and abandoned the small depositors! The practices of those banks will serve to disintegrate society and cause the different strata of society to lose the spirit of mutual support. Banks used to be the people's friends; yet all of a sudden, they seem to have learned the "face changing" art exclusive of the Sichuan opera, for the God of Fortune in the past has become today's moneygrubber. The good reputation painstakingly established by the banking sector over the past few decades in providing services for the public has almost vanished in a jiffy.

Madam President, shortly after the SCB had announced its substantial increase in charges for small depositors, the Consumer Council published its research report on the fees and charges for banking services in the past year. According to the Consumer Council report, almost all banks in Hong Kong are levying a fee on their "low balance and inactive" Hong Kong dollar savings account customers, and such fee ranges from \$100 per year to \$50 monthly (which equals to \$600 a year). At the same time, seven banks have adopted the policy of offering lower interest rates or even no interests to small depositors, thereby causing the customers concerned to suffer double losses. Further still, towards the end of last year, three banks (including the SCB) directly levied an additional monthly fee on their small depositors if the average monthly balance of their accounts failed to meet a certain level. In this connection, two banks have levied a monthly fee of \$25 on their customers whose lowest account balance was less than \$5,000.

So, these are the research findings of the Consumer Council, and they are reflective of the situation as at the end of last year. Yet, the situation has turned more serious in 2001. As Members are aware, the SCB has substantially increased the service charge for accounts with a low balance since last month. Under the present arrangement, the bank will levy a monthly service charge of \$100 on accounts the average monthly balance of which is less than \$10,000. To the small depositors, the service charge has increased three times. During the same period, another bank has also raised the required lowest account balance qualifying for the monthly service charge waiver, thereby affecting many small depositors. Recently, another bank has even raised the monthly fee levied on its "Integrated Account" customers. Apart from that, the various banks under the Bank of China Group will reduce the interest rate for small depositors with effect from the 15th of the month, which is tomorrow. For any savings account with a balance of less than \$3,000, the interest rate will be reduced to 1%, representing a reduction of 2.75% compared to the prevailing normal interest rate for savings account.

Obviously, the present development and fee charging policies of banks are becoming more and more unfavourable to small depositors. Since the majority of the small depositors are members of the lowest strata of our society and the various disadvantaged groups, I believe such a development is of great concern to the general public. I notice that both the Hong Kong Monetary Authority (HKMA) and the Financial Services Bureau (including Secretary IP) have publicly expressed their concern over this issue which is related to the people's

livelihood and indicated that they would discuss with the banking industry such matters as reviewing the Code of Banking Practice and enhancing the transparency of charging policies. At the same time, efforts would also be made to study the laws enforced in other countries to monitor banking practices and to safeguard the interests of consumers. Further still, there is also the possibility that bank charges would be regulated by way of legislation.

I am most grateful to the proactive attitude of the Financial Services Bureau and the HKMA. I hope that wisdom can be pooled in this debate today to help expedite the relevant study by the Administration. Now, I should like to explain briefly the two suggestions put forward by me in the motion to safeguard the interests of small depositors.

The first one is related to the Code of Banking Practice. Recently, many people have suggested enhancing the transparency of bank charges, I believe this is a less controversial suggestion. The existing Code of Banking Practice is a non-statutory code of practice of the banking industry. It was formulated jointly by the Hong Kong Association of Banks and the Deposit-taking Companies Association in 1997 and subsequently approved for implementation by the HKMA. Clause 6 of the Code is related to bank charges and requires that measures be taken by banks to enable customers to understand the items of fees and charges payable as well as the rates of such fees and charges. The clause also requires banks to display information on the various items of fees and charges in their main offices and branch offices. Besides, banks should also provide customers with details of such fees and charges for information upon request.

To review the Code of Banking Practice to enhance the transparency of bank charges has become a major trend. Hence, I am confident that the HKMA and the banking sector will actively proceed with the matter. But then, the problem remains that the Code does not have any legally binding effect. If any banks should refuse to comply with the Code to the letter, neither the consumers nor the HKMA as the monitoring body, could take any action. Indeed, the Consumer Council report has also pointed out that the existing charges of banks are not transparent enough. For instance, while some of the banks have not uploaded information on the various fees and charges onto their homepages; some others only post up notices of fee adjustments in the bank lobbies without notifying their customers in writing.

To effectively safeguard the interests of consumers, the first step is to give statutory effect to the Code of Banking Practice and expressly stipulate the penalties for non-compliance (such as warning, fines, and so on). It is only in this way that sufficient transparency of the charges of banks can be ensured. Given that the requirements under the Code of Banking Practice are in fact the lowest standard that any responsible banks should comply with in operating their businesses, and that the contents of the Code are formulated by the industry, I cannot see any reason why it cannot be formalized.

Madam President, while enhancing the transparency of bank charges will certainly be of help to consumers, I still consider that the protection provided by this measure alone is not sufficient. For this reason, I hold that there is indeed a need to further consider ways to protect the disadvantaged groups in the community from suffering any losses as a result of exorbitant fees levied by banks.

Speaking of protecting the disadvantaged groups of the community, there is a view that the protection should be considered sufficient so long as the banks are willing to exempt the accounts of recipients of welfare benefits as well as those depositors who receive their salaries through banks from paying charges. I consider that this view has missed the crux of the problem. To begin with, most of the banks levying a fee on accounts with a low average balance have already exempted the accounts of recipients of welfare benefits as well as those depositors who receive their salaries through banks from paying charges. And more importantly, I hold that the disadvantaged groups affected by the charges levied by banks comprise not only recipients of Comprehensive Social Security Assistance (CSSA) and old age allowance and wage earners who have no choice but to receive their salaries through banks, but also a wide range of customers including students who have developed the habit of saving, elderly persons who are not recipients of old age allowance, the disabled, and so on.

In the wake of the development of information technology and deregulation of service industries, countries overseas have started in recent years to face up to squarely the development trend that the disadvantaged groups in the community are gradually being expelled and marginalized in their access to social services and facilities. In my view, the development direction of banking services also reflects a tendency towards expelling the disadvantaged groups. For example, more and more banks (particularly those large banks with comparatively more branch offices) are expelling small depositors by increasing

the fees payable for low balance accounts. Certain banks are making use of their charging policy to force customers to carry out transactions on the Internet, thereby causing much pressure on the elderly customers and indirectly affecting their rights and interests. The practice of some banks requiring depositors to use other value-added services of the bank to qualify for the low balance savings account fee waiver is also an unfair measure to the low-income customers as well as other disadvantaged groups. I urge Members to think about this situation: Even if the transparency of bank charges has been enhanced, and even if certain individual small to medium banks in the market are willing to exempt small depositors from paying charges, it does not follow that the disadvantaged group will necessarily have any choices in reality. To an elderly person residing in a public housing unit in Tuen Mun, for example, there may only be one branch office of a large bank in the vicinity of his home. In that case, should we ask him to take a bus trip to a small to medium scale bank located in another district every time he needs to withdraw money from his savings account because this bank does not charge any fees? Would it not be too cruel to treat an elderly person this way?

I trust that it is a responsibility of the banking industry to ensure that people belonging to different strata of society will all be entitled to the use of basic banking services. I agree that it is too early to regulate bank charges by legislative means at this stage, but there is still a need for the Government to conduct studies in this respect. It would of course be best if the banking industry could come up with specific proposals to ensure that the disadvantaged groups in the community can enjoy basic banking services free of charge; otherwise, the Government should consider making legislation to require banks to provide basic banking services for the public free. The Consumer Council has also put forward similar proposals. In this connection, perhaps we could draw on the legislative experience of Sweden.

With these remarks, Madam President, I beg to move and hope that Members will come up with more suggestions. Thank you.

**Mr LAU Chin-shek moved the following motion: (Translation)**

"That this Council is concerned about the substantial increase in charges by some banks on their small depositors, and its impact on the elderly and the disadvantaged groups in the community; to enhance the transparency of the charging policies of banks and protect the interests of depositors,

this Council urges the Government to give statutory effect to the Code of Banking Practice, expressly stipulate the penalties for non-compliance, and examine at the same time whether bank charges should be regulated through legislative means."

THE PRESIDENT'S DEPUTY, MR FRED LI, took the Chair.

**DEPUTY PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr LAU Chin-shek be passed.

**DEPUTY PRESIDENT** (in Cantonese): Mr CHAN Kam-lam and Mr Albert HO will move amendments to this motion. Their amendments have been printed on the Agenda. In accordance with the Rules of Procedure, the motion and the two amendments will now be debated together in a joint debate.

In accordance with the Rules of Procedure, I will call upon Mr CHAN Kam-lam to speak first, to be followed by Mr Albert HO; but no amendments are to be moved at this stage.

**MR CHAN KAM-LAM** (in Cantonese): Mr Deputy, in view of the fact that banks' imposition of charges on small depositors will add to the burden of the elderly and the disadvantaged groups in the community, the Democratic Alliance for Betterment of Hong Kong (DAB) absolutely agrees that we should consider the impact of this on the disadvantaged. Moreover, we have time and again called on the banking sector to exempt CSSA recipients from payment of such charges as a matter of social responsibility. However, we have some reservations about the proposal to regulate bank charges through legislative means made in the original motion. Banks in Hong Kong are business operations. Interest income used to be an important source of profit for banks. With the abolition of the Interest Rate Agreement (IRA) and the narrowing of interest rate differences, banks naturally have to maintain their sound operation through cost control or expenditure cut.

Besides, the object of deregulating interest rates is to promote free market competition. The prices in a free market should be determined by competition.

The role of the HKMA is to maintain the stability of the banking system. It would be unreasonable to regulate the system of bank charges through legislative means while deregulating interest rates. This contravenes the original intention and will hamper the development of the banking system.

Regarding the proposal in the Honourable Albert HO's amendment to make laws to require banks to exempt the accounts of recipients of welfare benefits as well as those depositors who receive their salaries through banks from paying charges, we disapprove of introducing control through legislative means. I am sure Members will not deny that customers who receive their CSSA payments through banks do not bring any profit to the banks. Unless the Government makes a pledge to subsidize banks if they should suffer losses, we cannot resort to using legislative means lightly to force commercial organizations, including banks, to provide free services and interfere with the operation of the free market. This will greatly tarnish Hong Kong's image as a financial centre and seriously undermine the confidence of international enterprises in investing in Hong Kong. In our view, we must consider carefully if Hong Kong can pay such a heavy price.

Today, banking services are indispensable to people from different sectors of society. In countries like Britain and Japan, banks mainly play the role of merchant banks, while the savings of small depositors are managed by the local post offices. But Hong Kong's case is different. Local banks provide both merchant banking and retail banking services. Unless Hong Kong intends to follow the example of countries like Britain and Japan, the general public still has to rely on the services of banks. The relationship between the public and banks will still be consumer and service provider. Therefore, we are of the view that the issue we should now examine is how the interests of consumers of banking services can be protected.

At present, there is no special organization to protect the interests of consumers of banking services. Even though the HKMA is the regulatory body of banks, it does not have the power to do so. We propose to give the HKMA the relevant powers in the Banking Ordinance. Some people say that if the HKMA plays a part in protecting the interests of consumers, this will be in conflict with its function of regulating banks. We do not think that the two roles are necessarily incompatible. For instance, the Securities and Futures Commission (SFC) is responsible both for regulating the operation of the securities market and ensuring the healthy operation of intermediaries, as well as

protecting the interests of investors. But so far, we have not seen any confusion in the roles of the SFC, or any difficulties in terms of its operation. If the SFC can perform both functions, I am sure the HKMA can also do so. The HKMA has grasped most of the information in respect of the banking sector and is well-versed in the operating environment and modes of operation of banks. If the HKMA undertakes the responsibility of protecting the users of banking services, it can do well on both counts. This will also save banks the complicated procedures of providing information to other regulatory bodies, thus accomplishing twice as much with half the effort.

The original motion proposes to give statutory effect to the Code of Banking Practice. We find this point debatable. The greatest advantage of the present regulatory mode lies in the ability to formulate a suitable code in keeping with market developments. Confronted with the fast-changing financial market, we can formulate emergency measures in a trice to keep up with the pace of development of the international market and maintain the status of Hong Kong as an international financial centre. If the Code exists in the form of legislation, the present flexibility and convenience of modification will be lost. Similarly, it is out of the concern that the flexibility of the Listing Rules will be greatly reduced if they are given statutory effect that the Stock Exchange of Hong Kong Limited has repeatedly reviewed and examined whether there is a need for legislation.

Moreover, the Code of Banking Practice has seldom been breached. Hong Kong's banking system has always been healthy. Its robustness has not been undermined despite the 1997 financial turmoil. All this shows that the present regulatory mode has worked well.

The existing Code of Banking Practice already contains provisions requiring banks to inform customers at least 30 days in advance of any increase in charges. Customers will also be informed individually of major or complex changes. Most banks are able to comply with the requirement to notify customers, even though the methods of notification may be different. For instance, they may issue separate letters, attach a notification to the monthly statement or post notices in the lobby of their offices, with varying degrees of effectiveness. In our view, the crux of the problem lies not in banks refusing to comply with the Code. They have proved themselves to have self-discipline. It is just that the requirements in the provisions are unclear. Transparency can be enhanced simply by stipulating in the provisions the manners in which customers should be notified and by requiring banks to give customers sufficient time to make adjustments.



All in all, small depositors are users of banking services. The DAB is of the view that their interests must be looked after and protected. However, we also think that the operating environment of banks must be equally considered and their vitality must not be stifled. Hence, the DAB proposes to review the Code of Banking Practice and task the HKMA with protecting the interests of consumers of banking services. However, we oppose regulating charges or providing exemptions through legislation.

Mr Deputy, I so submit.

**MR ALBERT HO** (in Cantonese): Mr Deputy, in the middle of last year, the HKMA conducted a large-scale survey to assess the impact of the abolition of the IRA. The results showed that the majority of banks considered it necessary to adjust their business strategies to deal with the fierce competition they would face after the abolition of the IRA. However, the strategies to be adopted by the banks varied according to their size. The survey showed that while large banks would increase charges to recover cost and provide more diversified services to attract quality customers, small and medium sized banks would grasp the opportunity to provide more attractive savings interest rates to secure a greater market share. At the end of last year, the Consumer Council conducted another survey, which found that some banks had gradually changed their charging policies, including increasing service charges on small depositors. We have also learned from newspaper reports that some small and medium sized banks have announced that they would not impose service charges on small depositors. As a result, they have succeeded in attracting a lot of new customers.

From this, it is clear that there is no simple explanation on the impact of the abolition of the IRA on consumers. The key is whether consumers are given the opportunity and whether the environment allows them to choose their bankers. In my view, to achieve the objective of protecting consumers' right to choose: first, the charging policies of banks must have adequate transparency so that consumers can make a comprehensive and clear comparison before choosing from the different banking services; second, there must be fair competition among banks, we cannot allow banks to form a so-called cartel and formulate similar or complementary charging policies through the exchange of information. If the two above requirements are met, the Democratic Party believes that except for those with special circumstances or special needs, the majority of consumers will be able to choose the service of a suitable bank according to their needs.

Consumers can choose a bank which charges an acceptable level of fees or provides various services in order to gain the greatest advantage, and there would be no need to regulate the charging policies of banks through legislative means.

However, I have to point out that we need to consider certain special circumstances, such as the charging of excessive fees by banks, especially charging people with special needs or impoverished and disadvantaged groups excessive fees. For instance, last year, some banks were criticized by the Court for charging customers excessive fees for debt recovery. Apart from charging an interest rate of 48%, they charged an extra 30% of the debt amount on top of the solicitors' fees as service charge for debt recovery by debt collection agencies. The Court ruled that part of the fees collected by the banks was unreasonable. The HKMA would certainly need to examine how regulation can be effected under such circumstances. In any case, this question has already aroused concern. Another example is that when collecting service charge from small depositors, banks should exempt those who have to receive their salaries through a particular bank, since they have no choice. As for the accounts of recipients of CSSA, we also think that these disadvantaged groups should be exempted on compassionate grounds. In our view, it is very important to exclude the above special circumstances from the general charging policies of banks. Therefore, while we support the general principle of Mr LAU Chin-shek's original motion, we have also put forward some minor or technical amendments.

Mr Deputy, just now, I said that the Democratic Party expected banks to do their duty, including enhancing the transparency of their operation or charging policies. Banks should also be inhibited from forming a cartel and should look after the interests of customers with special needs, including the needs of impoverished and disadvantaged groups, as I have stressed. But the question remains: How do we achieve these objectives? Is it that we cannot achieve these objectives with the existing Code of Banking Practice? In our view, we should first try to formulate some codes of practice or make appropriate amendments to achieve the above objectives. We must also ensure that banks comply with these codes. If banks breach these codes, do we have any suitable mechanism to impose sanctions? We must know that if banks fail to or frequently do not comply with the Code of Banking Practice, the interests of consumers cannot be reasonably protected. While abolishing the IRA has a lot of advantages, we may also see some counterproductive effects.

Let us look at the current situation. The Code of Banking Practice contains only some guidelines requiring banks to protect the interests of customers. While the guidelines are very important, as a colleague pointed out earlier, we know that the Code only represents some guidelines formulated and issued by the two associations of banks and the Deposit-taking Companies Association. They can only be implemented with the self-discipline of the industry. It is abundantly clear that the Code enjoys no statutory status. It was not issued by the HKMA, nor does the Associations of Banks have any power to enforce it. It all depends on the self-discipline of banks and on the conscience of bankers. The Code has neither any enforcement mechanism nor specific penalties. Even if a bank blatantly breaches the Code, consumers have no channels of redress and the HKMA is also helpless. I have complained several times to the HKMA, but to no avail. How can we expect such a Code to provide reasonable protection for consumers?

From the documents released by the Consumer Council and the HKMA, we find that there are frequent cases of non-compliance with the Code. But we have never heard any banks being publicly warned or censured (much less punished) for this. Certainly, the HKMA says that it has no power to do so and that its main task is to regulate the operation of banks and risk management. It has no power to formulate any measures in the interest of consumers. Under these circumstances, the Code of Banking Practice may be nothing more than a "toothless tiger" and exists only on paper. Does this not call for immediate improvement? The Honourable Fred LI, who is now acting as the President's Deputy, will elaborate on this point on behalf of the Democratic Party later. I hope Mr Fred LI can return to his seat later to elaborate on this point.

I believe colleagues should now be very clear that the problem with the Code of Banking Practice is that it cannot be enforced effectively. If we do not give the Code statutory status, it will mean we still have to rely on voluntary compliance. In that case, no matter how we amend the Code, it will be to no avail. Therefore, in our view, we need to examine how to give the Code a clear statutory status.

The proposal to empower the HKMA to protect consumers is well-meant. However, the wording of the Honourable CHAN Kam-lam's amendment is very general. We do not know what kind of power Mr CHAN was referring to. The Democratic Party has always thought that the HKMA has enormous powers. Very often, it even has the power of discretion, which is difficult to check. We hope this area will be reviewed and improved.

Thank you, Mr Deputy.

**DEPUTY PRESIDENT** (in Cantonese): Does any Member wish to speak?

**DR DAVID LI:** Mr Deputy, may I thank the Honourable LAU Chin-shek for proposing today's motion, so that this Council may debate issues relating to the upcoming deregulation of interest rates.

This is an important and timely topic. I have consulted widely with my colleagues at the Hong Kong Association of Banks (HKAB) and in the Finance Functional Constituency, and I am pleased to speak on their behalf on this motion, as the representative of the Finance Functional Constituency.

Deregulation of interest rates on 1 July this year is casting a long shadow over the banking industry in Hong Kong. There are 154 licensed banks in Hong Kong, currently operating a total of 1 547 individual branches. Competition is already very intense. With deregulation, it will be even more so.

In advance of deregulation, each bank is striving to establish its own identity in the marketplace. Not every bank can provide all the services that the community requires. With deregulation, banks will increasingly choose to serve those segments of the market in which they enjoy a competitive advantage.

Recently, one bank in Hong Kong chose to de-emphasize counter services in favour of individual investment counselling. Another introduced a fee to discourage low balance and inactive accounts, while yet another is offering \$100 to open a new account. The "mortgage war" has driven mortgage interest rates from prime rate plus 1% to prime rate minus 2.25% in just three years.

Are these the features of a cartel? No, they are evidence of an intensely competitive market.

As regards giving the Code of Banking Practice statutory effect, the Code is effective precisely because it is not enshrined in legislation. It is reviewed and amended promptly to keep up with changing circumstances, and to ensure the continuing good conduct of banks in Hong Kong.

Giving the Code statutory effect would harm, rather than enhance, the protection of depositors and consumers, as updating the Code through the legislative process would be significantly more cumbersome.

May I point out that the Code is endorsed by the HKMA, and the HKMA takes an active role in both the formulation and revision of its provisions. The HKMA also monitors compliance, as part of its regular supervision. No gain or benefit will arise from giving the Code statutory effect.

Deregulation will bring change. One bank will not be the same as the other. Customers will need to make a choice, based on their individual needs.

Banks do charge a number of fees for the services that they offer. This is only natural, according to the well-established principle of "user pays". The number of fees and charges may, or may not, rise following deregulation. Accordingly, consumers will need to make themselves aware of the fees charged by their banks. In future, owning and managing a bank account may not be as simple as it is under the current regulated environment. Deregulation will bring increased responsibility for each account holder.

The real issue is whether customers will be able to make an informed choice. This is the concern raised by the Consumer Council in its recent review of bank fees and charges.

I can assure you that the HKAB is firmly committed to full transparency in the setting of fees. Discussion is under way within the HKAB, in consultation with the HKMA, to revise the Code of Banking Practice to strengthen the provisions on transparency. These provisions are expected to come into effect very shortly.

Even before adoption, many banks are implementing the new policies on transparency. Certainly, our free and open press will be monitoring and reporting on bank charges, advising consumers of the choices available. That is the benefit of our free and competitive market.

The motion before us expresses concern that the elderly and the disadvantaged groups in our society will be adversely affected by deregulation. This is very much a concern of the banks as well.

A number of banks, therefore, have already entered into dialogue with the Government to develop a fair and equitable distribution system, so that recipients of government benefits may continue to receive social assistance payments without charge. The elderly and the disadvantaged must not be the victims of deregulation. Together, we should strive to develop an efficient and effective system as soon as possible.

Regarding payroll accounts, there has been much speculation about what may or may not happen. May I point out that these accounts are a valuable source of new business for a bank. They are active accounts, and the account holder is a potential customer of the bank's other services, such as credit cards and consumer loans. Furthermore, the bank is likely to have a good business relationship with the employer, and will want to see that relationship grow and prosper. It is wrong to look at payroll accounts in isolation.

In closing, I would like to quote the advice of the Consumer Council, from the recent article on bank charges in *Choice* magazine. The HKAB has written to the Consumer Council expressing full support for these recommendations:

- (1) In choosing a banking service, consumers should take into account not just the interest rate, but the fees and charges as well.
- (2) Consumers should compare charges. Check out information before using the service.
- (3) Read bank statements and letters from banks for any announcement of any change in policy.
- (4) Review the number of accounts you now hold. Only keep those that you really need.
- (5) Be more careful to avoid paying charges for errors in making out cheques, inadequate balance, and so on.

I reiterate that the HKAB and the Finance Functional Constituency fully support the Consumer Council's recommendations. I regret that I am unable to support the Honourable Member's motion, nor any of the amendments.

**DR TANG SIU-TONG** (in Cantonese): Mr Deputy, in the hearts of the ordinary people, banks were once considered the source of wealth. They believed the savings they deposited in the banks would snowball unless they make withdrawals. They would even see rays of light when they flipped open their passbooks from time to time. On the other hand, the banks employed different gimmicks and adopted an open policy of "all are welcome" to lure depositors by such means as offering free piggybanks, and so on. Nevertheless, with the increasingly fierce competition in the banking industry and the abolition of the IRA, the banks will soon be deprived of the minimum income guarantee. Banks are now more concerned with the money of their depositors (particularly small depositors) rather than the relationship with their clients. Insofar as small depositors are concerned, although the banks have not gone so far as to become merciless "big loan sharks", they have at least become "small loan sharks" that merely know how to dry small depositors up.

As the price war of interest rates may break out at any moment, it is understandable for the banks to "treat their clients differently" or "change their policies constantly", increase charges and deduct interests on commercial grounds, and even revise operating strategies and restructure their client base with a view to maintaining their competitive edge in the rapidly changing market. In fact, after the abolition of the IRA and the probable implementation of the deposit insurance system, small and medium banks should have more room for development and consumers will be given more choices in practical terms. In addition, there is no evidence indicating the existence of such problems as monopolization, the forming of a cartel, market failure, and so on. Interference from the Government and the HKMA is indeed unnecessary. What the Administration needs to do is to maintain the stability of the banking system, put in place a reasonable regulatory framework, promote benign competition in the market, and protect the consumer rights of depositors, rather than playing a defender of morals.

The Hong Kong Progressive Alliance (HKPA) is of the view that the crux of the problem lies not in whether the banks should charge their clients. It really lies in whether the bank charges are sufficiently transparent and whether depositors are given adequate information to decide the standard of services they wish to enjoy and the charges they are prepared to pay. At present, many banks

choose to post notices in the bank lobbies or at the entrances or leave messages in some inconspicuous spots of their publicity leaflets only when they decide to introduce more charging items or adjust their charges. As for the bank staff, they are not strictly required to take the initiative to notify clients. As a result, many depositors have no idea as to whether the services provided to them are free or not. They are even unaware that some service charges have been deducted. According to the findings of a survey conducted by the Consumer Council earlier, compared to two years ago, there are at least 80 more charging items, 30% of which were collected for services previously provided free. Without the Consumer Council survey, it is almost impossible for the public to realize the popularity of bank charges. The Consumer Council also found that only half of the 14 banks offering online banking services have put their charging scales on their web pages. This shows that the banks have all along neglected, both intentionally and unintentionally, the transparency of their charges.

In the opinion of the HKPA, the banks, as providers of commercial services indispensable to the people's livelihood, are obliged to respect consumers' rights to know and rights to choices. Before levying or adjusting charges, the banks should inform the affected clients in writing and clearly specify the types, scope, amount, forms, increases and effective dates of charges. Without sufficient information and time, the clients cannot judge whether the charges are reasonable, compare the services offered by different banks to see whether they have value for money and consider whether the relevant services should be used. For commercial reasons, the banks should be allowed to decide whether they should help the disadvantaged groups, rather than being so regulated by the Government through legislative means. The help given by the Government to these people in the light of their economic difficulties is actually entirely different.

Policy-wise, the Government and the HKMA should continue to ensure that competitors enjoy equal opportunities to enter the market and expand their business. At the same time, the Administration should keep a close watch on whether a non-written charging agreement will take shape in the banking industry.

Mr Deputy, I so submit.



**MR LEE CHEUK-YAN** (in Cantonese): Mr Deputy, earlier, Mr LAU Chin-shek already put forward a lot of arguments on the motion on behalf of the Hong Kong Confederation of Trade Unions. I merely wish to talk about this motion from the point of view of social harmony. Recently, a series of incidents involving explosives has taken place around Kowloon and the New Territories and the police are conducting serious investigations. In my view, instead of just finding the culprits, we should also investigate the social factors triggering off the incidents involving explosives. I dare venture to say that one of the factors leading to the series of incidents involving explosives is the charging of fees on small depositors by banks. I am not exaggerating. The charging of fees on small depositors by banks is just an example showing that the logic of market has overridden everything in Hong Kong society today. The logic of the market keeps eroding the values that keep society together, thus resulting in division and hostility in the community.

Some people say that the banks' cost of handling the accounts of small depositors far exceeds the profit to be made. Under the rules of the capitalist market, we have no right to ask banks to do business at a loss. It is only natural that banks wish to recover their cost. This may be a simple truth, like the Financial Secretary's example of "one plus one equals two". However, the Financial Secretary and Members should also consider the fact that economic activity is also a kind of social activity. Apart from the logic of market operation, it also involves social relations and social values.

Banking is in itself a mercenary business. But let us not forget that the banks that grew up with us were not mercenary but extremely human. It was the banks that convinced us that saving was a virtue. Members may still recall the age of the "Donald Duck piggybanks". I wonder if they still recall a jingle from childhood. Mr Deputy, please allow me to sing it with my slightly off-key voice: "as small as they may be, drops of water can accumulate to become the wide ocean, as tiny as they may be, grains of sand can pile up to form a large expanse of land". I seldom go to karaokes to sing. That is why I sang it badly and was even a bit off-key. The song that I sang just now is on a broken old album. It has not been digitized. So I had no chance of hearing it again. Everyone has forgotten this song and banks nowadays will not play it any more. The banks today no longer emphasize human relations. Instead, they "talk money" with us unabashedly. Now, the song goes like this: "if it is smaller than a drop of water, it will evaporate and become a wisp of smoke, if it is tinier than a grain of sand, it will be turned into dust and ashes".

The fact that the cost of handling the accounts of small depositors exceeds the profit is not something that has just started today. When banks were still the friends of the ordinary people, they usually subsidized the small accounts with the big accounts. Seldom would they be mean on small depositors and insist on collecting charges. This is because at that time, people believed that all Hong Kong people were the same and should not be differentiated, even though they were unequal in wealth. It was this mode of operation that made no distinction between the rich and the poor that symbolized social unity. Over the past few decades, no matter how many storms Hong Kong weathered, our society was never as divided as today.

Today, banks see nothing but profit. They use various incentives to attract profitable big accounts and tout their target customers, while charging small depositors in an attempt to drive away these "paupers" from whom no profit could be squeezed. The mode of operation of banks has changed from "subsidizing small accounts with big accounts" to "robbing the poor to benefit the rich", and from making no distinction between people to distinguishing between the rich and the poor. This is one of the factors that create social division. Even more worrying is the fact that while banks vie for the most profitable big customers by "subsidizing big accounts with small accounts", our senior government officials, business elite and even some colleagues in this Council say that this is the logic of the market. They hold high the banner of the logic of the market, hoping to convince the public that this is the way society works and there is no alternative.

Mr Deputy, it is Valentine's Day today. Apart from wishing Members Happy Valentine's Day, I wish to conclude with a paragraph written by the columnist TO Kit. He is the only one who can relate Valentine's Day to bank charges. It has never occurred to me, but it did to him. His conclusion was, "Even love was deposited bit by bit into the savings account of one's heart, unlike the one-night stands nowadays, which resemble a "Premier" account. You buy in bonds today, sell them and convert them into US dollar tomorrow morning and buy in pound sterling the day after. Yesterday's banks bring back fond memories, just like yesterday's love. It would not depreciate, but would accumulate bit by bit. It was as deep as the sea and as vast as the land, thanks to that long-standing commitment and unchanging loyalty."

I did not mean to be nostalgic, since I certainly do not watch old Cantonese movies and old English-language movies all the time, as the Financial Secretary does. However, I believe that the logic of the market is not necessarily a sign of progress. When the logic of the market gradually destroys our social relations and erodes our social values, society will ultimately disintegrate.

The spirit behind today's motion debate is our reluctance to see society disintegrate. Thank you, Mr Deputy.

**MR HOWARD YOUNG** (in Cantonese): Mr Deputy, not long ago, some banks announced one after another that they would extend the coverage of their charging system and increase their service charges but reduce the interest given to low balance and inactive accounts. That prompted a very great reaction from the community. However, I must remind Members here that in its consultancy report released in 1999, the HKMA already indicated that after the abolition of the IRA, fees and charges for banking services might be increased and it was a global trend for banks to try to increase revenue from non-interest income. With the passage of time, the problems emerge one after another and have become the focus of attention of everyone.

Mr LAU Chin-shek's original motion proposes to give statutory effect to the Code of Banking Practice and expressly stipulate the penalties for non-compliance. We must, however, understand that the Code was issued by the Hong Kong Association of Banks and the Deposit Taking Companies Association in the industry on a voluntary basis. Is it practicable for the industry to set penalties for themselves? Moreover, at present, the HKMA inspects, in its daily regulatory work, if banks are complying with the Code to ensure the latter are operating normally. Now, if we should charge the Code into law simply for the sake of putting penalties in place, we think it will only serve to reduce the flexibility of the Code and will probably not be conducive to supervising the ever-changing banking industry.

Indeed, increases in fees and charges are commercial decisions by the banks. Moreover, Hong Kong has been a believer in free market economy. If the regulatory authority intervenes in the pricing of banking services, it would run counter to the idea of market liberalization and the "user pays" principle

upheld by the Government. However, Members must understand that free banking services in the past were in fact charged, with the big accounts subsidizing the small ones, and checking accounts, ordinary savings.

Mr Deputy, though we do not agree that bank charges be regulated through legislative means, we maintain that consumers need to be given sufficient information before they can make wise decisions. Thus, it is necessary for banks to ensure a certain degree of transparency. Any changes in fees and charges should be properly relayed to customers with sufficient notice. Earlier, an investigation by the Consumer Council revealed that last year 10 banks failed to provide leaflets on fees and charges to customers and nine failed to show information on fees and charges, thereby failing to meet the requirements of the Code. In view of this, we agree to the HKMA reviewing and strengthening the relevant provisions in the Code to require banks to enhance the transparency of their charging and allow their customers sufficient time to take whatever action is necessary when fees and charges are revised.

We find that the amendment of Mr CHAN Kam-lam is more acceptable. However, the issue of giving the HKMA powers to protect consumers of banking services should be treated with care. This is because the role of the HKMA is to promote the general stability of the banking system and prevent banks from running into financial difficulties. If the HKMA is required to meddle in bank charges, prohibit banks from imposing charges or deal with consumer complaints, it may conflict with its role as a prudent regulatory. It may be caught in a state of schizophrenia, a dilemma. Thus, if a review is conducted, careful consideration must be given to all possible consequences and extensive consultations must be conducted.

As regards the amendment of Mr Albert HO, which proposes to prohibit banks from forming a cartel and engaging in other acts that violate the principle of fair competition, I would say that the original intent of the full abolition of the IRA is meant to enhance free competition and efficiency within the banking industry. Banks uphold the free market mechanism and their fees and charges and level of interest are determined by the market. Moreover, not all banks impose charges on small depositors, and quite a few small and medium banks are determined to get a share of the market for small depositors. Therefore, people actually still have choices. Competition among banks will only be keener

following the abolition of the IRA and small depositors may even benefit from this.

On the other hand, Mr Albert HO proposes to require banks, in formulating their charging policies on small depositors, to exempt the accounts of recipients of welfare benefits as well as those depositors who receive their salaries through banks from payment of charges. We agree with the spirit of this proposal and opine that banks should pay more attention to the effect of increase in fees and charges on price-sensitive groups, especially those who are leading difficult lives, such as the elderly and recipients of CSSA payments, both groups having the need to obtain payments through banks. However, we do not endorse the proposal to make it compulsory on banks to exempt the groups mentioned from paying charges. In much the same way as some businesses in Hong Kong show their respect to the elderly by providing preferential treatment for holders of senior citizen cards, the Government cannot force or make laws to force all businesses to show their respect to the elderly in that way or to intervene in the conduct of their businesses. In fact, the relevant banks have stressed that they will draw up a scheme of exemptions for small depositors, including the elderly and recipients of CSSA and disability allowance and depositors who receive their salaries through banks. Thus, banks are sympathetic towards the disadvantaged groups.

Mr Deputy, Hong Kong is a free economy. Banks are commercial institutions and understandably they are there to make profits. However, we do not approve of banks indiscriminately imposing charges on their customers. We hope banks will enhance the transparency of their service fees and charges so that their customers may choose banking services freely.

Mr Deputy, I so submit.

**MR BERNARD CHAN:** Mr Deputy, may I start by firstly claiming my interest as a director of a local bank.

This motion is not simply about the banking industry. It is about the whole concept of a free market. The Hong Kong insurance industry operates in a totally free market. As a result, it is currently subsidizing many of its

customers. In motor and employee compensation insurance, insurers are paying out in claims much more than they receive in premiums. Across the board, the general insurance industry here loses money.

This does not prompt any sympathy from our Government, from the Legislative Council or from consumer groups. This is free market competition, we are told, and you have to take the rough with the smooth. However, it seems that when it comes to banking, our community wants to have its cake and eat it.

For many years, consumer groups have asked for deregulation of the interest rates offered by banks. They are right to do so. Deregulation increases competition. And on the whole, more competition means better services and lower costs for consumers. In this case, banks will probably offer better interest rates to savers.

However, as with any change, there are likely to be losers as well as winners in the short term. Customers will be able to pick and choose among banks to find the best deals. Some banks may lose customers as a result. But this works both ways. Banks will also pick and choose among customers. In the past, banking services have been subsidized by the interest rate agreement. Now, that will change.

Hong Kong banks may start to do what banks overseas do. They may charge customers for writing more than a certain number of cheques every month. They may offer higher interest on larger deposits, and so on. They may use such mechanisms to target particular types of retail customers.

There is no reason at all for the Government to interfere with this process. Deregulation of interest rates was bound to create some changes. Banks have been saying this for years. My friends in the Democratic Party were told this seven years ago.

In 1994, the Consumer Council released its report and demanded the ending of the interest rate agreement. The Chairman of the Hong Kong Association of Banks then was Paul SELWAY-SWIFT. He made it plain that banks lost money on smaller accounts. He said in the *South China Morning Post* on 8 March that year, and I quote,

"Without doubt, this cost will be passed on to the customers if banks need to pay a higher deposit rate."

He also warned that small depositors could even be squeezed out of the market, as had happened in the United Kingdom and the United States after deregulation.

The Chairman of the Consumer Council in those days was Prof Edward CHEN Kwan-yiu. He said, in the same article, and I quote,

"We do not believe that charges will be very much higher after the abolition of the interest rate agreement. We believe that competition will increase efficiency."

He also made the point that it was for customers to choose what kind of service charges they were prepared to accept.

What a pity that some members of the community have lost their confidence in the free market.

In practice, some of the changes that people fear are unlikely to happen.

Many banks provide accounts for all the staff on the payroll of a company. A bank would be stupid to charge those people for having small accounts, because the company concerned might move its payroll business to another bank.

Similarly, a bank would be stupid again to impose charges on welfare recipients. People would telephone the radio stations and write to the newspapers. They would say how much they hate that bank. And the bank would probably lose business.

But, either way, it is the bank's choice. The Government should not decide for it.

Some banks will probably want to concentrate on middle-class customers. That, too, is their choice. But I am sure that there will be plenty of other banks happy to accept small deposits.

If there really were a group of people who could not obtain affordable banking services, some form of government action might be necessary. But there is absolutely no evidence that this deregulated market will fail in that way.

The supporters of this motion are asking the Government to tell banks how to run their business. And they are asking banks to subsidize some customers at the expense of others. In both respects, they are wrong.

People asked for deregulation — they got it. It involves change. They have been told that since 1994. They cannot ask for new regulations because they do not like some of the changes. If there is a demand for cheap banking services for small depositors, someone will offer such services. Just let the free market do it, not the Government.

Consumer activists are right to call for an end to the fixing of interest rates. They know that more competition will produce a wealthier society. But they must accept that it can create losers as well as winners. Like us in the insurance industry, they must take the rough with the smooth.

Thank you.

THE PRESIDENT'S DEPUTY, MRS SELINA CHOW, took the Chair.

**MR LEUNG YIU-CHUNG** (in Cantonese): Madam Deputy, we are discussing today the issue of banks increasing charges on their small depositors. I have heard some critics say that the act is purely commercial, that banks operate their business on commercial principles and that the Government should not intervene or regulate their behaviour. This point is also mentioned by some Members. No doubt, that is commercial behaviour to which no one will object. After all, not all commercial behaviours will be discussed in this Council. However, if a certain commercial behaviour affects the community, then we need to discuss it. For example, the increase of charges by some utility companies may be regarded as commercial behaviour and we hold discussions about the increase. Another example was the mediation by some Members yesterday in the incident about the unreasonable handling fee of \$40 charged by the Hong Kong Mid-stream Operators Association. We discussed the matter in this Council too because the commercial behaviour was not purely commercial: it was closely related to the



public, so, it warrants discussions in this Council. When some commercial behaviour will adversely affect the public specifically, Members must discuss the issue and voice their opinions.

Let us look at the relationship between banks and the people, which is more than merely depositing money. Looking back at the '60s and '70s, people were not used to putting their money in banks. The trend changed when it was not safe to receive wages in cash because public security was poor in the '70s during the economic downturn and people were mugged on pay-day. Thus, employers were encouraged to transfer money to the bank accounts of their workers and the risk arising from poor public security would be minimized. Gradually, people began to establish a relationship with banks and from then on they have maintained close ties with banks. Therefore, I think it would be grossly unfair if Members do not discuss the effect of banks increasing their charges on small depositors. Critics say the banks increase charges on small depositors as a reaction to the imminent total abolition of the IRA in July. If that is the case, the situation is even more unsatisfactory, the main reason being that many people think the abolition of the IRA would reduce the profits of the banks and so they have to transfer the costs onto small depositors. That means small depositors would be subsidizing big ones. In that case, the poor will be subsidizing the rich, which is morally wrong.

Many say, as some Members do, from the viewpoint of free market principles, it would be sufficiently fair as long as banks can increase their transparency in increasing charges so that all items are shown clearly for customers to decide which banks or services they want. If I remember correctly, the present Code of Banking Practice requires that banks give 30 days' notice to affected customers before any change in fees and charges takes effect. Banks do follow the requirement, but despite that, the fees and charges will increase anyway. What can depositors do? Notices or no notices, the banks will increase the fees and charges. Ultimately, it is the depositors who will shoulder the consequences. So, I do not think the notice requirement matters very much, although it is better for banks to demonstrate transparency. Nevertheless, the crux of the problem practically remains untouched. I mean we should look at the issue from the perspective of protecting and looking after customer interest. We cannot find any choices given to customers after the banks have notified them. Thus, it can be seen that in the capital market, more often than not, only a Hobson's choice is provided.

Madam Deputy, I do not think the issue about small depositors is simply a commercial issue. My greatest concern, as some Members have pointed out, is social division. In fact, charges imposed by banks on small depositors are nothing new. According to a study by the Consumer Council, at the moment, 18 banks impose service charges on small depositors or inactive accounts, and seven banks that give reduced interests to small depositors. Basing on the calculation of the Standard Chartered Bank, the negative interest rate in real terms is over 8%. This is a form of punishment for the poor. Collecting charges from small depositors is making them subsidize big accounts. Is poverty a sin? Why should banks punish small depositors in this way? The measures taken by the banks are dividing the community. What can be done when the disadvantaged groups cannot afford the service charges? The situation mentioned by Mr LAU Chin-shek would arise: "social alienation". Social alienation is an issue of far-reaching effect. If we ignore it, social unrest would arise. I hope the Government can come to grips with the problem. Some officials are saying that the problem is not serious now and they will tackle it when it becomes serious. But the problem has already emerged, and I hope officials will not neglect it.

The fact is, when banks force their way for an increase in charges, small depositors simply have no choice. Some officials say there must be choices in a free capital market, but let me tell everyone this: recently a bank placed an advertisement in the press saying it would not charge small depositors anything for its services. That bank has only 40 branches, however. On average, a branch can be located every three or four Mass Transit Railway (MTR) stations away. What can the grassroots, especially the elderly, do? Should they travel the distance of three or four MTR stations to deposit money? If they do, they will be incurring costs such as transportation costs. In addition, they need to put in effort and spend time for the journey, not least enduring the fear of losing their money on their way to the bank. Hence I think this is a very serious problem, and I hope officials can address it.

Thank you, Madam Deputy.

**MS AUDREY EU** (in Cantonese): Madam Deputy, last month a bank announced that it would charge depositors with an average monthly balance below \$10,000 a monthly fee of \$100. This triggered off worries among many small depositors. This is not an individual banking practice. A survey

conducted by the Consumer Council at the end of last year showed that the 19 banks interviewed all imposed service charges on low balance and inactive accounts. The interest rate for small depositors has been gradually shrinking to 1% or nil at all. This is an act of increasing charges on small depositors in disguise.

After the financial turmoil, banks have been gradually tightening bank loans. Revenue from the difference in interest rates between deposits and loans has fallen sharply. To increase income, banks will inevitably need to impose various charges on depositors. Moreover, when the IRA is totally abolished in July, competition will become fiercer and business will become more difficult than now. To increase profits, banks will, not surprisingly, tend to provide services for big depositors, which are more cost-effective to them.

In fact, when the Standard Chartered Bank announced an increase in charges, many banks indicated they were losing money on small depositors though the trend for banks to increase their charges has not taken shape. Banks even disclosed in a rare move what used to be regarded as commercial secrets, their operating costs. All this can be associated to the intention of banks to increase service charges on small depositors so as to reduce the number of such depositors.

Madam Deputy, I also notice that some small and medium banks are touting business from small depositors by offering free services to them. However, if we look carefully at the terms in detail, we would find most of these banks are in fact placing time limits on the no-charge period, after which hefty charges will be imposed. By then, small depositors will have to change banks again.

Hong Kong is certainly a place where free economy is upheld. It is a normal commercial act for banks to collect service charges or select customers. However, banking services have become part of the daily life of the public. Some people are even forced to use banking services. For example, some employers specify that their employees receive their wages through certain banks, or recipients of CSSA are required to receive their payments through banks. Thus, if there is an imbalance in supply and demand in the provision of banking services whereby banks are willing to serve big depositors only, the basic living needs of the people will be affected and the Government must step in.

The Government should consider amending section 7 of the Banking Ordinance to extend the functions of the Chief Executive of the HKMA from maintaining the general stability of the banking system to protecting the interest of depositors. I do not think this would lead to "schizophrenia", as mentioned by a Member earlier. I do not think there is any conflict between the two functions. The HKMA should protect the interest of small depositors or all depositors. For instance, it may set up an efficient complaint mechanism for depositors or abolish some terms that are obviously unreasonable (such as terms that require customers to pay for all of the legal costs in connection with the recovery of outstanding moneys). If there is an imbalance between supply and demand and if there is collective pricing, the HKMA should take appropriate measures. It may, for instance, specify that banks should provide reasonable services for the disadvantaged groups and small depositors without bargaining power.

Madam Deputy, Mr CHAN Kam-lam's motion proposes to add to the Code of Banking Practice relevant provisions to enhance the transparency of bank charges. I lend my resolute support to his motion.

At present, though many banks have tables on charges for reference by depositors, not all charges are listed out due to the large range of categories involved. In addition, much of the important information is not there. For example, the table on charges states that additional charges will be levied on low balance and inactive accounts, but it is not stated what constitutes low balances or inactivity. Moreover, banks have unique nomenclature for their accounts. For example, different banks have different names for their integrated banking services. In the table of charges, only the charges for the unique services of the particular bank are shown, but it is not specified further what the services actually are. As a result, people will find it difficult to compare charges for similar services in other banks. I hope the HKMA will consider the recommendation of the Consumer Council, that is, setting a basic format for disclosing itemized charges.

Moreover, there are many problems with banks notifying their customers of changes in fees and charges. Some banks only post notices in the lobbies of their offices, making it difficult for people who habitually use automatic teller machines or on-lone banking to know that charges have already been raised. Even those customers who visit bank offices for services may not necessarily pay attention to the notices.

The provisions in the present Code of Banking Practice are not clear enough. For example, there is a section on the requirement for banks to give 30 days' notice to affected customers before any change in fees and charges takes effect, and for material and complex changes, separate documentation should be provided to customers for reference. However, it is not stated how notices should be sent and what constitutes material and complex changes. Therefore, banks should set down the relevant provisions in writing clearly and require their staff to explain in detail the charges that may be imposed when a customer opens an account. Banks should also be required to notify all customers when there are changes in charges to ensure every customer is informed of them.

Madam Deputy, while the existing Code of Banking Practice lacks legal effect, it does not necessarily follow that giving it legal effect is the best way to protect small depositors. A sound society should not require that every problem be resolved through legislation. Rather, we should encourage all trades, including the banking industry, to exercise self-discipline by abiding by their respective codes of practice. This may work better, but, if the Code cannot achieve the aim it sets out to achieve, then legislation may not be ruled out as a last resort.

With these remarks, I support Mr CHAN Kam-lam's amendment and Mr Albert HO's further amendment. Thank you, Madam Deputy.

**MR NG LEUNG-SING** (in Cantonese): Madam Deputy, Hong Kong has become an important international financial centre thanks to the long-standing effort of all parties. The banking industry has naturally become an important pillar of the Hong Kong economy. As a participant in the banking sector, I have witnessed the prudent and honest way in which the banks have operated over the years. It is their perseverance in their efforts that has greatly contributed to laying the foundation for making Hong Kong an international financial centre and maintaining it. The industry has been co-operating with the regulatory authority in continuously raising their service standards and quality to satisfy the developmental needs of society and maintain the stability of the financial system. They have risen to all sorts of challenges from outside Hong Kong, fended off the various international financial crises and stock catastrophes, and weathered the impact of the 1997 Asian financial turmoil.

The banking industry has had numerous successes in the past. One very important aspect is that the regulatory regime has allowed sufficient flexibility in maintaining prudent risk management and systematic stability so that minimum intervention is imposed on commercial operations. This has given room and freedom to the development of the banking market. In fact, this is what makes an industry flourish in a free economy. Any intervention not coming from the market should be kept to the minimum. Moreover, the relevant regulations should be as few and simple as possible because more laws on market operation do not necessarily mean better results.

One salient aspect of the banking regulation effected by the HKMA is that the HKMA Chief Executive will issue various guidelines by virtue of the Banking Ordinance from time to time for compliance by authorized institutions. These guidelines may be regarded as statutory guidelines but they are not subsidiary legislation per se. Given that they do not have statutory effect, so, theoretically, banks do not have to follow them. All that the banks need to do is to ensure that their operations do not contravene the Banking Ordinance and other relevant local laws. In fact, for many years the banking industry has been doing well in communicating and co-operating with the regulatory authority insofar as regulatory policies are concerned. In this way, the effectiveness and rigor of the regulatory system are ensured. This also enables the regulatory system to keep pace with the times, adjusting itself promptly to changes in the market. This valuable experience, gained over a number of years, is something that should not be ignored in any attempt to introduce new measures to regulate the banks.

The Code of Banking Practice (Code) was issued jointly by the two associations in the banking industry in 1997 and endorsed by the HKMA, which expects compliance by all institutions. That means the status of the Code and that of the guidelines issued by the HKMA are very similar. If, without the need to give statutory effect to the relevant guidelines the HKMA can still effectively and rigorously regulate banking operations through the issue of guidelines, I believe there is no reason why we need to give statutory effect to the Code. In fact, only six months after the Code was announced, the HKMA conducted a survey on the extent to which authorized institutions had complied with the Code. Results showed that the situation had been in general satisfactory. I believe things will change step by step for the better in future.

From a practical point of view, the Code covers a large amount of day-to-day banking operations and are technically complex. Banks need to exercise

flexibility in observing the spirit and principles enshrined in the Code so that they can cater to the needs of the customers. Hence, the Code should not be made into law. In fact, the relationship between banks and customers is a commercial contractual relationship. Broadly speaking, bank customers are protected by laws that protect the general consumer, such as the Unconscionable Contracts Ordinance or other common law provisions that protect consumers. Therefore, customers of the banks are getting the same decent protection under the law as in other businesses.

Recently, some banks have raised their charges, but it must be noted that some banks have offered gifts for new accounts. These are purely commercial decisions made in anticipation of the reactions of their prospective customers and commercial effects. With the gradual abolition of the IRA, competition will become increasingly keen. Different financial institutions are seeking changes in the focus and strategy of their operation. If in future the deposit insurance system is implemented, I believe banks will be weighing more carefully about costs, charges and even overall efficiency. This is going to be an inevitable trend in commercial decision-making. However, any consideration of regulating bank charges by legislative means or influencing commercial decisions of the banking industry by other administrative means is a dangerous act that may destroy the free market mechanism. Those who endorse free market principles would find it difficult to accept such an act. As regards the roles and duties of the HKMA, I personally think they should be effective risk management and maintenance of the stability of the banking system. There is no need for the HKMA to carry out the duties of the Consumer Council. Let there be no ambiguities about this.

Madam Deputy, I so submit.

**MR FRED LI** (in Cantonese): Madam Deputy, the Democratic Party has retained in the amendment part of Mr LAU Chin-shek's motion, that is, "urges the Government to give statutory effect to the Code of Banking Practice, expressly stipulate the penalties for non-compliance". However, Mr CHAN Kam-lam's amendment seeks to delete this part and amend it to "urges the Government and the Hong Kong Monetary Authority to review the relevant provisions in the Code of Banking Practice, so as to enhance the transparency of fee revisions by banks." The Democratic Party considers the amendment proposed by Mr CHAN Kam-lam has failed to see the problem clearly and, as a result, failed to solve the problem.

First, we think Mr CHAN may have some misunderstanding. He may have mistaken the Code of Banking Practice for a piece of document issued by the Government or the HKMA. In reality, the Code (that is, the copy I am holding in my hand now) is issued jointly by the Hong Kong Association of Banks (HKAB) and the Deposit Taking Companies Association, as stated clearly in the first paragraph. The HKMA only endorses the Code; that is, the HKMA has read it and does not regard it as violating the principles and aims of regulation by the HKMA. Strictly speaking, the HKMA does not have the ability to initiate any changes to the content of the Code.

Second, insofar as binding effect is concerned, section 1.2 of the Code states the Code is a non-statutory Code issued on a voluntary basis by the industry associations. That means the HKMA cannot impose compulsory enforcement of the Code by the two associations or punish banks for non-compliance. However, the problem is not as simple as that. As long as the associations exercise self-discipline and conduct proper regulation on its members, people will not lose faith in them completely. Indeed, the associations have not put in place a mechanism to require compliance by its member banks. Section 1.4 of the Code says clearly that the HKAB will expect its members to comply with the Code, and I quote, "expect ..... members to voluntarily comply with the Code." So, the HKMA can only "expect" banks to comply but it never explains why it is so optimistic that it can so expect. On what grounds does it so expect? If the expectation of the HKMA fails, what can it make banks do, other than being disappointed? I hope that later the Government may respond to my questions as stated.

Thus, it can be seen that the Code lacks binding effect or deterrent effect. If the Government does not try to strengthen the statutory status of the Code, change its voluntary nature and stipulate penalties for non-compliance, we would be making little progress even if we continue our efforts to amend the Code bit by bit over time.

Madam Deputy, since the Code took effect in 1997, there have been numerous cases of non-compliance by banks. The Consumer Council conducted a number of investigations and made criticisms on this topic. If one reads past issues of the *Choice* magazine, one would easily find practical examples of non-compliance. Under section 5.1 of the Code, banks are required to make readily available to customers written terms and conditions of a banking service. However, in a Consumer Council investigation, when staff of the Consumer Council pretended (in an undercover investigation) to be an



intending applicant of a credit card service and demanded repeatedly for a copy of the cardholder's agreement, the staff was never given one. Again, section 6.2 of the Code stipulates that banks should give 30 days' notice to affected customers before any change in fees and charges takes effect. However, banks have not met this requirement; they only put down in statements sent to their customers the new charge already debited from their accounts. Even in the review report released by the HKMA last year, it was admitted that indeed some banks had not complied entirely with the Code. But what can the relevant authority do? Has there been any follow-up action? Has any penalty been imposed? There are many questions that remained unanswered.

Recently, the Democratic Party has made some inquiries with the HKAB by letter to understand what follow-up action it has taken, if any. In its reply, the HKAB indicated the Code is issued on a voluntary basis and the HKAB has no proper authority to enforce the Code; nor does it have the authority to cause investigations to be made. The reply from the HKAB proves what I said earlier. The Honourable SIN Chung-kai will quote some other cases to elaborate some problems with the Code.

I so submit. Thank you, Madam Deputy.

**DR RAYMOND HO** (in Cantonese): Madam Deputy, the news last month that a bank would impose charges on small depositors caused an immediate public outcry. Some people even suggested the Government to introduce legislative amendments in order to regulate the banks' charging policies effectively and safeguard public interest. As Hong Kong is a free economy, the market will make adjustment automatically in the light of supply and demand. It is open to discussion as to whether the Government should interfere with the new charging policy introduced by banks.

While Hong Kong economy has remained in the doldrums in recent years, the youth unemployment rate has continued to rise and unemployment of the middle-aged people has become increasingly serious. There are also a number of people who rely on Comprehensive Social Security Assistance. Given all these reasons, the objection raised by the public to the banks' imposing charges on small depositors is understandable. Under the current economic situation, I would discourage banks from raising service charges in principle. Nevertheless, the levy is understandable if the banks really need to do so for its services to achieve a balance in the books.

Since Hong Kong is a free economy, the market will invariably adjust automatically in the light of supply and demand. Let me cite an example. The spending sentiment of the public has been extremely low in recent years because of the economic downturn. In order to stimulate turnover, department stores will often put up special-price products for sale. As a result, the places where these goods are displayed are often swarmed with panic buyers who eventually turn the goods into hot stuff. We can see real examples like this in the Sogo Department Store where we can find the customer flow is several times higher in the jumble sale bazaar situated on the 9/F than on other floors. Moreover, there are much more customers here than in other department stores in the vicinity. Subsequent to the rising demand for special-price goods sold in Sogo, there has been diminishing demand for goods sold in other department stores in the vicinity. As Sogo succeeds in taking up the market share of other department stores, two department stores situated in the vicinity have eventually closed down.

By the same token, if some banks impose service charges on small depositors, people may turn to other banks with no levy. Eventually, banks that impose charge may lose their customers slowly. If they insist on levying charges, they will lose even more customers. In order to survive, such banks must make corresponding adjustments such as reducing or abolishing the charges. Perhaps some people may say it will not cause a big problem to the banks that impose charges if only small depositors go away and big ones remain for one big depositor may be equal to several thousand small depositors. But the crux of the problem is: How many big depositors are there in Hong Kong and how many banks in Hong Kong are in a position to compete? As a matter of fact, there are a great number of grass-roots people in Hong Kong. As the saying goes, "many drops of water make an ocean". We must not underestimate the influence of small depositors on banks.

From the above examples, Madam Deputy, we can see that under the influence of market demand, banks might eventually need to make corresponding adjustments to their charging policy. For this reason, it is inappropriate for the Government to interfere with the issue being discussed in this Council at the moment. Furthermore, if consumers consider there is a problem with the services provided by the banks, they may pressurize the relevant banks through other channels such as the Consumer Council. I think it is worth mentioning that should the Government decide to interfere with the charging policy of banks, does it imply that the Government will also interfere if other industries or

professions are found to have similar problems? Should a free economy bear this feature? The answer is an emphatic "no".

For the reasons cited above, I think, insofar as this issue is concerned, the Government should let the banking market operate freely to the letter of free economy so as to attract overseas businessmen to invest in Hong Kong.

Madam Deputy, I so submit. Thank you.

**MR SIN CHUNG-KAI** (in Cantonese): Madam Deputy, in answering a question raised by a Member in this Council on 18 October 2000, the Secretary for Financial Services repeatedly stressed that the Code of Banking Practice was effective. The Secretary stated: "such codes are very common overseas, such as in the United Kingdom and the United States ..... do not look down upon the Code ..... it is issued by the two banking industry associations for compliance by their members. It is also endorsed by the HKMA ..... if an institution adopts improper practices and is impervious to warning ..... its suitability to continue in the banking business will be questioned. Therefore, the consequences are very serious and the HKMA will also take appropriate action in this respect."

Madam Deputy, I believe the Secretary will give similar responses today. Nevertheless, I would like to raise two points. First, the Democratic Party conducted a study recently to compare the enforcement of codes similar to the Code of Banking Practice in overseas countries. As pointed out by the Secretary, the United Kingdom, the United States and Australia have such codes. However, we have been short-changed for the Secretary had told us only part of the story. While these three countries implement self-regulation, they have also set up independent regulatory mechanisms.

In the United States, for instance, more than 20 pieces of legislation are enforced by the Board of Federal Reserve to regulate banking practices, including lending, deposit-taking, debt recovery, and so on. In the United Kingdom, its code of banking practice is regulated by a relatively independent Banking Code Standards Board, the members of which are mostly independent persons. The newly established Financial Service Authority will even launch a "Financial Services Ombudsman Scheme" in the middle of this year for mandatory participation by all banks. The Ombudsman will handle all complaints lodged by bank clients and make rulings for mandatory enforcement.

Comparatively speaking, Australia is the least stringent in terms of regulation for it only requires banks to join a "banking ombudsman scheme" on a voluntary basis. Although the ruling by the ombudsman is not binding, at least there is an independent regulatory and complaint-handling mechanism so that consumers know where they can turn to lodge complaints. Looking back at the Hong Kong Association of Banks (HKAB), there are no such boards at all. According to the experience gained by the Democratic Party in writing to the HKAB recently, the HKAB seems to have no intention to investigate and follow up non-compliant banks.

In the Democratic Party's opinion, the Government should refer to overseas experience to enhance the statutory effect of the Code. At least, amendment should be made to the Hong Kong Association of Banks Ordinance to make it mandatory for the HKMA to set up a relatively independent complaint-handling mechanism or investigation board for the enforcement of the Code. Alternatively, the HKMA may issue the Code to clearly provide for penalties for non-compliance, such as reprimand, warning, and so on, and issue a report on the enforcement situation to the public annually.

Madam Deputy, I would like to raise two points in response to the previous reply given by the Secretary. The Secretary mentioned the power currently exercisable by the HKMA. I would like the Secretary to clarify if he was referring to Part X of the Banking Ordinance in relation to the power of the HKMA. If my guess is right, the provision actually refers to the situation when the quality of the management of a bank has dropped to such an extent that it is no longer suitable for acting as manager of the bank. This is a very serious accusation and the consequence can be very serious for the HKMA can be compared to an "atomic bomb" in terms of its consequential power. Actually, the HKMA has never invoked such power to deal with non-compliance with the Code because this is supposedly a relatively minor mistake. There is virtually no need for the HKMA to make use of the bomb. Moreover, the bomb was not originally targeted at non-compliance. More importantly, it is difficult for the HKMA to exercise its statutory power with respect to non-compliance because the Code was not issued by it. In other words, the HKMA can only make use of this paper "atomic bomb" as a threatening tool. I hope the Secretary can explain this clearly.

The Democratic Party must express its concern with the proposal raised by Mr CHAN Kam-lam of empowering the HKMA to protect consumers. As a matter of fact, Mr Albert HO has explained this in detail earlier in the debate. I would like to make one additional point only. At present, the HKMA is very powerful and enjoys great autonomy. Moreover, it has huge disposable assets. Nevertheless, there is a lack of effective checks and balances. Furthermore, no provision in ordinances related to the HKMA has been able to clearly define its terms of reference. The Chief Executive of the HKMA was once criticized for being a so-called "financial tsar". In this respect, the Democratic Party must voice its worries. Although Mr CHAN Kam-lam has proposed in his amendment to delete our recommendations, he still urged the Administration to empower the HKMA to protect consumers. What method has he recommended to protect consumers? Perhaps he will be relying on some guidelines or guidance to target certain banking practices. Will it be the same as giving the Code certain legal powers? I really hope Members of the Democratic Alliance for Betterment of Hong Kong can clearly explain how the Code can protect consumers. The recommendations made by the Democratic Party are very clear. We have also spent some time studying the Code. First, we think certain clients should be exempted for fear that individual banks may levy charges. What worries us most is that the banks may establish a monopoly or form a so-called cartel. It is on this basis that we hope the Government can consider ways to ensure effective enforcement of the Code. At least, there should be a self-regulatory mechanism, that is, a mechanism specifying who shall put the mechanism into practice and who shall co-ordinate and handle complaints from the public. I hope the Government can state the positioning of the Code clearly in its response.

**MISS CHAN YUEN-HAN** (in Cantonese): Madam Deputy, the news that the Standard Chartered Bank (SCB), one of the three major issuing banks in Hong Kong, recently announced that a monthly service charge of \$100 would be levied on small depositors with deposits below \$10,000 has drawn widespread discontent. I have also learned through some channels of contact with the public that some people, particularly the grassroots, had strong views on the bank's decision. They even described the bank as opening its door to the rich and turning its back on the grassroots. This is indeed a very serious criticism. In this connection, the Hong Kong Federation of Trade Unions launched a signature campaign in various districts earlier to express its opposition to this practice and received enormous support from the wider community.

The Government must not turn a blind eye to this issue any more. There was indeed a precedent for what the SCB did this time. Actually, banks have started introducing a variety of charges more than two years ago. Being a depositor of the SCB, I have decided to cancel my bank account. I am not being emotional. I am determined to do so though I have not yet had time to calculate the balance of my account. As far as I know, banks have the practice of levying service charges on small depositors. According to the findings of a study conducted by the Consumer Council, seven banks deducted some 30% or even all of the interests accruing to small depositors and inactive depositors with a low balance in order to "drive them out of the door" last year. In addition, at least 80 new charging items have been introduced by 15 banks for the provision of general banking services. In recent years, banks have constantly introduced new items under the so-called "cost recovery" and "user pays" principles and made their depositors share the cost of banking services in apparent violation of the banking tradition. I believe all businessmen are used to subsidizing one item with another. It is indeed a normal practice for businesses, ranging from retailing to other businesses, to attract more clients by way of offering certain subsidies. Today, however, banks expressly state that they will only serve big depositors, not small ones. I think the Government should take this trend seriously.

I have a worry. The full abolition of the Interest Rate Agreement in July 2001 may prompt banks to attract quality clients by offering higher interest rates. I am worried that the extensive use of this practice will continue. What shall we do then? With the changes in banking operation strategies, I think the Government should address our concerns. Many after-effects have emerged in the wake of the financial turmoil. Although Hong Kong economy has continued to grow in the past year or so, the grassroots have not been able to benefit from the improving economy. On the other hand, banking services have become an integral part of our daily lives. I am sure Members will agree that banking services are different from other services because they are an integral part of people's daily lives. After operating for a few decades, the banks have become a safe-deposit box for all people, rich or poor, where they will keep their valuables so that they need not worry about them. Subsequent to the changes introduced to this essential service and the past experiences of Hong Kong, it seems that the banks are now targeting mainly at the grassroots. I think the Government should review the problems in this area to see whether this is fair.

Madam Deputy, the performance of banks in Hong Kong, such as the SCB, was not bad in the first half of the year. It made more than \$4 billion in profits. Even from the commercial angle, it is inappropriate of the SCB to have resorted to this measure given such an enormous profit. Of course, from the angle of business operation, banks can do whatever they like. Yet I believe all modernized enterprises must take care of their images. The image of the SCB has been greatly damaged by what it did this time. Under the free economy in Hong Kong, the SCB can no doubt make any decisions but we have the freedom to make criticisms too.

Lastly, what should we do to resolve the existing problems? In fact, I have commented in my newspaper column and told my colleagues that this is not going to be easy. I remember I wrote down "Hong Kong Monetary Authority, Consumer Council, the Government" in my column at first. Later someone asked me what I intended to do and who should be responsible for regulating banking practices. I remember there were diverse views when we discussed this issue. We may need to make some amendment if we are going to introduce some major and comprehensive changes. We must be careful in taking this step. After all, Hong Kong is a financial centre. I do understand the question raised by Mr SIN Chung-kai earlier with respect to whether the power of the HKMA will expand if we act according to Mr CHAN Kam-lam's amendment. Insofar as this point is concerned, we must strike a balance. I do not necessarily agree with Mr SIN. This is because I once consulted some people, including some people working in the financial sector, on whether the HKMA, the Consumer Council or the Government should be responsible for regulating banking practices. Views were apparently divided according to what I was told. So, when the DAB discussed this issue, I agreed we should first look at the matter from the angle held by Mr CHAN Kam-lam in moving his amendment. Of course, Mr SIN will raise another question as to who should monitor the HKMA headed by Mr Joseph YAM. In this respect, perhaps we should consider the matter in greater detail.

In conclusion, regulation is necessary under the prevailing circumstances. In short, we can start by adopting a more direct approach of conferring on the HKMA powers to protect consumers under the Code of Banking Practice. If Members agree, the Government should speed up its action because the HKMA has not been given such powers. From the angle of consumer protection, it is

of paramount importance and the utmost urgency for the HKMA to be given such powers. I very much hope the Government can take care of depositors with deposits less than \$10,000. A few thousand dollars is already very important to them. Why should they be excluded from keeping their money in the banks? Why should the banks grade their clients? Why is it so unfair? The Government must not reject our request on the grounds of maintaining a free economy.

Thank you, Madam Deputy.

**MR HENRY WU** (in Cantonese): Madam Deputy, as commercial institutions, the banks are obliged to be accountable to the shareholders and to ensure that there are profits and good return. That the banks levy charges on the small depositors or reduce the amount of interest payable in order to increase their profits are in line with commercial principles and justifiable. However, commercial institutions, especially those which have a close connection with public interest, should not place money as their primary concern. They need to consider other factors as well.

Madam Deputy, I miss very much the services of some banks in the past and the business principles which they cherished, especially some of the local banks with a long history. The founders of these banks were very concerned about the provision of excellent banking services for depositors and clients, and many people still talk about it even to this day. I remember I joined an induction course for new staff by a well-established local bank more than a decade ago. The contents of the course were focused on customer service and it was aimed at providing quality service to clients and depositors. Those who needed help would be attended to, such as helping them to fill out different forms for deposits and withdrawals. In the Chinese New Year, all kinds of piggybanks would be launched to attract and encourage young people to save the money they got from the red packets given to them.

However, with the globalization of our economy and trade, the Western management and operation mode is gradually replacing our excellent business culture which has been a well-established tradition. Commercial institutions tend to put money and profits before everything else and the traditional Chinese



virtues such as "ethics, intellect, physique, sociability and aesthetics have all been brushed aside.

Madam Deputy, as many Honourable Members have spoken on the levy of charges on the disadvantaged groups such as the elderly and CSSA recipients, and the small depositors, I do not wish to repeat what they have said. Conversely, I would like to discuss the issue from another point of view and, that is, on the possible impact on those people who may not be classified as the disadvantaged. The number of these people is definitely not small and they are the students.

As far as I know, there are many students, especially those studying at Secondary Four or above, who have a banking account. This will help their schools to debit from their accounts various school expenses such as tuition fees or for such purposes as crediting allowances, and so on. We all know that most of the young people who are studying in schools do not have a lot of money in their accounts. Therefore, if the banks levy charges on accounts of low balance, this group of students would certainly be affected. Moreover, while we encourage the younger generation to put their money in the banks and form the good habit of saving while they are young, how can we discourage them from opening bank accounts by collecting charges from them? I therefore hope that the banking sector can understand the difficult situation of the elderly, the students and the disadvantaged and voluntarily cancel the decision to collect charges from the small depositors or to restore the interest rate of these accounts to normal.

Madam Deputy, the reason why banks collect charges from small depositors or reduce the interest payable to them is largely the impending total abolition of the Interest Rate Agreement (IRA). With the full deregulation of the interest rate for savings accounts and current accounts, banks will have to face much more fierce competition and their profits will be put at risk. To safeguard their profits, banks need to revamp the tariff structure of their services and recover the costs of maintaining services to different types of clients.

I would like to point out that when discussions were held formerly on whether the IRA should be completely abolished, there were some views raised in the banking sector that this would intensify competition among banks. The ones who would be affected in the end would be the small depositors.

Unfortunately, the focus of attention at that time was put only on one possible outcome of full deregulation, and that is, banks would increase the interest rate to attract more clients. Other undesirable outcomes were not given much consideration at that time. These included whether the banks could subsidize the operating costs of the low balance accounts.

Madam Deputy, in fact, we will be facing the same problem next year, only that the scenario will be changed from banking services to stock transactions. Currently, the minimal commission charged for stock transactions is 0.25%. This rate has been proven for more than 20 years and it has never been adjusted upwards with inflation. This is a very low and reasonable level of commission. It will enable the stock brokers to offer their excellent and professional services to investors, especially the small investors.

In the past decade or so, with the high inflation rate and the increase in operating costs, stock brokers have been exercising great restraint and have not proposed any increase in minimum commission. This is meant to protect the interest of small investors and to ensure that Hong Kong will remain an international financial centre. If this minimum commission is abolished, it can be expected that a scenario of vicious competition will appear. As most of the stock brokers are restricted to stock transactions, their income will be reduced greatly and there will be very little room for survival. What will happen in the end is that a few large brokerage houses will dominate the market and they will collect charges selectively from small clients, just like what the banks are doing today. So it is very likely that only big clients will be able to enjoy preferential treatment while most other local small investors may have to pay expensive fees and charges before they can engage in any investment activities in the market. Therefore, I hope the authorities can be cautious about that and think carefully before they come up with any proposal to abolish the minimum commission.

Madam Deputy, I so submit.

**MISS CHOY SO-YUK** (in Cantonese): Madam Deputy, the banks' imposition of charges on small depositors has indeed caused widespread repercussions in society. However, the impact is not mainly due to the fees charged, but that they are targeted against the small depositors and the disadvantaged groups in the

community. That is very unfair. On the day when the banks announced this move, I was meeting the Chief Executive, and I brought this issue to his attention. As the banks are now trying to impose all kinds of charges on small depositors, the public at large will certainly suffer. The Government must keep a close watch on the developments and adopt effective measures to protect the interest of the public and the disadvantaged.

Although the Hong Kong economy is showing signs of recovery, there is no improvement in the livelihood of the grassroots in real terms and the problem of poverty has not been effectively ameliorated. The decision made by the banks to charge fees from small depositors at this juncture is a blatant disregard of public interest. For in the first place, many people are forced to use banking services. They have absolutely no right to choose at all. Many elderly people and CSSA recipients have to use banks to take out public benefits. The banks later announced that they would not collect charges from the disadvantaged groups, but they might not have done so were it not for public opinion and social pressure. If the banks are really concerned about public interest, they should have announced that the disadvantaged would be exempted from the payment of charges at an earlier time. Second, there is no complete freedom of competition in the banking sector. One must get a licence from the Government to operate a bank and that will limit the number of banks. Banks are franchised in disguise, and they can make profits more easily and the consumers' right to choose will be limited. It is unreasonable that the banks ignore the interest of the public while they are reaping profits in the market. Third, since the banks are able to make huge profits, they should not aim at raising the charges for those services which are not making profits but can nevertheless help the disadvantaged. For example, not every bus route is making profits, but those routes which are profit-making will help subsidize those which are incurring losses. Banks should follow the example of these public utilities. In sum, since banking services have become indispensable to the daily lives of the people and their nature is quite similar to that of public utilities, the banks should take the interest of the entire community into account when they revise their charges.

Madam Deputy, I oppose the charging of fees by banks on the small depositors. However, I have reservations about the use of legislative means or other even more stringent measures to interfere with banking operation. As our society always upholds the principle of free market economy, the main duty of the Government is to maintain smooth operation of the market and to ensure a reasonable business environment. If we ask the Government to regulate bank

charges through legislative means, that will be a violation of the above policy and objective. Furthermore, with the globalization trend, there is already very intense competition among the various financial centres. Any excessive regulation or intervention will undermine our competitiveness. Notwithstanding this, the Government can still follow this idea up.

First of all, the authorities can make improvements on the Code of Banking Practice and hence increase the transparency when the banks revise their charges. The Code stipulates that if the banks want to increase their charges, they must inform their clients at least 30 days in advance. If these are material changes, the clients should be informed personally. However, the Code does not specify the means of informing the clients. Some banks would merely post a notice in the lobby and if the clients do not use banking services at the branches frequently, they may incur losses due to their lack of information. The HKMA should therefore improve the Code to require banks to inform all affected clients in writing. The notice should list clearly the types of charges, their scope, the amounts and the commencement dates and such like information.

Second, the authorities should provide sufficient information, education and publicity to help consumers choose the banking services which are best suited to their needs and interest.

Third, the HKMA does not have any clearly-defined functions and duties to protect the interest of consumers. The authorities should study the question of whether the HKMA should be more involved in this area. The DAB thinks that making the HKMA more involved in this area would cause less impact on the overall competitiveness of our financial system than to legislate for regulation on bank charges.

Fourth, the Government should continue to hold discussions with the HKMA and the Hong Kong Association of Banks to examine what kinds of measures can be adopted in the long term to mitigate the impact of bank charges on the disadvantaged.

Lastly, the banks should note the principle of using the money it has made from the public on the public. When banks are doing business, they should take up a certain degree of social responsibility and use the money it has earned for the benefit of the people.

Madam Deputy, with more changes in the operating environment of the banks, the authorities should make the necessary preparations well in advance to protect the interest of consumers. With these remarks, I support the amendment of Mr CHAN Kam-lam.

THE PRESIDENT resumed the Chair.

**MR ERIC LI** (in Cantonese): Madam President, if Dr the Honourable David LI is a great master in the banking sector, and the Honourable NG Leung-sing a senior, then I am qualified to be a green junior in the sector. I must declare my interest as I am an independent non-executive director of the Hang Seng Bank. However, I have only assumed office recently. What I am going to speak today will not be on behalf of this bank, I am just speaking in my personal capacity. That is why I feel there is a need for me to clarify this point here.

In the meeting, I have been hearing a lot of Honourable colleagues attacking the banks and this is as ferocious as when they are attacking the Government. I am a bit worried after hearing all this. I am not worried when Honourable Members attack the Government. Earlier on, when this meeting commenced, I spoke for about 16 minutes in my capacity as Chairman of the Public Accounts Committee. What I said were things which the Government would not like to hear. That is because I am not worried at all that the Government is under fire. However, as Hong Kong is an international financial centre, we need to make a distinction when we comment on the Government and the private sector. I agree with what the Honourable Miss CHOY So-yuk has just said. She said that as big organizations, banks should bear a certain degree of social responsibility. But having said that, for any commercial firm, the most important consideration is to survive in a competitive environment.

When we attack the banks with such righteous indignation, we must also understand the basic commercial principles with which they operate. If the Financial Secretary were here, he would certainly say that this is as simple as one plus one equals two, and that he would hope the Legislative Council would really listen. Let me talk a little bit about concepts in accounting. For any commercial firm, its long-term goal must be its survival, then comes the pursuit of reasonable profits. As for the operating costs, it would be inevitable that

some or all of these would be transferred onto the users. For the banks in particular, the costs are reflected in the interest rate and in the charges. If banks are to win in a competitive environment, they must use fleece coming off the sheep's back. This is simple and plain enough.

In addition, I would like to talk about the relationship between charges and costs. I believe no one has talked about this in the meeting so far. Banks have to face the reality. It does not matter if an account has a high or low balance, for it would be the same in terms of management and administrative costs. There will not be any significant difference. However, it is obvious that if banks can get many accounts with a high balance, then these great sums of money can be used in lending and so a greater difference in interest can be earned. So the more money is put into a bank, the greater the amount of money that it can earn. However, the costs are the same regardless of the amount of deposits in a bank. So, for the banks, they should endeavour to attract more clients with a big amount of deposits. And when accounts of a low balance reach a certain number, the administrative costs required may even be more than the difference in interest that can be earned.

I believe banks are different from the Government in that they are more flexible and adaptive. They will adapt to changes in the environment and find the most suitable way to survive. The Honourable Henry WU said earlier that when we are discussing the issue of the increase in bank charges, we should not appear as if we are so innocent as if we know nothing about it. As a matter of fact, we have discussed the issue of the abolition of the IRA in this Council over the past couple of years. A few months ago, we discussed the mandatory deposit insurance scheme. Many people from the banking and financial sectors have stated clearly that we must never ignore the policy implications in such matters. These include the consequence that banks may impose charges on the small depositors as a means of transferring some of the operating costs which have increased. The banks are doing that also because the small depositors are generating the least profits for them. When we were having the discussions, we did not mention the issue of bank charges so much. Now they have almost become a reality. It is because the IRA will be abolished in July this year and that is crystal clear. But all of a sudden, Members have moved the goalposts, saying that the banks cannot increase their charges on the small depositors. If Honourable Members and the political parties make such a decision, I think that it will be very unfair indeed.

I think Honourable Members know very well what the situation is when we discuss the issue. Talking about social responsibility, must banks bear all of it? In other countries, the Government is the principal underwriter of social responsibility. Mr CHAN Kam-lam has said earlier in the debate that post offices in Britain are playing this role. They would provide a certain kind of banking service, that is, to pay out some social benefits on behalf of the Government and to let clients withdraw money from their accounts within a certain period of time. These post offices do not provide a full range of banking services and they do not provide current accounts or other services. This kind of limited banking service is provided by the post offices free of charge. Why can we not follow this example?

I have said in public that if banks are required to pay for such costs, can the Social Welfare Department share a portion of such costs in a bid to help the disadvantaged instead of making the banks to bear all the costs? If we want the banks to consider doing this, we ought to know that the abolition of the IRA is something that the banks must face. After deregulation, the banks will try to reduce costs as much as possible in order to survive. They will offer higher interest rates with their limited resources and within the costs they are incurring. In other words, they will offer higher interest rates to attract the big depositors, thus taking advantage of the difference in interest rates. If they are not allowed to use this means to lower their costs, those banks which have a lot of small depositors will be in a very unfavourable situation when they compete with the other banks.

I agree that in any international financial centre, transparency and social responsibility are required. This is very important. That is why I support every move made by the Consumer Council. However, we are all aware that in this non-monopolistic sector, competition is very keen. For example, the competition in the mortgage loans market is already very intense and I believe the competition in the interest rates will also be very intense. If we want the Government to regulate or intervene in the banking sector, where should the line be drawn? Should the Government do the same when engineers want to increase their fees? Besides, what would the Government do when lawyers and stock brokers want to increase their fees? I think if lines cannot be drawn, then these interventions are not at all desirable. I hope that banks will bear the increase in costs voluntarily without affecting their own economic and financial stability. It would be more appropriate if they can handle this problem by themselves. Thank you, Madam President.

**PRESIDENT** (in Cantonese): Does any other Member wish to speak?

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): Mr LAU Chin-shek, you may now speak on the two amendments.

**MR LAU CHIN-SHEK** (in Cantonese): Madam President, put simply, the amendments by Mr CHAN Kam-lam and Mr Albert HO serve to undermine the two proposals in the original motion. Mr CHAN Kam-lam's amendment negates the due statutory effect of the Code of Banking Practice. As everyone knows, however well written may be the provisions of the Code and whatever it requires banks to do in respect of enhancing the transparency of bank charges, the Code will not be able to do anything without being given statutory effect when a bank does not comply with the Code wholly or in part. In particular, when the people do find non-compliance by banks but can find no sanctions against them under the Code, the people aggrieved will feel frustrated, I believe.

Regarding the proposal to examine whether bank charges should be regulated through legislative means, I believe I have stated clearly at the outset in my motion. I wish to reiterate that my proposal is to urge the Government to examine whether legislative means are required. I never say legislation is now required. I used the words "examine whether", which I believe are rather mild. Moreover, since the Hong Kong Monetary Authority (HKMA) has also said publicly that it will not rule out the possibility of making new laws to regulate bank charges, even though I say I wish to examine whether legislative means are required, the legislative process will not start immediately. My suggestion is after all not a scourge. I now wish to reiterate that it would be very good if banks could of their own accord lay down a set of measures to let the disadvantaged groups use basic banking services free as a form of protection for these groups. By then, it would certainly not be necessary to legislate. I trust a responsible government should at this stage have more than several alternatives to cope; thus, it is necessary to examine whether legislative means are required. However, both amendments negate that necessity. That, I think, is a stance even weaker than that of the HKMA.



Among banks that collect charges on accounts with low aggregate balance, in addition to the Standard Chartered Bank and the Bank of America (Asia) Limited, other banks also exempt the accounts of recipients of welfare benefits as well as those depositors who receive their salaries through banks from paying charges. Dr David LI has responded to this and I trust part of Mr HO's amendment has been satisfied.

I hope Members can support my original motion. Thank you, Madam President.

**SECRETARY FOR FINANCIAL SERVICES** (in Cantonese): Madam President, I am privileged to have the opportunity to spend this evening on 14 February with Honourable Members, listening to the valuable views of Members on ways to protect the rights of small depositors of banks and the beautiful singing of the Honourable LEE Cheuk-yan. This is more meaningful than window-shopping and dinning out with my wife. Here, I wish to thank Mr LAU Chin-shek for choosing to move this motion today. Indeed, Mr LAU is the first person to link St Valentine's Day with bank charges. So, let me thank Mr LAU again.

The increases in charges by some banks on small depositors recently have aroused concern in society. Earlier on a number of Members have mentioned the possible impact of these fee adjustments on the elderly and also recipients of Comprehensive Social Security Assistance (CSSA).

With the globalization of the financial market and the rapid advancements in technology, the banking industry in Hong Kong is facing drastic changes in both the international and local markets. To tie in with the opening up of the market and the gradual deregulation of the industry, which have all along been advocated by Members, it is inevitable for banks to redefine their business strategies and positioning in the market, and to improve efficiency and enhance competitiveness. In the course of consolidation, banks must make choices in respect of their business and clientele. Some banks may seek to expand a particular market, whereas some may contract certain areas of their business. These are all normal commercial decisions of banks.

Recently, we have seen how fierce competition among banks has benefited the property mortgage and tax loan markets. As the Hong Kong Monetary Authority (HKMA) plans to abolish the remaining Interest Rate Agreement (IRA) in July this year, banks can then compete freely in the deposit market by offering different interest rates or by different means. We believe relaxing control and promoting competition are beneficial to the banking industry and consumers as a whole. However, we have to face a reality and that is, in the process of business consolidation by banks and the promotion of competition, the underprivileged in the community might be affected.

In my view, there are three principles which are pivotal to the protection of the rights of small depositors and consumers. First, the transparency of banking services must be enhanced so that consumers can reap the greatest benefits from deregulation. In providing services, banks must ensure sufficient transparency so that consumers can easily compare the services and charges of different banks, hence making choices in their best interest. To this end, the HKMA has set up a working group last year to review the Code of Banking Practice and propose improvement measures to enhance the transparency of credit card services provided by banks and the related charges. The working group is currently conducting a review of other charges for banking services, with a view to ensuring equity in the operation of banks and increasing the transparency of bank charges, and in this connection, the proposal made by Ms Audrey EU earlier regarding the format of information dissemination will be included in the study as well.

Second, banks should give sufficient advance notice to their customers to allow the latter ample time and information to decide whether to continue their patronage before giving effect to any new charges. In this connection, the working group tasked to review the Code of Banking Practice has made another proposal, that is, requiring banks to give individual notice to each affected customer at least 30 days before the adjusted charges come into effect. The HKMA expects these proposals to take effect before the abolition of the remaining IRA in July.

Third, there must be genuine competition in the market to provide consumers with choices. Greater transparency and sufficient advance notice can make the competition mechanism even more effective. There are now some

150 licensed banks in Hong Kong, and their business strategies are diverse. Some may attach more importance to large depositors and regard them as more valued customers, thus imposing higher charges on small depositors. Some may seize the opportunity to waive all charges and even offer concessions to attract small depositors.

On the levy of charges by some banks on small depositors recently, the Government has been closely monitoring the relevant developments. While we do encourage competition among banks, we also hope that in setting charges, banks will minimize the impact on the disadvantaged so that they can have access to basic banking services at reasonable costs. Last month, the HKMA wrote to the Hong Kong Association of Banks, reminding banks to take account of the impact on small depositors, particularly the disadvantaged, when deciding to increase their charges. As of now, only a minority of banks have indicated that they will adjust their charges, and banks that have recently announced increases in charges have clarified that certain categories of people will be exempted from the new charges, including elderly customers above 65 of age, participants of the CSSA and other welfare schemes, and depositors who receive their salaries through their accounts by autopay. We hope that banks can consider public interest and have regard to the special circumstances and needs of the disadvantaged before making decisions on whether or not charges will be adjusted.

According to the survey results published by the Consumer Council last month, different banks have adopted different charging policies. With regard to small depositors, some banks will charge a fee on low balance and inactive accounts. But if the account is used for the payment of welfare assistance and salaries, no charges will be levied by a great majority of banks. Besides, some banks have actively publicized their policy of not charging any fee on small depositors in a bid to solicit business. This shows that competition does exist among banks and consumers do have choices.

We will continue to pay attention to the development of banks charging fees for their services. As to how improvements can be made to the protection of consumer rights, the HKMA will look into the relation between its role as a prudent regulator and the need to safeguard consumer interest within the parameters of the Banking Ordinance. Under the Ordinance, the HKMA has

the duty to ensure effective operation and sound business practices of banks, and to protect the interests of depositors. Nevertheless, the Ordinance has not expressly provided for the powers and responsibilities of the HKMA in respect of the protection of bank customers. Therefore, we will take into consideration various options, including the need to amend the Banking Ordinance.

Before deciding on an option, the HKMA will make reference to the practices and experiences in overseas countries, such as Britain and Australia, and look into whether similar measures should be introduced into Hong Kong. For example, is there a need for Hong Kong to set up a body similar to the Banking Code Standards Board in Britain to review and monitor compliance with the Banking Ordinance by banks, as suggested by Mr SIN Chung-kai earlier? Or should we introduce an ombudsman scheme similar to that implemented by the British Bankers Association to handle complaints from bank customers? Further, should banks provide certain basic banking services to ensure that members of the public have access to such services at reasonable costs? How can we improve the disclosure criteria of banking services and how can we enhance consumer education? We will consult the industry and the public before making decisions.

In fact, many proposals that seek to protect bank customers or the disadvantaged are still being discussed and developed. For instance, as Members may know, reforms in Britain have been carried out for almost 20 years. This shows that this is not a simple task. We need to make reference to overseas practices in the light of the circumstances in Hong Kong, and propose improvement measures for public consultation before coming to a decision.

Earlier on, Members have made some suggestions on ways to protect the interests of small depositors, the elderly and the disadvantaged. I shall respond to these suggestions here. The Code of Banking Practice is promulgated jointly by the Hong Kong Association of Banks and the Deposit-taking Companies Association, and is endorsed by the HKMA. The Code, the compliance with which is voluntary, provides a standard for the business practices of banks. The Code has been operating well since its implementation in 1997 and has raised the standard of the operation of banks.

Given the ever-changing business practices of banks, if the Code of Banking Practice becomes statutory, a much longer time will be required for any necessary amendment to be made to the Code. It may also involve problems relating to the making of legislation and may lead to court proceedings, thus

jeopardizing the flexibility of the Code and undermining its effect. In fact, many provisions in the Code are wide-ranging. As Members have said earlier, making the Code statutory will only undermine its flexibility. Moreover, overseas experience shows that voluntary compliance with the code has its merits. In Britain and Australia, for example, compliance by banks is also voluntary and their codes of banking practice do not carry any legal effect.

In fact, the effectiveness of the Code of Banking Practice does not hinge on whether or not it is legally binding. I think the most important question is whether banks comply, and whether the Code can be effectively enforced and whether effective sanctions can be imposed in case of non-compliance by banks. This is the most important point.

Earlier on Mr SIN Chung-kai questioned the effectiveness of the Code. In this regard, the HKMA has stepped up its assessment of the enforcement of the Code in banks. Meanwhile, the HKMA will also require the internal audit division of each bank to submit a report on compliance by their banks. In case of non-compliance and if no improvement is made despite repeated warnings, the HKMA will take appropriate actions and assess whether the business of the bank is conducted in an impartial and prudent manner, and in a way that reaches a proper professional standard, which are amongst the criteria for banks to retain their authorized status. We believe these measures will more effectively raise the standard of banking practices. We will also make reference to overseas practices, for instance, the Banking Code Standards Board in Britain, as I mentioned just now. The HKMA is working with the Hong Kong Association of Banks to explore ways to improve the Code, for instance, by stepping up sanctions. If necessary, we will consider whether the statutory powers as conferred on the HKMA by the Banking Ordinance should be revised for purposes of protecting consumers of banking services and ensuring compliance with the Code by banks. Of course, before we really come to this decision in future, we will certainly consider the resources required for enforcement and conduct extensive public consultations.

We consider that bank charges should be determined by the market and therefore, we do not support imposing control by way of legislation. As long as the competition mechanism works well and encompasses sufficient transparency, the market will naturally provide a diversity of choices for consumers and ensure that the charges are maintained at reasonable levels.

In fact, I think Dr David LI will also agree that banks know better than the Government in running businesses, and consumers also know how to make a choice. The Government should not set the level of charges for banks, just as the Government should not give instructions to listed companies regarding the payment of dividends, or give instructions to insurance companies as to how premiums should be determined, as the Honourable Bernard CHAN has said earlier in the debate.

As Mr CHAN Kam-lam has said earlier, making legislation to regulate bank charges goes against the principles of market liberalization and deregulation.

Finally, I wish to reiterate the position of the Government. Regarding the increases in charges by banks on small depositors, we are very concerned about the impact on the elderly and the disadvantaged. We consider it necessary to enhance the transparency of the charging policies of banks, and banks must give sufficient notice to their customers before the adjustment of charges in order to protect the interests of depositors. Certainly, we must ensure genuine competition in the market. Otherwise, depositors will have no choice if all banks join forces to agree on the level of charges. In that case, we will have to consider resorting to legislative means in order to protect public interest.

At present, it is most important to ensure adherence to the three major principles that I have just explained for the protection of depositors, namely, enhancing the market competition mechanism, improving transparency and creating the conditions for competition among banks, thereby enabling consumers to make informed choices. The HKMA is working with the Hong Kong Association of Banks in concert to review the Code of Banking Practice, with a view to reinforcing these elements.

Broadly speaking, the Code of Banking Practice has been operating well and it is unnecessary to give the Code legal effect for the time being. The Government should not decide the level of bank charges so as not to impede the development of the market. However, if there is proof of a failure of the competition mechanism, resulting in members of the public being denied basic banking services, I will consider taking appropriate measures. The HKMA will

draw on overseas experience and study ways to promote competition, including introducing amendments to the Banking Ordinance, with a view to enhancing the consumer protection.

Thank you, Madam President.

**PRESIDENT** (in Cantonese): I now invite Mr CHAN Kam-lam to move his amendment to the motion.

**MR CHAN KAM-LAM** (in Cantonese): Madam President, I move that Mr LAU Chin-shek's motion be amended, as set out on the Agenda.

**Mr CHAN Kam-lam moved the following amendment: (Translation)**

"To add "and the Hong Kong Monetary Authority" after "this Council urges the Government"; to delete "give statutory effect to" and substitute with "review the relevant provisions in"; to delete "expressly stipulate the penalties for non-compliance" and substitute with "so as to enhance the transparency of fee revisions by banks"; and to delete "whether bank charges should be regulated through legislative means" and substitute with "the empowerment of the Hong Kong Monetary Authority to protect consumers of banking services"."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr CHAN Kam-lam to Mr LAU Chin-shek's motion, be passed.

**PRESIDENT** (in Cantonese): I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

**PRESIDENT** (in Cantonese): Those against please raise their hands.

(Members raised their hands)

Mr CHAN Kam-lam rose to claim a division.

**PRESIDENT** (in Cantonese): Mr CHAN Kam-lam has claimed a division. The division bell will ring for three minutes.

**PRESIDENT** (in Cantonese): Will Members please proceed to vote.

**PRESIDENT** (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Functional Constituencies:

Mr Kenneth TING, Mr James TIEN, Mrs Selina CHOW, Mr CHEUNG Man-kwong, Mr HUI Cheung-ching, Mr CHAN Kwok-keung, Mrs Sophie LEUNG, Mr SIN Chung-kai, Mr WONG Yung-kan, Mr Howard YOUNG, Mr LAU Wong-fat, Mrs Miriam LAU, Mr LAW Chi-kwong, Miss LI Fung-ying, Mr Tommy CHEUNG and Mr IP Kwok-him voted for the amendment.

Dr Raymond HO, Mr Eric LI, Dr David LI, Miss Margaret NG, Mr Bernard CHAN, Dr Philip WONG, Dr LO Wing-lok and Mr LAU Ping-cheung voted against the amendment.

Mr Henry WU and Mr Michael MAK abstained.



Geographical Constituencies and Election Committee:

Mr Albert HO, Mr Martin LEE, Mr Fred LI, Mr James TO, Miss CHAN Yuen-han, Mr CHAN Kam-lam, Mr Jasper TSANG, Dr YEUNG Sum, Mr LAU Kong-wah, Miss CHOY So-yuk, Mr Andrew CHENG, Mr SZETO Wah, Mr TAM Yiu-chung, Mr Albert CHAN, Mr WONG Sing-chi, Ms Audrey EU, Mr David CHU, Prof NG Ching-fai, Mr YEUNG Yiu-chung and Mr Ambrose LAU voted for the amendment.

Miss Cyd HO, Mr LEE Cheuk-yan, Mr LEUNG Yiu-chung, Mr Andrew WONG, Mr LAU Chin-shek, Miss Emily LAU and Mr NG Leung-sing voted against the amendment.

THE PRESIDENT, Mrs Rita FAN, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 26 were present, 16 were in favour of the amendment, eight against it and two abstained; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 28 were present, 20 were in favour of the amendment and seven against it. Since the question was agreed by a majority of each of the two groups of Members present, she therefore declared that the amendment was carried.

**PRESIDENT** (in Cantonese): Mr Albert HO, as Mr CHAN Kam-lam's amendment has been passed, I have given you leave to revise the terms of your amendment, as set out in the paper which was circularized to Members on 13 February. You have three minutes to explain the revised wording of your amendment.

**MR ALBERT HO** (in Cantonese): Madam President, in fact, my amendment is revised mainly to delete the part that overlaps with Mr CHAN Kam-lam's motion. So, Members may wish to know that if Mr CHAN Kam-lam's motion is passed, the question left for Members' consideration is whether they support the other part of my amendment, that is, the part concerning the drawing up of a code of

practice to prohibit banks from engaging in acts of the so-called "cartel" nature, or more specifically, forming a cartel that leads to unfair competition practices, which is not mentioned by Mr CHAN Kam-lam. Therefore, I hope Members can support this part of my amendment. I so submit.

**Mr Albert HO moved the following amendment: (Translation)**

"To delete "examine at the same time whether bank charges should be regulated through legislative means" and substitute with "include provisions to prohibit banks from forming a cartel and engaging in other acts which violate the principle of fair competition, and to require banks, in formulating their charging policies on small depositors, to exempt the accounts of recipients of welfare benefits as well as those depositors who receive their salaries through banks from paying charges". "

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That Mr Albert HO's amendment to Mr LAU Chin-shek's motion as amended by Mr CHAN Kam-lam be passed.

**PRESIDENT** (in Cantonese): I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

**PRESIDENT** (in Cantonese): Those against please raise their hands.

(Members raised their hands)

Mr CHAN Kam-lam rose to claim a division.

**PRESIDENT** (in Cantonese): Mr CHAN Kam-lam has claimed a division. The division bell will ring for three minutes.

**PRESIDENT** (in Cantonese): Will Members please proceed to vote.

**PRESIDENT** (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Functional Constituencies:

Mr CHEUNG Man-kwong, Mr CHAN Kwok-keung, Mr SIN Chung-kai, Mr WONG Yung-kan, Mr LAW Chi-kwong, Miss LI Fung-ying, Mr Michael MAK and Mr IP Kwok-him voted for the amendment.

Mr Kenneth TING, Mr James TIEN, Dr Raymond HO, Mr Eric LI, Dr David LI, Miss Margaret NG, Mrs Selina CHOW, Mr HUI Cheung-ching, Mr Bernard CHAN, Mrs Sophie LEUNG, Dr Philip WONG, Mr Howard YOUNG, Mr LAU Wong-fat, Mrs Miriam LAU, Mr Tommy CHEUNG, Dr LO Wing-lok and Mr LAU Ping-cheung voted against the amendment.

Mr Henry WU abstained.

Geographical Constituencies and Election Committee:

Mr Albert HO, Mr Martin LEE, Mr Fred LI, Mr James TO, Miss CHAN Yuen-han, Mr CHAN Kam-lam, Mr Jasper TSANG, Dr YEUNG Sum, Mr LAU Kong-wah, Miss CHOY So-yuk, Mr Andrew CHENG, Mr SZETO Wah, Mr TAM Yiu-chung, Mr Albert CHAN, Mr WONG Sing-chi, Ms Audrey EU and Mr YEUNG Yiu-chung voted for the amendment.

Miss Cyd HO, Mr LEE Cheuk-yan, Mr LEUNG Yiu-chung, Mr Andrew WONG, Mr LAU Chin-shek, Miss Emily LAU, Mr David CHU, Mr NG Leung-sing, Prof NG Ching-fai and Mr Ambrose LAU voted against the amendment.

THE PRESIDENT, Mrs Rita FAN, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 26 were present, eight were in favour of the amendment, 17 against it and one abstained; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 28 were present, 17 were in favour of the amendment and 10 against it. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the amendment was negatived.

**MR ANDREW WONG** (in Cantonese): Madam President, may I have your permission to look at the voting result first, so that I can have an idea about how Members had voted before I cast my vote? As I do not have eyes on my back, I cannot see how Members behind me had voted in the show of hands.

**PRESIDENT** (in Cantonese): Mr WONG, please sit down first.

**MR ANDREW WONG** (in Cantonese): All I wish to know is how other Members had voted.

**PRESIDENT** (in Cantonese): Mr WONG, I cannot accede to your request. The reason is that Members cast their votes out of their own choice, and how other Members have voted theoretically should not be an absolute factor that will affect how you are going to vote.

I now call upon Mr LAU Chin-shek to reply. Mr LAU, you have three minutes 45 seconds.

**MR LAU CHIN-SHEK** (in Cantonese): Madam President, I am particularly grateful to Dr David LI who represents the banking sector because this motion has made many bankers go to him, asking him to speak for them. So, not only must he be present here after three o'clock today (*laughter*), he also has to stay a little bit longer tonight even on St Valentine's Day before he can immerse

himself in romance. Similarly, I must also apologize to Honourable colleagues and government officials as well.

This motion is obviously directed at the banking sector, particularly banks that are trying to bleed the poor. However, I trust that Dr David LI's bank will not take any measure to the detriment of the poor for he has always spoken from a sense of justice on labour rights and welfare issues, and he indeed commands our respect.

When it comes to banks, many people will lament that banks only "give out an umbrella on sunny days and take it away on rainy days", meaning that banks will lend more money to the rich but for people who urgently need money, banks will take away all the money that they have got, however meagre the amount is. Like ordinary citizens, I am not a businessman so I really do not identify with this comment very strongly. Besides, like ordinary citizens, my general impression of banks is also built up little by little over the passage of time. But from the practices now adopted by some banks, I think they are trying to penalize people who are badly off and target at the poor, in an attempt to force the badly-off people out of the way. This is not only unsympathetic, but also placing too much emphasis on business gains; and the good impression that the people have of banks has been shattered overnight. Originally, I thought this motion and the two amendments would be voted down altogether, but surprisingly there have been some dramatic changes. I just wish to take this opportunity to urge the banking sector to do good deeds so as to rebuild a good impression of banks among members of the public. Thank you, Madam President.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the motion moved by Mr LAU Chin-shek, as amended by Mr CHAN Kam-lam, be passed. Will those in favour please raise their hands?

(Members raised their hands)

**PRESIDENT** (in Cantonese): Those against please raise their hands.

(Members raised their hands)

Mr LAU Chin-shek rose to claim a division.

**PRESIDENT** (in Cantonese): Mr LAU Chin-shek has claimed a division. The division bell will ring for three minutes.

**PRESIDENT** (in Cantonese): Will Members please proceed to vote.

**PRESIDENT** (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Functional Constituencies:

Mr Kenneth TING, Mr James TIEN, Mrs Selina CHOW, Mr CHEUNG Man-kwong, Mr HUI Cheung-ching, Mr CHAN Kwok-keung, Mrs Sophie LEUNG, Mr SIN Chung-kai, Mr WONG Yung-kan, Mr Howard YOUNG, Mr LAU Wong-fat, Mrs Miriam LAU, Mr LAW Chi-kwong, Miss LI Fung-ying, Mr Tommy CHEUNG, Mr Michael MAK and Mr IP Kwok-him voted for the motion as amended.

Dr Raymond HO, Mr Eric LI, Dr David LI, Miss Margaret NG, Mr Bernard CHAN, Dr Philip WONG, Dr LO Wing-lok and Mr LAU Ping-cheung voted against the motion as amended.

Mr Henry WU abstained.

Geographical Constituencies and Election Committee:

Mr Albert HO, Mr Martin LEE, Mr Fred LI, Mr James TO, Miss CHAN Yuen-han, Mr CHAN Kam-lam, Mr Jasper TSANG, Dr YEUNG Sum, Mr LAU Kong-wah, Miss CHOY So-yuk, Mr Andrew CHENG, Mr SZETO Wah, Mr TAM Yiu-chung, Mr Albert CHAN, Mr WONG Sing-chi, Ms Audrey EU, Mr David CHU, Prof NG Ching-fai, Mr YEUNG Yiu-chung and Mr Ambrose LAU voted for the motion as amended.

Miss Cyd HO, Mr LEE Cheuk-yan, Mr LEUNG Yiu-chung, Mr Andrew WONG, Mr LAU Chin-shek, Miss Emily LAU and Mr NG Leung-sing voted against the motion as amended.

THE PRESIDENT, Mrs Rita FAN, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 26 were present, 17 were in favour of the motion as amended, eight against it and one abstained; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 28 were present, 20 were in favour of the motion as amended and seven against it. Since the question was agreed by a majority of each of the two groups of Members present, she therefore declared that the motion as amended was carried.

**PRESIDENT** (in Cantonese): Second motion: Proposals for the next Budget.

## **PROPOSALS FOR THE NEXT BUDGET**

**DR YEUNG SUM** (in Cantonese): Madam President, I am glad we have this opportunity today to put forward our proposals for the next Budget when the overall financial situation is still in the charge of the incumbent Financial Secretary.

Madam President, I believe Members of the Council will agree that this motion debate is a prelude to the Budget debate. Recently, the Government has mentioned many times that the budget deficit for the year might amount to \$10 billion. While I do not know whether the Financial Secretary is "crying wolf" again, the fact remains that the general public has not yet been able to benefit from the recovery of the economy even though the Government has in hand a handsome \$430 billion in fiscal reserves. Here, I should like to raise an important point for the Financial Secretary's careful consideration. We hope to see the Financial Secretary making good use of the fiscal reserves in the Budget

to be published shortly, rather than cutting back on public expenditure just because of the short-term deficits. On top of all, we hope that he will not hastily introduce any new tax items to add to the burden on the general public.

In recent years, the Government has kept talking about its "impoverishment" and cutting expenditure on services on the grounds of budget deficit. Examples in this connection include cutting government spending on social welfare, introducing a lump sum grant subvention mode to reduce the funding provided for subsidized agencies, cutting the number of outreaching social work teams, granting less subsidy to youth centres, giving force to proposals for privatizing government departments and contracting out services. Not long ago, the grants and subsidies provided for universities have also been reduced. All these measures have served to impact gravely on the services provided for the general public. According to the medium range forecast made by the Government last year, in order to return to a balanced budget as soon as possible and to fill the gap between the accumulated growth of government expenditure and that of the Gross Domestic Product (GDP) by 2003-04, the growth of government expenditure for next year and the year after next would be stringently restricted to 2.5% and 0.6% respectively. However, the economy has just started to recover, so far the general public has not yet been able to benefit from the growth of the economy as the rate of unemployment is still high and people's wage levels have not been improved visibly. Given that the people are in the midst of untold sufferings, the Government really should not seek to reduce government expenditure by cutting back on services that are related to the people's livelihood.

Madam President, to cater for the government spending needs arising from its public service undertakings, the Government has two options, namely, to allow the fiscal reserves to run down, and to explore new revenue items under the existing tax regime. At present, the Government is holding a handsome \$430 billion in fiscal reserves, which is 1.5 times that of the \$280 billion annual public expenditure. Hence, the Democratic Party considers that the Government will still be holding ample fiscal reserves after running it down to deal with some minor short-term deficits. Moreover, the deficit of \$10 billion forecast by the Government, which represents less than 1% of the GDP, should be considered as mild and acceptable compared to the 3% international standard of acceptable deficit level. I really cannot see any reason why the Government has to hastily devise a surplus budget just because of these short-term mild



deficits. What is more, it just should never seek to levy new taxes on people belonging to the middle and lower strata of society or cut government spending on services that are related to the people's livelihood. Actually, the Government should take this opportunity made available by the gradually improving economy to make good use of the fiscal reserves to enhance government services.

This view is in line with the wish of the public. In a survey conducted last week, the Democratic Party successfully interviewed 500-odd members of the public about their expectations of this year's Budget. We found that whereas some 45% of the interviewees believe the Government should run down the fiscal reserves to enhance services that are related to the people's livelihood, only 18% support the existing practice of the Government to accumulate fiscal reserves by making investment returns. When being asked how they should like the Government to deal with the possible deficit of \$10 billion, most of the people interviewed actually considered that the Government should make use of the fiscal reserves to deal with the short-term deficits rather than minding too much about them.

Madam President, now I should like to switch to the second option, which is to explore new revenue items under the existing tax regime to cater for public spending needs. Although the Democratic Party does not agree with the premature judgement made by the Government that the operating deficits has already developed into a structural problem, we do agree that there is a need for the existing tax regime to be slightly adjusted, so that more resources can be generated to help improve the various social services on the one hand, and the regime itself can be improved and brought more in line with the principle of equity on the other.

In the past, because of the high land price policy, revenue from landed property and other related sources would always amount to as much as 30% of the Government's total income. It was only after the financial turmoil that the relevant ratio dropped to 14%. Nevertheless, since the Government has recently announced its decision to tighten land supply, the Democratic Party is concerned that this might be a measure employed by the Government to revert to the old high land price policy. The Democratic Party holds that the Government must abandon its high land price policy and put up enough land for

sale instead to cope with actual needs, so that property prices can be maintained at a stable level. In that case, the amount of revenue coming from landed property and other related sources will drop correspondingly, and the Government will need to find ways to fill the gap to ensure that government spending can be maintained at its current level. Apart from revenue from landed property, the existing salaries tax net also calls for a review. I am not talking about the problem that less and less members of our working population are caught by the tax net. After all, what most people earn is but a meagre income, the amount of tax they need to pay is of course very limited. The Democratic Party is concerned about the high-salaried people — people who are earning a huge salary — and the many ways they employed to escape from the tax net. To cite an example, while more and more large companies are issuing share warrants to their employees in lieu of salary, betterment income can very easily fall out of the tax net and thus resulting in a huge loss to public revenue. As regards the standard rate of salaries tax and the flat rate of profits tax, since they are not progressive enough, unfair and affecting adversely the revenue of the Government, they must be reviewed as well.

Whereas revenue from salaries tax and profits tax accounted for some 38% to 40% of the Government's total income 10 years ago, the ratio dropped to around 30% in 1997-98. Thanks to the exorbitant land prices, property prices and rentals, the ratio of revenue from landed property and related sources, by contrast, has risen from 10% 10 years ago to 30% in 1997. In paying the huge rentals and property prices, the public are in effect paying tax to the Government. In the view of the Democratic Party, the Government should increase gradually the ratio of salaries tax and profits tax to its total revenue, so that it can rely less on land-related sources for revenue. However, to ensure that the tax burden is shared fairly, any adjustment must be made in a progressive manner, which means that tax rates should rise progressively with the amount of salary or profit earned.

The Government may consider two options as a first step. Firstly, it can introduce a progressive profits tax system to encourage small and medium enterprises to develop and to maintain vertical equity of the tax system. The Democratic Party suggests the Government levying profits tax on those enterprises earning an annual taxable profit of over \$10 million — I repeat, levying on those enterprises earning an annual taxable profit of over \$10

million — at a rate of 17%, which is one percentage point higher than the current rate of 16%. According to government information, at present, there are about 2 300 enterprises earning an annual taxable profit of more than \$10 million — they are large enterprises earning an annual taxable profit of more than \$10 million — and such enterprises represent only some 4.5% of the enterprises doing business in Hong Kong. In other words, 95% of the enterprises will not be affected by the proposal put forward by the Democratic Party, which will nevertheless bring about a gain of some \$1.8 billion to \$2 billion in tax revenue.

Secondly, the Government may consider abolishing the standard rate of salaries tax. That way, the high salaried taxpayers — they are people earning a huge salary — will have to pay tax at a marginal tax rate of 17%. Taking a single person as an example, with the existing tax rates, only those who earn more than \$1.5 million a year, or more than \$120,000 monthly, will be affected by the proposal. As regards those "diamond class" wage earners making some \$10 million a year, they would need to pay 10% more tax. This proposal will affect only 10 000 salaries tax payers or some 0.3% of the working population, yet it can generate \$300 million more for the Treasury.

With the increased income, the Government may enhance those social services that are related to the people's livelihood. Besides, it may also introduce tax concessions to alleviate the tax burden on the lower and middle classes. In this connection, I have put forward two proposals in my motion, including increasing the amount of home loan interest deduction and introducing a mechanism for salaries tax allowances to be adjusted annually in line with the rate of inflation.

Madam President, since this Council will debate a motion on negative assets next week, I believe it is more appropriate to wait until then to discuss in detail the proposals for resolving or alleviating the problem of negative assets. Nevertheless, I still wish to explain the relevant proposals briefly as a tax concession. In order to alleviate the interest burden on people servicing a home loan, the Democratic Party suggests the Government increasing the amount of home loan interest deduction from \$100,000 to \$180,000. In other words, people with a home loan can have a deduction of \$80,000 from their taxable income and save \$8,000 on their tax payments calculating on an average tax rate at 10%. This proposal can benefit more people, including those belonging to the middle class.

As regards the proposal for adjusting tax allowances automatically, this is put forward mainly to improve the existing mechanism to bring it more in line with the principle of equity. Given that most of the tax allowances are used as allowances provided by the Government to subsidize the daily expenses of taxpayers, introducing a mechanism for salaries tax allowances to be adjusted annually in line with the rate of inflation by means of subsidiary legislation under the Inland Revenue Ordinance will enable taxpayers to receive a corresponding adjustment of their tax allowances. Besides, since salary levels will generally rise in times of inflation, people's taxable income will naturally rise. This proposal can help people to alleviate their tax burden without affecting the revenue of the Government. As such, this is in line with the principle of equity. Given that there is still a deflation rate in Hong Kong, the income of the Government will not be affected for the time being.

Lastly, I should like to speak briefly on the green tax reform proposal. Over the past 10 years, green tax reform has become an international trend. In the face of the economic recession and serious unemployment problem in the '90s, countries in Europe and North America introduced a proposal for introducing environment-related taxes on the one hand, and helping enterprises to make savings in their expenses on employees (such as contributions to social security insurance) on the other, with a view to achieving a win-win objective — to protect the environment and create more employment opportunities at the same time. In 1994, Denmark, the Netherlands, Norway and Sweden started their reform on a limited scale, so that some 3% to 4% of these countries' Gross Nation Product is comprised of revenue from environment-related tax items. At present, many countries have already set up ad hoc committees to launch and intensify their green tax reforms.

The Democratic Party suggests the Government incorporating green tax reform into the scope of its tax review. Nevertheless, I need to emphasize here that rather than concentrating on increasing the overall income of the Government, the objective of the green tax reform is to change the consumer behaviour of the people and to promote environmental protection. Hence, tax should be levied on both the highly polluting products and the not so highly polluting products. When the tax effect is reflected in the prices of products, consumers will be encouraged to purchase the comparatively cleaner products. Further still, the Democratic Party holds that in addition to environmental protection, the competitiveness of enterprises as well as the financial capacity of the low-income strata must also be taken into consideration when introducing the green tax reform.

With these remarks, Madam President, I beg to move.

**Dr YEUNG Sum moved the following motion: (Translation)**

"That, as the general public has not yet been able to benefit from the recovery of the economy, this Council urges that, in drawing up the Budget for the next fiscal year, the Government should, having regard to its huge fiscal reserves and the growth in the economy, correspondingly increase government spending and study the feasibility of the following taxation measures, in order to relieve the tax burden on the lower and middle classes and give an impetus to environmental protection:

- (a) increasing the amount of home loan interest deduction;
- (b) introducing a mechanism for salaries tax allowances to be adjusted annually in line with the rate of inflation and to remain unchanged in times of deflation;
- (c) abolishing the standard rate of salaries tax and setting the maximum marginal rate of salaries tax at a level similar to the rate of profits tax;
- (d) introducing a progressive profits tax system with two tax bands; and
- (e) promoting green tax reform, on the basis of the tax shifting principles as far as possible, and with the aim of not increasing the Government's overall revenue, changing the modes of production of enterprises and the public's spending habits through financial incentives."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the motion moved by Dr YEUNG Sum be passed.

**PRESIDENT** (in Cantonese): Miss CHAN Yuen-han and Mr James TIEN will move amendments to this motion. Their amendments have been printed on the Agenda. This Council will now debate the motion and the two amendments together in a joint debate.

I will call upon Miss CHAN Yuen-han to speak first, to be followed by Mr James TIEN; but no amendments are to be moved at this stage.

**MISS CHAN YUEN-HAN** (in Cantonese): Madam President, for quite some time in the past we often heard people talk about "the economy is recovering but the public are not in any way benefited". Indeed, from the relevant financial data, economic growth is recorded mainly in the export and re-export sectors, other trades and industries have yet to recover. In a recent survey conducted in relation to the people's consumption, the Democratic Alliance for Betterment of Hong Kong (DAB) noticed that although the consumer sentiment of the public was on an upturn and there was some improvement in certain individual consumption items compared to the situation last year, the rate of increase in both cases was very small, reflecting the fact that the consumer market was still sluggish. The findings of the survey also reflected that close to 50% of the interviewees considered that they were worse off than the previous year in terms of their quality of life and personal financial situation, whereas about a quarter of the interviewees indicated that they had spent less compared to the year before. The result of this survey is proof positive that the economy is recovering but the public are not in any way benefited.

On the other hand, as Hong Kong is developing gradually towards a knowledge-based, high technology and high value-added economy, society will become increasingly polarized. Members of the public at grass-roots levels who fail to survive the economic restructuring are faced with problems such as unemployment, underemployment, wage freeze, and so on. According to a survey conducted by the DAB, more than 50% of the people interviewed were concerned about a pay reduction or a 0% pay rise in the coming year, and that they might be made redundant or remain unemployed. Apart from that, more than 30% of the interviewees also forecast that their household income in the coming year would be slightly lower than that of the current year. From these survey findings, we can see that the public are still not optimistic about the future.

Madam President, thanks to the financial management philosophy of "fiscal prudence" and "keeping expenditure within the limits of revenues" as well as the excellent land sale results, the Government was able to accumulate hundreds of billions of dollar in fiscal reserves for Hong Kong. In view of the current economic situation, which is far from optimistic, we consider that the Government should adopt the attitude of "spending money for justifiable causes" and appropriately raise the level of government expenditure to promote the development of small and medium enterprises, create more job opportunities, and stimulate the tourism and retail industries, with a view to giving an impetus

to the local economy, reducing the rate of unemployment and ameliorating the polarization between the rich and the poor, thereby reviving the consumer sentiment of the public and enabling everyone to enjoy the benefits of economic recovery.

Madam President, taxation is an important means of redistributing wealth. In the face of the present situation where the recovery of the local economy is reflected in some of our industries and the increasing polarization between the rich and the poor, the role of the tax system in redistributing wealth and resources should be given full play. The Hong Kong Federation of Trade Unions (FTU) and the DAB have, for many times, put forward to the Financial Secretary proposals for improving Hong Kong's tax system to alleviate the sufferings of the people. For example, we have suggested introducing a progressive tax system, which is similar to the one put forward in the motion moved by Dr YEUNG Sum from the Democratic Party. As regards the proposal for introducing a mechanism for salaries tax allowances to be adjusted annually in line with the rate of inflation and to remain unchanged in times of deflation, we will also give it our support. As a matter of fact, it was not possible for the Government to do so during the difficult times in these past few years. With regard to the home loan interest deduction for self-occupied flats, we consider that the Government should extend the period for which the deduction could be granted from the current period of five years to 10 years. Hence, I have proposed a minor amendment to the original motion in this respect. As to the amount of deduction, we are generally in support of the proposals put forward by the Democratic Party and the Liberal Party, both of which are calling for an increase on the present level.

To further alleviate the burden on the public, I have put forward yet another three proposals. The first one is to provide tax reduction for contributions to private medical insurance schemes to encourage the public to take out private medical insurance policies, so as to enable patients who can afford the costs to receive higher quality medical services. Besides, as these patients are streamed to the private health care system, the existing pressure on the medical and health care agencies in the public sector can also be alleviated. The second one is the proposal for abolishing the upper limit on the deduction for expenses on self-education, with a view to encouraging the public to pursue continuing education to help improve both the personal competitiveness of the individuals concerned and the competitiveness of Hong Kong as a whole. As regards the third one, it urges the Government to reduce the rates percentage

charge from 5% to 3%. We have put forward this proposal since a long time ago because it is a very important measure to alleviate the burden on the public. Given that salaries taxpayers account for less than 50% of the salaried population, any adjustments to the salaries tax allowances will only benefit a small number of taxpayers. The grassroots will not be benefited in any sense. On the contrary, since rates are payable by almost all households, reducing the rates percentage charge can benefit those who are not required to pay salaries tax.

Furthermore, in order to provide small and medium enterprises (SEMs) with greater support, I have put forward a proposal for granting an additional deduction equivalent to 1.5 times of the expenses of SEMs on scientific research and training. The former part of the proposed additional deduction can encourage SEMs to invest in scientific research, with a view to enhancing productivity to cope with the development in international trade. As regards the latter part of the proposal, it will help encourage enterprises to invest in human resources training and to take on a greater responsibility to train up local personnel, thereby upgrading the quality of employees and enhancing productivity. This proposal can help the SEMs in Hong Kong to continue developing in a business environment full of competition and competitors.

Madam President, apart from pointing out the parts of Dr YEUNG's motion that we agree with and the additional parts we propose to it, I should also like to expound on the difference in perspective between my proposed amendment and Dr YEUNG's motion. On the environmental protection-related tax proposal, product manufacturers have a very important role to play in reducing waste production. For this reason, we suggest the Government introducing a recovery deposit system for manufactures and levying landfill charges on businesses and industries, with a view to inducing businesses and industries to recover the recyclable waste on the one hand, and to reduce the production of accessories with no practical use on the other. The idea of this proposal is similar to that of the Democratic Party on introducing recovery tax and commercial product pollution tax.

With regard to the green tax proposed by the Democratic Party, we are particularly concerned with the stance of the Democratic Party on sewage charges and waste disposal charges. We have also conducted research studies in this regard. The Democratic Party supports the cost-recovery principle and the "polluter pays" principle. Yet we consider that this must be handled with great care, particularly the collection of sewage charges. Household sewage



charges are payable by all households but are not linked with the volume of sewage discharged; as such, they only serve to add to the burden of the public but help little in reducing the volume of sewage produced. At present, even though the pollution problem caused by the catering industry is not as serious as that caused by other industries, the sewage charge it has to pay is the same as that payable by others. Actually, at the meetings of the former Legislative Council, our former colleague, Mr CHAN Wing-chan expounded on our stance and dissimilar views on this matter for many times. Let me cite an example. Because of their strong financial capability, large-scale catering enterprises are able to appeal to the Court against the unfair charges levied on them. With the court ruling, they are awarded a reduction in the amount of sewage charges they have to pay. On the other hand, since the small and medium catering enterprises cannot afford the cost of legal actions, they have to pay the exorbitant sewage charges anyhow. This is indeed unfair. Hence, in handling matters relating to cost recovery and the "polluter pays" principle, we must deliberate each case on its merits and take into account in particular the financial ability of the grassroots as well as that of the SEMs.

In addition, Madam President, we have also studied the proposal put forward by Dr YEUNG Sum to abolish the standard rate of salaries tax. In the past, whenever the FTU and the DAB touched upon issues relating to the taxation policy, we would always urge the Government strongly to review the tax regime in Hong Kong, so that it could cope with such latest economic developments as economic restructuring, e-commerce and the impact of on-line securities dealing on the revenue of the Government. We consider that this proposal must be handled very carefully and reviewed together with the taxation policy as a whole to assess the possible effects of the abolition of the standard rate of salaries tax. We believe this is of the utmost importance.

Madam President, it is mainly because we disagree with Dr YEUNG Sum from the Democratic Party over these two issues that I have proposed to amend his original motion. I hope Members will lend me their support.

**MR JAMES TIEN** (in Cantonese): Madam President, I totally support the first part of Dr YEUNG Sum's original motion, that is, the preamble before points (a), (b), (c), (d) and (e). And, Miss CHAN Yuen-han's amendment does not propose any drastic revision of the original motion; she has only added a point about SME expenses on scientific research and training, and she also mentions

the need to improve the business environment, something I also talk about in my amendment. All this is no big problem anyway. In essence, the original motion says that since the general public has not yet been able to benefit from the recovery of the economy, the Government should, having regard to its huge fiscal reserves, increase government spending. But it also urges that the Government should relieve the tax burden on the lower and middle classes and encourage environmental protection. The Liberal Party totally supports all these proposals. However, the Liberal Party totally disagrees to two of the five taxation measures, namely the third and fourth measures.

Let me start with the fourth measure, that is, the introduction of a progressive profits tax system with two tax bands. Over the years, both foreign and local investors have built up an understanding of the very simple taxation system of Hong Kong. Even foreign investors do not need any further explanation about the taxation system. And, this taxation system has maintained a stable source of tax revenue for the Government of Hong Kong. If the Democratic Party really thinks that the concept of a progressive tax system should be introduced to profits tax, then why does it propose two tax bands only, instead of three or four bands? Why does it set the threshold of the progressive tax system at \$10 million, that is, at a point which makes it necessary for 2 300 companies to pay more in profits tax? Why does it not propose a rate of 18% for profits over \$100 million and a rate of 20% for profits over \$1 billion? If it really wishes to introduce a progressive profits tax system, why does it set the threshold at \$10 million only?

No doubt, under the proposal of the Democratic Party, the figures computed may not look too bad, for only 4.5% of companies, or 2 300 companies, are going to be affected, but there will be an additional tax revenue of \$1.8 billion. But I am of the view that this will deliver a message to many investors that the Government of Hong Kong has opened the floodgate. Once the floodgate is opened, the two-band system may be revised to three-band, and the threshold of \$10 million may also be adjusted to \$50 million or \$100 million. In that case, once a company sees that its profits are going to exceed \$10 million, it will simply split itself into two companies. After this, it can pay profits tax at the rate of the next lower band. Dr YEUNG Sum may of course argue that an increase from 16.5% to 17% actually involves a small difference of 0.5% only, and a company may not thus be induced to take the "meaningless" action of splitting itself into two. But if we look at Italy, we will notice many such examples. Since the taxation system of Italy is very complicated, many

companies there will try to split themselves up once they begin to employ more than 100 employees. Therefore, many large companies there have been split into small ones. This has only benefited accountants, who provide auditing services, and the government there is unable to receive any increased tax revenue. For this reason, the Liberal Party thinks that the fourth measure should not be supported at all, and in my amendment, I simply remove it from the motion, replacing it by a proposal on maintaining the existing arrangement.

The third measure is about the abolition of the standard rate of salaries tax, and Dr YEUNG Sum proposes to set the maximum marginal rate of salaries tax at a level similar to the rate of profits tax. Put simply, the maximum rate of salaries tax now is 15%, and of the 3.4 million or so "petty employees", only about 1 million have to pay salaries tax. And, not all of these 1 million taxpayers have to pay tax at the standard rate of 15%; 700 000 or 800 000 of them in fact pay very little. In a way, this is already a kind of progressive tax system, with the rates ranging from 0% to 15%. The point is that Dr YEUNG Sum now proposes to raise the standard rate from 15% to 16.5%, a level equivalent to that of profits tax. But we have always maintained that the rate of 16.5% for profits tax should be adjusted downward to 15%, that is, to the same level as the standard rate of salaries tax. In other words, if Dr YEUNG Sum does not propose to raise the standard rate from 15% to 16.5%, and if he instead proposes to bring down the profits tax rate from 16.5% to 15%, we will certainly support his proposal.

The first measure is about the amount of home loan interest deduction. Dr YEUNG Sum does not mention any amount of deduction in his original motion, but in his speech, he said that the deduction should be \$180,000. This is actually very close to the amount of \$200,000 proposed in my amendment. So, there are no big differences between our proposals.

The second taxation measure is about the introduction of a mechanism for salaries tax allowances to be adjusted annually in line with the rate of inflation. It seems to be me that Dr YEUNG Sum is actually proposing to increase salaries tax allowances, but he is also proposing to keep the allowances unchanged in times of deflation. Most low-income earners and "petty employees" will naturally welcome this proposal, because in that case, the allowances will be increased in times of inflation when their salaries and wages go up, but when there is deflation, the allowances will not be reduced. We do not think this

proposal will pose any significant problem. Inevitably, Hong Kong will experience deflation every now and then; if we are unlucky, we may experience deflation for one year in 10, but if we are lucky enough, there may not be any deflation in the whole of a 10-year period. So, we do not think that the insertion of such a proposal will pose any significant problem. Therefore, since the working group of the Government on public finance is still conducting studies on tax revenue and will not be able to reach any conclusions until June this year, we really think that the Government should keep the existing salaries tax allowances unchanged in the interim. Of course, if the working group has any recommendations to make by that time, I am sure that the Legislative Council will definitely conduct thorough debates on them.

The last proposed measure is about environmental protection. Actually, the original motion is not very much different from Miss CHAN Yuen-han's amendment and my amendment in this respect. Miss CHAN Yuen-han said earlier on that there was a huge difference between the DAB and the Democratic Party in this respect, but I am of the view that we are talking about the same idea of taking economic measures to encourage enterprises and people to promote environmental protection in respect of their production methods and consumption patterns. The only difference is perhaps that two different types of economic measures are being proposed. I mean, one possibility is that in case any production methods or consumption habits are found to be not environmentally friendly, charges or penalties should be imposed. Another possibility is to offer tax exemption in case any production methods or consumption habits are found to be environmentally friendly. The Liberal Party is inclined to supporting the adoption of encouragement, that is, the offer of incentives; but it also thinks that penalties should be imposed on those who do not support environmental protection. For example, fines should be imposed on those who use plastic bottles, and those who use paper products should be offered tax concessions. Actually, the difference between these two possibilities are not very big. I think the biggest difference instead lies with the proposal on a progressive profits tax systems with two tax bands.

With these remarks, Madam President, I propose my amendment and oppose the original motion and Miss CHAN Yuen-han's amendment.

**MR LEE CHEUK-YAN** (in Cantonese): Madam President, I will abstain from voting on the motion today, because I think the whole debate will only lead to differences among Members. After a Member has put forward a taxation reform proposal, another Member will likely raise his objection, and he will thus move an amendment. Then, a third Member will also move his own amendment. Only two amendments to the motion have been moved today, and this is not a large number indeed. Actually, when it comes to amendments to motions, as many as 59 amendments can be moved, for in the end, every Member is bound to hold a different view on one point or another. So, initially, I also intended to move an amendment, but since I did not wish to see the debate ending up in having as many as 59 amendments, I decided that I might as well take part in the discussions and abstain from voting at the end.

I have always maintained that we in the legislature should not always concentrate on looking for differences, and that we should try to seek common grounds instead. I once proposed in the Panel on Financial Affairs that all Members might as well put forward their own taxation proposals, and then we could identify our common grounds and discuss them with the Government. Unfortunately, no Member responded to my proposal in the end. I am still a bit disappointed, and I hope that there can be some improvement next year.

The second reason for my intended abstention is that to a certain extent, the outcome of voting today will not do anything to change the situation. We must wait until the Budget is announced. Members should cast their negative votes only when they find that the Budget announced by the Financial Secretary is against their taxation principles and proposals. But it seems that I am always the only Member who casts a negative vote every time, and no Member has ever cast a negative vote. Sometimes, I really wish to challenge Members and question their seriousness about their own proposals. The Financial Secretary will naturally feel unhappy when he hears that I am going to cast a negative vote this year. But I wish to tell the Financial Secretary that the only thing I would vote for will be his continuation as the Financial Secretary to "turn away" the other hopeful. The Financial Secretary expressed the same hope yesterday, but this is quite a separate issue.

Let me turn back to this "advance debate" on the Budget today. In this connection, I wish to raise three points. The first point is about the level of our reserves. Hong Kong now possesses more than \$440 billion in fiscal reserves, enough to enable the Government to draw up a deficit budget when necessary, so

as to meet increasing government expenditure and grant tax concessions. But the Government says that it has to adhere to a set of guidelines on the level of fiscal reserves. I think these guidelines have led the Government to amass unreasonable amounts of reserves, thus affecting the effective allocation of resources. I also think that this set of guidelines is largely invented by the Financial Secretary himself with the only purpose of rationalizing the amounts of reserves that have been amassed. I wonder whether there are any justifications for these guidelines. In his 1998 Budget, the Financial Secretary announced to adopt 12 months' government expenditure and the Hong Kong Dollar money supply under the M1 definition as the benchmark, with a range of plus or minus 25%. I do have doubts about this benchmark, especially because given the huge assets in the Exchange Fund possessed by the Government now, even if the volume of our fiscal reserves is reduced by half, we will still have enough "ammunition" to defend the dollar peg. Although the Financial Secretary refuses to admit that he is a miser, it is still very obvious that his guidelines are largely meant to rationalize his "close-fisted" fiscal policy, to embellish the "miserly" nature of the Government. By being so conservative, the Financial Secretary is actually being very cruel to the people, because society as a whole can be benefited only when our reserves are used appropriately for economic investments and improving the people's lot. Therefore, the Government is perfectly able to draw up a deficit budget, to stimulate the economy through increased public expenditure, and to bake a bigger "cake". With a bigger "cake", our economic foundation will improve, and there will be real economic recovery, bringing increased tax revenue. Also, if we can increase public expenditure to improve the people's lot, they will also be able to enjoy the fruits of economic prosperity. The Government often says that it hopes to see people being able to enjoy the fruits of the current economic recovery. But simply having a hope is not enough. What we want is not any rosy hopes. What people want is real government spending.

The second point I wish to discuss is salaries tax. The Government has recently been "flying the balloon" very often — oh, actually, the whole thing is now reality, not a "balloon" any more — saying that the Government must turn to those people who are not yet in the tax net, because only 37% (nearly 40%, in other words) of the working population have to pay salaries tax, and the tax paid by the top 100 000 taxpayers already constitutes 60% of the total salaries tax revenue. I hope the Government can look at another fact. In 1999, the average per capita income per month for the poorest 10% of the people was just \$1,400, which represents a drop by nearly 20% against the figure of 1990. In

contrast, the average per capita income per month for the wealthiest 10% of the people was \$26,900 in 1999, representing a rise of nearly 45% against the figure of 1990. So, the per capita income for the poor has gone down by 20% while that for the rich has gone up by 45%. The income difference between these two groups of people has shot up from 18.8 times in 1990 to 19.2 times in 1999. The rapid aggravation of the wealth gap problem explains why a minority of taxpayers have to pay most of the salaries tax. But instead of trying to solve the wealth gap problem, the Government has thought about getting money from the poor. This is totally unacceptable. We are of the view that widening the tax bands and increasing the marginal rates for the last two bands can relieve the tax burden on the sandwich classes on the one hand, and on the other, this can also make the ablest, those earning the highest income, shoulder a greater tax responsibility, thus increasing the revenue of the Government. We have submitted this proposal to the Financial Secretary.

Another issue of social concern is how we are going to make up for the reduced revenue from land sales, now that the policy of high land prices is already history. Proceeds from land sales and regrant premiums used to be a significant source of government revenue, and they once represented 30% of the total annual government revenue. The policy of high land prices enabled the Government to get huge revenue, making it possible to maintain an apparent (apparent, I must stress) low tax rate. But the policy of high land prices eventually led to high business costs, and people had thus to pay high property prices. In other words, people had to pay a kind of land tax in disguise. Property prices have now come down, and the kind of land tax in disguise that enterprises have to pay has also decreased correspondingly. I believe that this is good for businesses. This means that when faced with decreasing land sales revenue, we can still increase profits tax, because if business operating costs really go down as expected, business profits will certainly go up. In that case, profits tax can be increased to make up for the reduced revenue of the Government from land sales. That is why we have always supported the introduction of a progressive profits tax system.

Thank you, Madam President.

**MR CHAN KAM-LAM** (in Cantonese): Madam President, I believe this year's Budget will be the last budget to be drawn up by the Financial Secretary in his term of office. In the last three budgets, the Financial Secretary adopted the

tactics of "crying wolf", scaring the public at the outset by saying that the Government would have a huge deficit and would even consider levying new taxes, such as sales tax and land departure tax, so that the public did not dare to have any expectation for the budget. Worse still, fearing that the Government would increase the fees for driving licences, members of the public even queued up outside the Transport Department overnight, thus causing confusion.

According to statistics released by the Government at the end of last month on the financial position of the previous month, the latest provisional deficit for the nine months ended 31 December in the current fiscal year is \$30.2 billion. The provisional deficit for the same period last year was \$44.7 billion, but eventually there was a surplus of \$10 billion. From this, we can see that even if a deficit does arise at the close of account of this financial year, the deficit will not be a big one.

Yet, the Democratic Alliance for Betterment of Hong Kong (DAB) is of the view that a deficit of \$10 billion only accounts for less than 1% of the GDP, and is very moderate compared with the Government's fiscal reserves which now stand at over \$400 billion. The DAB, therefore, considers that the Financial Secretary definitely should not reduce expenditure related to the people's livelihood just because of a small deficit. Nor should he use this as a reason to introduce new tax items, particularly sales tax and land departure tax.

Over the past few years, the revenue of the Government has dropped substantially as a result of the financial turmoil. In the many Budget debates before, the DAB had pointed out to the Financial Secretary that given the narrow tax base in Hong Kong, government revenue had concentrated on several major tax items and so, it was necessary to conduct a comprehensive review of the entire tax regime and introduce reforms to it, instead of simply setting up an advisory body to study the levy of new tax, as the Financial Secretary proposed in the Budget last year.

Madam President, given the high land price policy adopted by the British Hong Kong Government, the major sources of government revenue, say, from the sale of land and other property-related income alone, such as stamp duty, accounted for 40% of the total government revenue. But as the income from land sale has dropped significantly in recent years, the stability of government revenue has been seriously affected. Moreover, statistics of the last financial year show that of the total working population of 3.48 million, only 1.33 million



people were salaries taxpayers, accounting for less than 40% of the total workforce. Besides, given the tax concessions provided by the Government in the year 1997-98, taxpayers paying salaries tax at the standard rate have decreased from about 6% to 5% of the total number of taxpayers, but the total amount of tax assessed for this group of people accounted for 44% of the overall amount of assessment.

To address problems relating to the tax regime, the DAB suggested at a meeting with the Financial Secretary last year that the current profits tax system be reformed by introducing a progressive system with two tax bands. This is basically similar to the original motion proposed by Dr YEUNG Sum.

The DAB proposes that for companies of which the assessable profit exceeds \$50 million, the profits tax rate applicable to them should be increased from the present 16% to 17%. According to the information of the Government, profits tax generated \$37.7 billion in revenue in 1999-2000. Companies with an assessable profit exceeding \$50 million only accounted for a few percent of the total number of companies, but the profits tax payable by these companies took up 60% of the total revenue from profits tax. Introducing a progressive profits tax system will affect only a small number of companies making enormous profits. SMEs in general will not in the least be affected, but the fiscal revenue of the Government can be increased consequently.

Madam President, in past discussions on raising the profits tax rate, the Liberal Party and the business sector would certainly oppose strongly for none other reason than undermining the competitiveness of Hong Kong, and so on. But in a forum held at the end of last month, our good friend from the business sector, Mr HO Sai-chu, opined that the profits tax rate in Hong Kong was still on the low side globally, so there was room for a 1.5% upward adjustment, and that if no other alternative was available, he considered an increase in profits tax rate acceptable. I think this remark is most sensible for a company will have to pay profits tax only when it makes a profit, and under our proposal, only those companies making a profit of over \$50 million will have to pay more profits tax. When there are structural problems in the finance of the Government, increasing profits tax is indeed more equitable and reasonable than levying a new tax on all, whether poor or rich, or even introducing a new tax which virtually robs the poor for the benefit of the rich. Therefore, I hope the Government can earnestly consider the proposals of the DAB.

Furthermore, on the salaries tax allowances, different political parties and organizations would put forth their "asking prices" to the Financial Secretary every year, and the result would invariably be Members asking for staggering prices on one side and the Financial Secretary driving a hard bargain on the other. For this reason, the DAB supports putting in place a mechanism for salaries tax allowances to be adjusted annually in line with the rate of inflation and to remain unchanged in times of deflation. In fact, over the past few years, the Government has broadly followed this principle when adjusting the salaries tax allowances.

Madam President, given the credit crunch enforced by banks in the wake of the financial turmoil, and also fierce competition from other places, the SMEs are now operating under very difficult conditions. The successive increases in government fees and charges recently have added to the burden of the SMEs in their operation. The DAB considers that the Government should provide more assistance for the SMEs to help them tide over difficulties and enable them to avail themselves of the business opportunities associated with China's forthcoming accession to the World Trade Organization.

Madam President, I so submit.

**MR HUI CHEUNG-CHING** (in Cantonese): Madam President, it is reported that as the Government might have a deficit of at least \$13 billion at the close of account of this fiscal year, the Financial Secretary had stated that while substantial tax increases or the levy of new tax would be unlikely in the coming year, small and medium manoeuvres, and to be specific, increasing tax rates and cutting public expenditure, would be highly possible. The Hong Kong Progressive Alliance (HKPA) considers that while the economy of Hong Kong can be said to have returned to the upward trend given that our external trade has rebounded robustly and in-bound visitors have increased continuously since last year, and that the United States has entered a period of interest rate reduction this year, coupled with the imminent official accession of China to the World Trade Organization, it does not mean that the top priority of the Government in terms of its fiscal policy can be shifted from stimulating the economy to reducing the budget deficit.

In fact, the prediction of a possible fiscal deficit exceeding \$13 billion precisely shows that the foundation of the economic recovery in Hong Kong is

not stable. The recovery of the Hong Kong economy, which started a year ago, has been led by exports, re-exports and off-shore trading to a very large extent. As the economy of the United States has slowed down rapidly and is even on the brink of recession, coupled with the fact that the economy of Japan, another major export market, has not shown significant improvement, it is now very difficult for the economic recovery to be led by exports any more. Instead, the recovery of our economy must rely on domestic demand. The question is: With a deflation in Hong Kong, if the Government increases tax or reduces any necessary expenditure at this point in time, such initiatives will further deal a blow to domestic demand in Hong Kong, which is unfavourable to the sustainable development of the economy.

Recently, many views have been advanced on whether the profits tax rate should be increased. The HKPA considers that compared with the rates of 35% in the United States, 31% in Britain, 30% in the Mainland and 26% in Singapore, the 16% profits tax rate in Hong Kong has room for upward adjustment indeed. Having said that, we cannot ignore that the rent and staff costs in Hong Kong are generally higher than our competitors. Together with the oil prices remaining on the high side and unceasing pressure from increases in water charges, electricity tariffs, tunnel tolls, postal charges, and so on, Hong Kong does not have any competitive edge whatsoever in terms of operating costs. If the Government intends to increase the profits tax rate, it must consider the overall impact on business costs in Hong Kong.

The HKPA opposes the introduction of a progressive profits tax system. If companies can make greater profits, the Government should encourage them to make re-investments with their profits, thereby creating employment opportunities for the people. It should not adopt mandatory and punitive taxation measures to require profitable companies to turn over more of their profits to the Government. Further, implementing a simple tax regime is a world trend. Why should Hong Kong have to further cripple itself? Why should we not cherish our long-established simple tax regime, but following others to put in place a complicated tax system? More importantly, a complicated tax system cannot necessarily increase government revenues, but it can surely increase the chance for tax evasion.

The HKPA considers that the Financial Secretary should continue to work from the angle of stimulating domestic demand by granting more tax concessions to attract investment from industries and businesses and create employment

opportunities, so that members of the public can share the fruits of economic recovery. Since the Government is determined to provide support for the SMEs, it should consider offering them such preferential treatments as tax holidays and tax reduction period. While this may not generate much revenue for the Government initially, this can attract investment from a group of people who originally do not have plans to invest in the SMEs. This can also encourage members of the public to set up their own business, thus increasing job opportunities and stimulating the demand for offices.

With regard to expenditure, the HKPA hopes that the Government will actively assist SMEs to alleviate the difficulties they face in financing. While the Administration is currently promoting the setting up of the Commercial Credit Reference Agency, this measure can hardly address the pressing problem. Before there is a more effective channel for financing, the Government should set up a revolving credit fund for SMEs with the remaining \$2 billion under the Special Finance Scheme for Small and Medium Enterprises and invite applications from SMEs, with a view to easing the long-standing problem of financing faced by SMEs.

Madam President, I so submit.

**MR KENNETH TING** (in Cantonese): Madam President, although the Government has forecast robust growth in the economy of Hong Kong this year, economic growth has remained more of "wealth on paper" than substantive benefits to the general public and the business sector as well. The continued decline in the retail market can prove this point. The fact before us is that the economy of Hong Kong has not yet fully recovered. Therefore, the Liberal Party proposes that the Government should "stay still rather than to move". It should avoid substantial tax increases and rest in peace with the public. Now, let me first explain the proposals in the amendment of the Liberal Party.

To mitigate the impact of the financial turmoil, the Government has granted tax deduction of a maximum of \$100,000 for home mortgage interest payment. But at present, there are still close to 300 000 flats which have become negative assets, and many owners still face pressure of wage reduction and retrenchment. The lifelong savings of many owners of negative assets have gone down the drain and they are heavily indebted. In view of this, the Liberal Party urges the Government to increase the amount of home mortgage interest

deduction from \$100,000 to \$200,000, in order to alleviate the difficulties faced by owners. I believe this will also facilitate the further recovery of the economy. On the question of negative assets, the Honourable Howard YOUNG will move a motion for debate in this Council next week.

Next, I wish to turn to another proposal in the amendment and that is, the promotion of environmental protection. Environmental protection should not only be a policy objective of the Government. In the long term, the promotion of environmental protection can, to some degree, reduce public expenditure on environmental hygiene, sewage disposal, waste treatment, and so on. Therefore, the Liberal Party urges the Government to encourage the promotion of environmental protection by enterprises and the public through financial incentives.

For instance, the Buildings Department has just announced a new initiative to allow sky gardens built by property developers in new buildings to be excluded from the calculation of the plot ratio. This measure will not have a significant impact on government revenue, but it can truly achieve the objective of promoting environmental protection and so, it can be said as a win-win proposal. The Liberal Party also suggests that the Government can develop environmentally-friendly industrial estates through planning and tax concessions to facilitate the recovery of waste and the development of other green industries.

To resolve the problem of budget deficits, the Government should adopt a two-pronged approach by tapping new sources of revenue and reducing expenditure at the same time. Doubtless the Government has done a lot to streamline its structure, for instance, the implementation of the Enhanced Productivity Programme (EPP), the Voluntary Retirement Scheme for civil servants, and so on. But compared to the private sector, the operating and administrative costs of government departments are still exceedingly high, and this is an indisputable fact. In 1999-2000 alone, the productivity enhancement programmes in government departments and subvented organizations achieved savings of over \$800 million for the Government. According to the estimation of the Taxation Institute of Hong Kong, this amount of savings is equivalent to the additional revenue generated from a 0.5% increase in profits tax. From this, we can see that if the Government can really make an effort to streamline its structure and control expenditure, it will be able to ease the problem of budget deficits.

As for Dr YEUNG Sum's motion and Miss CHAN Yuen-han's amendment, the Liberal Party is not entirely against them. Particularly, the proposals in Miss CHAN Yuen-han's amendment to abolish the upper limit on the deduction for expenses on self-education and to grant an additional deduction of the expenses of SMEs on scientific research and training happen to coincide with the position of the Liberal Party. But on her proposal to provide tax deduction for contributions to private medical insurance schemes, we hold that this should be discussed later together with other medical financing proposals. Besides, the proposal to substantially lower the rates percentage charge by two percentage points may seriously affect one of the most stable sources of tax revenue of the Government. So, the Liberal Party has reservations about these two proposals.

Nevertheless, the main reason why the Liberal Party opposes the original motion and Miss CHAN Yuen-han's amendment is that both have proposed fundamental changes to our tax system. The Liberal Party firmly believes that a simple tax system with low tax rates should be maintained in Hong Kong before we can retain our competitive edge and speed up economic recovery. Mr James TIEN has clearly explained this point.

To end, I wish to point out that the Liberal Party fully appreciates that the Government is faced with the anxieties of budget deficits and therefore wishes to increase revenue. But before the economy has fully recovered and when members of the public and the business sector are faced with a great many problems, the Government should avoid tax increases as far as possible in order not to impact on society. The Government should work to preserve a business-friendly environment in Hong Kong as far as possible to enhance our competitiveness, so that the business sector and the public can join hands to create wealth. In that case, I believe there will be substantial growth in government revenue and the shadow of budget deficits will be gone. Madam President, I so submit.

**MR FREDERICK FUNG** (in Cantonese): Madam President, just now, Mr LEE Cheuk-yan talked about the attitude he would take in casting his vote on this motion. I see that he left after finishing his speech. In my personal opinion, the remark made by him was inappropriate.

I still remember that Mr LEE introduced a host of amendments after the Chief Executive had delivered his policy address and asked us to state our position immediately afterward by casting votes to show our support or disapproval. Sometimes, we may make additional suggestions, like what Dr YEUNG Sum and Miss CHAN Yuen-han have done today. I think Mr LEE should not abstain from voting. If he agrees, he should vote for the motion; if he disagrees, he should vote against it. What Dr YEUNG and Miss CHAN did today is actually the same as what Mr LEE did previously.

There is only one Member speaking on behalf of the Hong Kong Association for Democracy and People's Livelihood (ADPL) in this Chamber today. Although the amendments touch upon a number of points, I cannot comment on them one by one. Therefore, it will be difficult to decide how to vote. While I do not agree entirely with the proposals made by Dr YEUNG and Miss CHAN, I agree to Miss CHAN's proposed deletion of certain proposals made by Dr YEUNG. Under such circumstances, how should I cast my vote? Finally I decided that I should consider the matter according to my general values rather than item by item. In other words, I will vote for what is conceptually similar to my values. Members should be aware that it is now very difficult for a Member to get his motion passed. Sometimes, one vote may mean a lot to a Member. Nevertheless, we cannot vote for something that is conceptually different from our own.

After going through the motion and amendments, I find that the ADPL can only vote for Dr YEUNG's motion and Miss CHAN's amendment. Yet it cannot support the amendment proposed by Mr James TIEN of the Liberal Party.

I would like to cite an example to illustrate that we do not agree entirely with the taxation measures proposed by Dr YEUNG in item (c). While I agree to abolishing the standard rate of salaries tax, I do not think the maximum marginal rate of salaries tax should be pegged to the rate of profits tax. This is because there may be special reasons for the profits tax to remain at a particular high or low level, the maximum marginal rate of salaries tax is however independent. Therefore a peg is not essential. As a matter of fact, the ADPL did suggest setting the maximum marginal rate of salaries tax at 17%. On the contrary, Miss CHAN proposes to delete item (c) from Dr YEUNG's motion. Though this is precisely in line with the principle agreed by the ADPL, I do not agree with her calculation. And yet Miss CHAN has tried to delete the whole item for me. I can only ask: What shall I do? Actually, I do not agree to what Miss CHAN did insofar as this item is concerned.

As for rates, I agree with the concessionary proposal raised by Miss CHAN, though a uniform concession may not be warranted. At present, rates are levied on property in general, public housing, luxury properties and commercial properties. Later on, I will explain in detail why I think different rates instead of a uniform rate of percentage charge should be applied.

Madam President, due to the time constraint, I can only confine my speech to this motion today. But still I will seize every opportunity to speak when the Financial Secretary delivers his Budget in future. Now I can only focus on several taxation items, which the ADPL is more concerned with, and comment on them. To start with, taxation actually serves three functions: First, taxes are actually payable by the people to their local government to maintain the daily operation of the government for the purpose of administering the place, city, or even the country. Indeed, it is the responsibility of every member of the public or every citizen to pay tax. This is supposed to be a natural obligation too.

Second, in a commercial society or free economy, the people may, in their daily lives, make income from certain commercial activities carried out in the course of their daily lives or even make a profit greater than that made by others. In that case, they will need to pay tax. Therefore, paying tax can be considered a gesture of thanking the community or a system under which members of the public can make contributions in return. Third, Hong Kong is now faced with a special situation in that the disparity between the rich and the poor is becoming increasingly serious. According to sociological studies, taxation is the most effective mechanism for mediating the disparity between the rich and the poor. From these three angles, what do we expect the Financial Secretary to do in implementing his revenue proposals in future?

I would like to briefly discuss three tax types. The first one is the standard rate of salaries tax. The ADPL would suggest the Financial Secretary to abolish the standard rate because a 15% standard rate will lead to great unfairness. Moreover, such unfairness will defeat the function that can be played by taxation, as I mentioned earlier. Members may be aware that the progressive rate now stands at 17%. However, it will drop to 15% when someone's income reaches a certain level. In other words, Members will find that the richer a person is and the more income he makes, the fewer opportunities he will have to contribute to society in return. It is really surprising that one will pay less and less tax if he becomes increasingly rich or earns more. This is



because he will only be required to pay tax at the rate of 15%, that is, a tax rate lower than 17%. Beyond the upper ceiling, a 15% tax rate is levied on each additional \$1 earned. On the contrary, a 17% tax rate is levied on each additional \$1 earned by the middle class. This is why I consider a standard tax rate unfair. Moreover, it cannot achieve the three functions that taxation is supposed to play, as I mentioned earlier on in the debate. Therefore, I think it is appropriate to abolish the standard rate. Even though the existing upper ceiling of 17% is still acceptable to me, the system should be made equitable. Perhaps we shall leave the question of whether the 17% tax rate is fair to our future discussion.

Now I would like to turn to rates. I think a different line should be drawn insofar as the rates percentage charge is concerned. Rates are levied on domestic premises. In my opinion, housing is a basic need of human beings. If some people own more than that meets their basic needs, they should be taxed under a different scale. This is why a line should be drawn. Moreover, we should examine whether general domestic premises or public housing for the low-income people can be differentiated for the purpose of charging rates. Premises used not for meeting such basic needs should not be considered as daily necessities. Instead, they shall be treated as commercial or personal luxuries. For example, the price of a luxury flat can reach as high as \$10,000 or \$20,000 per sq ft. Another example is commercial premises. Businessmen can actually include the premises in their costs calculation. Should these be dealt with separately? Under such circumstances, a lower rates percentage charge should be applied to public housing in general and domestic premises, whereas commercial premises and luxury flats should be treated differently. I therefore suggest that an upper ceiling should be imposed on rates payable by domestic premises in general. In times of economic depression, the Government should consider offering certain concession. Even when the economic performance is satisfactory, the increase should not exceed 10%. As for commercial premises and luxury flats, I would suggest the Government to, taking into account indexes apart from the basic cost-of-living index, consider raising the rates percentage charge.

Madam President, having made this speech, I will vote in support of the original motion and Miss CHAN Yuen-han's amendment, as indicated in the beginning of my speech. Thank you, Madam President.

**DR RAYMOND HO** (in Cantonese): Madam President, despite the fact that various figures show that there are signs that our economy has begun to recover, the public has not yet been to benefit from the fruits of economic recovery and people have to endure heavy financial hardships. The Financial Secretary said earlier that there might be fiscal deficits of more than \$10 billion. This may be some hint for tax increases or fee revisions. Of course, I do not want to see any major changes in taxation or government charges in order to avoid incurring deficits in the coming financial year, for this will add to the financial burden of the public.

As we have more than \$400 billion in fiscal reserves, there is certainly no financial crisis at present. However, we should not abandon the principle of prudent financial management and launch some tax concession measures hastily simply because we have such a huge amount of reserves, to the neglect of the impact of such measures on our tax regime. We must maintain enough fiscal reserves to prepare for the seasonal deficits, downturns in the economic cycle and to maintain the exchange rate of the Hong Kong dollar. For all this will ensure that our economy can grow steadily and to prevent any economic crisis which may happen. Although we have \$400 billion in reserves, it is close to the lower limit of the fiscal reserves set by the Government in the 1998-99 Budget. Therefore, we should be very careful and avoid using our fiscal reserves for no justifiable reasons.

However, I fully appreciate the financial difficulties which the public is facing and so I hope that some measures can be adopted to ease the tax burden of the public. These include raising the home loan interest deduction to \$200,000 and the extension of the period which the tax deduction can be claimed to 10 years. As early as in March 1998 when I spoke on the 1998-99 Budget, I made a point that the newly introduced home loan interest deduction was not enough if it was set at \$100,000 per year. That especially applies to those members of the public holding "negative assets". They purchased their flats when property prices were high and if the Government can raise the amount of tax deduction in respect of the interest they pay for their mortgage loans and the number of years which this can be claimed, that would ease the burden of many people who have to make mortgage payments.

However, with regard to other taxation measures raised in the motion, I do have some reservations. About the proposal to introduce a mechanism for salaries tax allowance to be adjusted annually in line with the rate of inflation and

to remain unchanged in times of deflation, I think that may have the effect of further narrowing the tax net. As a matter of fact, of the 3.2 million working population, only 1.2 million are required to pay taxes. The tax-paying middle class has always been under great pressures, especially those 10 000 people who have to pay 43% of the total amount of salaries tax.

About the proposal to introduce a progressive profits tax system with two tax bands, we should be very careful on that. For we have been practising a simple and low tax system, and these two features have been favourable factors in attracting inward investment. Since our rents and salaries are still on the high side, if we make any changes to the profits tax regime, it is very likely to affect our competitive edge.

The Task Force on Review of Public Finances set up by the Government is presently studying into the issues of whether or not the existing tax base, tax items, tax nets and tax rates should be revised and how they are to be revised. I am also of the view that before any conclusion is reached by the Task Force, the existing arrangements in respect of salaries tax and profits tax should be kept as they are and no changes should be made in haste. For such moves may overlook the possible impacts on our tax regime which will in turn affect the interest of the public in the long run.

To improve the competitiveness of Hong Kong, I think the Government should adopt a more proactive attitude in promoting environmental protection. Insofar as taxation is concerned, economic incentives can be provided through more flexible arrangements in order to change the production mode of enterprises and the consumption pattern of the public. As an example, I moved a motion on the development of renewable energy resources some time ago and suggested that the Government should offer tax concessions to encourage development in this aspect. It remains, of course, that the Government should make similar arrangements in other areas of environmental protection.

Lastly, I hope that the Government can adhere to the principle of prudent financial management and take into account the financial pressure on people of different classes in producing a budget which is in line with the interests of the people of Hong Kong.

Madam President, I so submit.

**MR LAU PING-CHEUNG** (in Cantonese): Madam President, in today's debate, I would like to focus on the amount of home loan interest deduction, an item first introduced by the Financial Secretary in the 1998-99 Budget. I very much hope the Financial Secretary can, before being promoted, act like "Wong Tai Sin" in what might be his last Budget to reduce the burdens of the "snails with shells" in the territory.

It is most important for us, as Members of this Council, to state "why a deduction is needed and how much should be deducted" when we ask the Government to offer tax relief. I believe the attitude held by the Financial Secretary in considering our proposals is the same too. In this connection, I have gone through the 98-99 Budget speech delivered by the Financial Secretary. This is what he said in the Budget: "One of the greatest sources of security is home ownership ..... I have much sympathy for families investing a substantial part of their monthly incomes to purchase homes." I believe the Government decided to introduce this new deduction item because it agreed that "one of the greatest sources of security is home ownership". Over the past three-odd years, the property market remained sluggish. Home ownership has failed to offer protection. Rather, it has become a heavy burden. Today, those who claimed to be "snails without shells" a few years ago are probably glad that they have no shells. Ironically, those having properties today would blame themselves for being "snails with shells" for there is no escape.

Perhaps I should cite an example to illustrate the burden of property purchasers. Let me quote a 685-sq ft unsold flat of a large development site in Eastern District, Hong Kong Island as an example. After deducting various concessions offered by the property developer, the flat is actually sold at \$2,335,000 (approximately \$3,400 per sq ft). With a 70% mortgage, the flat owner will need to borrow approximately \$1.63 million from the bank. The mortgage rate will then be 6.25% if it is set at prime rate minus 2.25%. If instalments are paid over 20 years, the monthly instalment shall be \$11,914 and more than \$8,000 out of this amount will be interest. The interests to be paid over the first three years will then be approximately \$100,677, \$97,956, and gradually down to \$95,061. Members can see that following the abolition of the Interest Rate Agreement and given the fact that the whole world has entered an interest-reducing cycle, middle-class families in general may not be able to benefit fully from home loan interest deduction.

However, if we make some changes to the case quoted in the abovementioned example, the situation would turn out to be entirely different if a flat of the same size was purchased when the property market was at its peak in 1997. To start with, the flat would have cost approximately \$4.5 million. The flat owner would need to borrow \$3.15 million if he managed to secure a 70% mortgage. Even if he was offered an annual mortgage interest rate of 8% (which was not bad by the standard at that time), a total of \$231,600 would be paid as interest this year. Therefore, a \$100,000 tax deduction would be far from enough. It is most ironical that the middle class receives the least benefit though they pay the most tax. The tax they paid may be used for building public housing or even offered as loans by the Government to other people for the purpose of purchasing properties. It is really one of the greatest ironies in Hong Kong society that those who help others are unable to help themselves.

Of course, the actual amount of tax saved by each family as a result of the home loan interest deduction may vary with the actual income and deduction of the family. In any case, compared to the actual interest payment, the \$100,000 interest reduction is still on the low side. In my opinion, both amendments moved by Miss CHAN Yuen-han and Mr James TIEN to Dr YEUNG Sum's motion can help middle-class families and alleviate their burden of paying mortgage interests in actual terms, because the amendment moved by Miss CHAN seeks to extend to 10 years the period for which the deduction can be granted, while the amendment moved by Mr TIEN seeks to double the amount of home loan interest deduction to \$200,000. In my proposal presented to the Financial Secretary in December 2000, I proposed to raise the amount of home loan interest deduction to \$200,000, which happened to coincide with the proposal of Mr TIEN.

Madam President, the Government of the Special Administrative Region now ranks third in the world for having more than \$400 billion and a foreign exchange reserve of around US\$115 billion. The purpose of having a reserve is to store up grain against dearth. Given the fact that we have such a huge reserve, the Government should indeed set aside some portion to alleviate the people's hardship. I believe this is what government officials of ancient China meant when they said they had to do something to "rescue the people from misery". I was told that in some foreign countries, the entire amount of mortgage interests could be deducted from salaries tax with a view to encouraging the people to purchase properties and enhancing their sense of belonging. Of course, assessment should be made in consideration of the

overall housing and taxation policies to see, for instance, if other concessions such as home ownership schemes, home loans, and so on are available too. In the case of Hong Kong, however, the home loan interest deduction is subject to numerous constraints. I think there is still plenty of room for further relaxation. If the Financial Secretary can show much sympathy for flat owners in 1998, he should be even more sympathetic to them today because their burden has increased by more than one fold.

With these remarks, I hope the Financial Secretary can consider adjusting the amount of home loan interest deduction.

**MR SIN CHUNG-KAI** (in Cantonese): Madam President, according to the fiscal management approach of the Financial Secretary, in setting the growth rate of public expenditure every year, reference will be made to the medium range forecast of the trend growth of the economy, so as to ensure that these two rates can keep in line with each other. Because of the negative growth of the local economy over the past few years, the cumulative growth rate of public expenditure has exceeded the cumulative rate of economic growth. In order to rectify the situation, the Government has tried to reduce the pace of public expenditure growth for the next three years in making the medium range forecast. The growth rates of public expenditure for the next three years, being respectively 2.5%, 0.6% and 2.2%, are obviously lower than the 4% trend rate of economic growth projected in the medium range forecast. The Democratic Party does not agree entirely to the relatively conservative philosophy of fiscal management of the Government, but it does agree that the cumulative growth rate of public expenditure over time should not deviate too much from the cumulative economic growth rate. The only point we wish to add is that the period covered by a medium range forecast should be flexible and the relevant criteria should be revised from time to time to reflect the actual economic circumstances.

The Budget announced by the Government in March last year projected a real growth rate of 5% for the financial year in question. Later, the projected rate was raised to 6%, then to 8.5% in October. According to the latest projection, the rate may even be higher than 10%. The local economy has grown at a rate far higher than that forecast by the Government originally. So, instead of remaining over-conservative, the Government should really raise the 4% trend growth rate in the medium range forecast, and also increase the growth

rate of public expenditure for the next two years in keeping with the realistic economic growth. And, it should also allocate more resources to improve its various social services.

What actually will be the consequence of raising the trend growth rate? The Democratic Party estimates that if the rate is raised from 4% to 5% (This is the real rate, and I believe the Government will certainly be able to give more details when it actually goes ahead with the revision), the discrepancy between our cumulative growth rate and the cumulative growth rate of public expenditure can be removed in 2002-03, one year ahead of 2003-04. In other words, the discrepancy can be removed the year after next. The Democratic Party is of the view that since the Government possesses such huge reserves now, there is no need for it to rush along and try to remove the big discrepancy referred to by the Secretary for the Treasury, Miss Denise YUE. Instead, at this time of strong economic rebound, it should make use of our reserves and increase public expenditure. Apart from improving the people's lot, this can also help stimulate the sustained growth of our recovering economy.

On the basis of its calculations, the Democratic Party believes that the Government is perfectly able to increase public expenditure drastically this year, from the original 2.5% to 4.5%. The new resources required will increase drastically from \$2 billion as mentioned by the Secretary for the Treasury to the range between \$6 billion and \$7 billion.

Where can we get the money for the new expenditure? In other words, where will the new resources come from? The Democratic Party thinks that there are two ways. First, we can get them from our fiscal reserves. But for the purpose of improving the equity of our taxation system and relieving the pressure of a deficit budget, we can also consider the implementation of a progressive profits tax system to increase tax revenue.

When it comes to utilizing our fiscal reserves, the Democratic Party maintains that although we should always keep our fiscal reserves at prudent and sound levels, the existing volume of \$430 billion is still a bit too large. The Democratic Party thinks that the size of our fiscal reserves should be kept at a level equivalent to one year of expenditure. But the upper and lower levels for our reserves set down by the Financial Secretary a few years ago are a bit on the high side. Even the reserves of \$430 billion we now have are close to the lower level set down by the Financial Secretary a few years ago. But the Democratic

Party does not endorse this lower level. The Democratic Party maintains that while Hong Kong should maintain relatively large reserves, all that is needed should just be an amount equal to one year of government expenditure. So, we differ from the Government in this respect.

However, there is a need for the Government to consider in detail how to put the existing huge reserves to the best use, so as to achieve maximum efficiency and return wealth to the people. Under its existing strategy, the Government seems to be content with investing the extra reserves in the Exchange Fund to earn interests or dividends. And, in fact, the revenue thus generated can reach as much as \$20 billion to \$30 billion a year, which is nearly as much as the revenue from salaries tax. To a certain extent, this can really relieve the pressure for an increase in tax, but the disadvantage is that the revenue can be very unstable. When this is compared with direct tax rebate, which is better? Or, is it more realistic to draw up a timetable and use the reserves to increase non-recurrent expenditure year by year, so as to improve the people's living? The Government really needs to consider all these questions very seriously and keep the public informed.

The Democratic Party hopes that the Government can make use of the Budget this year to improve the people's living and its welfare services, so as to answer public aspirations. I wish to stress that the Democratic Party is prepared to support many of the proposals contained in Miss CHAN Yuen-han's amendment, one example being improvement to training. But the biggest problem with the DAB's amendment is that it still lacks "two legs". One of the legs is increased expenditure. This can be easily done, but no mention is made as to how this is to be provided. This is a quite a big problem. But we do not have any fundamental difference in principle. The only difference is about the reduction of the rates percentage charge from 5% to 3%. We find the rate of reduction a bit too high. Since there is no major difference in principle, we will consider supporting Miss CHAN Yuen-han's amendment.

**MR MICHAEL MAK** (in Cantonese): Madam President, since the 1990s the Hong Kong Government has strictly abided by the principle of fiscal prudence and has retained strong fiscal reserves for years. But after the outbreak of the Asian financial turmoil in 1997, the Government began to face budget deficits.



According to estimations made by the private sector, the Government will have a budget deficit of \$15 billion to \$17 billion in 2001-02, far exceeding the original estimate of \$6.2 billion by the Government. This is mainly due to a shortfall in revenue from, among other things, the sale of the shares of the Mass Transit Railway that generated \$5 billion to \$6 billion less than expected, and the investment return of the Exchange Fund which has yielded \$13 billion less than expected.

I understand that the Government must comply with the principle in the Basic Law to keep expenditure within the limits of revenues. But as the economy is still in the course of recovery, the public in general has not yet been able to enjoy the fruits of economic recovery. Given the sufficient reserves, I think the Government should do a bit more for the general public.

As at the end of last year, Hong Kong has a fiscal reserve of \$414.1 billion, and its foreign exchange reserve assets rank the third in the world, just behind Japan and the Mainland. As we have massive fiscal reserves, I think it is not unreasonable for us to retain an annual budget deficit of \$10-odd billion.

I suggest the Government to introduce measures that can foster public confidence in spending by, for example, increasing the salaries tax allowances and adjusting them in line with the rate of inflation annually, increasing the limit of tax deduction for expenses on self-education and increasing the amount of home loan interest deduction. When people have more money in their pockets, they will naturally be more willing to spend, thus spurring domestic demand in Hong Kong.

On the other hand, whilst bolstering public confidence, we must at the same time broaden the sources of revenue by, for instance, increasing the profits tax payable by companies, in order to reduce the deficit in the coming year.

The profits tax rate in Hong Kong is the lowest among 23 countries in the world. The profits tax rate in Hong Kong now stands at 16%, compared to 35% in the United States, 38% in Japan and 26% in Singapore. Some organizations have suggested increasing the profits tax rate in Hong Kong to 20%, but a 4% hike will certainly have an enormous impact on the confidence of business investors. In my view, it is more appropriate to effect a 1% increase in 2001-02. This rate of increase should not have a significant impact on the commercial sector.

Some in the commercial sector contended that increasing the profits tax will undermine the edge of Hong Kong in competing with the neighbouring countries, but I think that will not happen. China's impending accession to the World Trade Organization and the extensive development of Western China will provide abundant investment opportunities for Hong Kong and the globe. As Hong Kong has accumulated tens of years of experience of doing business with the Mainland, we can act as a bridge for foreign enterprises intending to enter the mainland market. A slight increase in profits tax will not scare away foreign capital.

Moreover, as it happens that the interest rate in the United States has come down, the interest rate in Hong Kong may also be adjusted downward due to the linked exchange rate. This will be favourable to the recovery of the Hong Kong economy. An upturn in the economy can increase the profitability level of local enterprises.

We may also increase the tax on luxurious consumer products, such as pleasure boats, alcohol, cigarettes, cigars, and so on. Besides, I support increasing the salaries tax rate for the high-income group who makes an annual income of over \$1.5 million.

Apart from the low-income group, the middle class is yet another group requiring government care and attention. Most of my constituents in the Health Services sector belong to the middle class, and negative assets are the greatest problem they face now.

They purchased their own homes in 1996 or 1997 at the suggestion of the Government. But as property prices plunged as a result of the financial turmoil in 1997, their mortgage loans have made them become increasingly indebted to banks. Some were even demanded by banks to pay for the price differential. So, they have been under tremendous financial pressure, and a small number of them are even on the verge of bankruptcy.

I think the Government should do more for them. For instance, the home loan interest deduction scheme initiated by the Government has provided them with substantive assistance. I suggest that the progressive tax bands be broadened so that the middle class can truly benefit from tax concessions. This will not only revive the spending power of the middle class, but also encourage prospective property owners to move towards the property market.

With these remarks, Madam President, I support the original motion.

**MR AMBROSE LAU** (in Cantonese): Madam President, the Financial Secretary disclosed in this Council at the end of last year that the deficit for this financial year would exceed the estimated \$6.2 billion, reaching some \$10 billion. Well, even if the usual problem of over estimate does not occur at the close of account this financial year, and even if there is really a deficit of \$10 billion, it only reflects that Hong Kong economy has entered a normal cyclical downturn following the financial turmoil; all this does not mean that there is any structural deficit for Hong Kong. For this reason, at this very time when the economic recovery has not yet been able to benefit the general public, the Government should increase its expenditure in the light of economic growth when drawing up the Budget for next year. It should also explore the feasibility of some taxation measures to relieve the tax burden on the lower and middle classes, improve the business environment and encourage environmental protection.

The HKPA also thinks that the exploration of the feasibility of any taxation measures must be guided by five principles. First, care must be taken to ensure the stability of the taxation policy, and only minor, rather than major, changes are advised. Any fundamental changes in the taxation policy are bound to produce very huge impacts on the economic development of Hong Kong. Second, the low taxation system of Hong Kong, marked by its simplicity and clarity, should be maintained; this is an edge of Hong Kong and should not be changed so very easily. Third, when it comes to the creation of new sources of revenue, we should not place the focus on whether or not new taxes should be levied or on whether or not any particular taxes should be increased. We should not ignore the fact that a streamlining of the government bureaucracy to improve efficiency is far more significant than increasing taxes. Fourth, Hong Kong is now experiencing the pains of economic restructuring. Economic recovery is obvious by now, but there are signs that it is tilted towards some particular trades and industries. While the financial industry and import/export trades are beginning to do better than before, the retail businesses, the catering industry and all those trades connected with people's consumption in general are still caught in the doldrums. Before any taxation measure is introduced to improve the business environment, care must first be taken not to add to the already heavy burden of those industries which are operating in difficulty. Fifth, all taxation measures should, in the long run, be conducive to sustainable development, strengthening environmental protection and development of environmental protection industries.

Madam President, on the basis of the five principles mentioned above, the HKPA would like to put forward the following views and recommendations concerning the taxation measure aspect of the Budget for next year.

First, it agrees that the amount of home loan interest deduction should be suitably increased, so as to relieve the burden on home mortgagors and help stabilize the property market to a certain extent. It also agrees that measures offering economic incentives should be adopted to encourage enterprises and people to promote environmental protection.

Second, regarding the issues of salaries tax allowances and whether or not the standard rate should be adjusted or abolished, the HKPA thinks that before the government working group on the review of public finances come up with any conclusions, the existing arrangements should be maintained. Over the past few years, more and more people in Hong Kong have fallen out of the tax net and the tax base has become increasingly narrow, resulting in the burden of salaries tax fallen increasingly on the shoulders of the middle class. That being the case, while trying to maintain the existing arrangements regarding salaries tax, the Government should make positive efforts to explore some reasonable ways to widen the tax base, so as to avoid the over-concentration of the tax burden on one particular group of people.

Third, the introduction or otherwise of a progressive system for profits tax is a rather controversial issue now. The current profits tax rate in Hong Kong is 16%, and since this appears to be on the low side when compared with the rates in neighbouring places, there seems to be some justifications for an upward adjustment. But we are of the view that business costs in Hong Kong are rather high, as rentals and staff salaries are high. Besides, the various fees and charges imposed by the Government under the "user pays" principle also add significantly to the burden on businesses in Hong Kong. Therefore, the issue of profits tax should be approached from the overall perspective, and in considering whether the rate is to be increased, we should consider whether this will increase business costs in Hong Kong and affect our competitiveness.

Fourth, while it positively considers various additional sources of revenue, the Government should at the same time expedite the implementation of measures to cut expenditure. There is in fact plenty of room for the Government to reduce its expenditure, and some possible ways include the continued freezing of the salaries and allowances of top civil servants, the

contracting out of some services to increase efficiency and the curtailment of administrative expenses. In respect of organizational streamlining, the pace of the Government seems to a bit too slow. It should aim at "a small government for a large society".

Fifth, the HKPA opposes the introduction of sales tax and land departure tax, because the former will impede economic recovery and the latter will run counter to the major objective of enhancing the integration of the local economy with the Pearl River Delta.

Madam President, I so submit.

**MR ERIC LI** (in Cantonese): Madam President, when speaking on this motion today Honourable Members have named more than a dozen tax items without any difficulty. Actually, I can discuss with Members each of the items named. It is of course worthwhile to discuss such tax items, only that we should not discuss them in depth.

I know that several political parties wish to expound on their own ideas before the Financial Secretary prepares his annual Budget. I can fully understand their motive. But then, in view of the complexities of this motion debate, I am afraid Members will end up singing their own tunes instead of exchanging views. With today's debate as the curtain-raiser, I hope Members can help save on the debating time when this Council debates the Budget next month. So, this is one good point. In my opinion as an accountant, however, I feel that if a number of tax items are incorporated into any proposal for the Budget, it is hardly possible to debate such a proposal at the present stage because there are many fundamental data and analyses we have yet to get hold of. Moreover, many Members are still doubtful about even the possibility that the economy of Hong Kong will experience any deficits this year. From a fiscal management point of view, I believe it is very difficult to debate any proposals for increasing or reducing certain tax rates at this stage, since it is not possible to predict whether or not the economy of Hong Kong will experience any deficits this year. Although I have adopted an open attitude towards certain tax reforms, I consider it very difficult to support this motion today.

Nevertheless, a very interesting issue raised by Dr YEUNG Sum has induced me to discuss with Members Article 107 of the Basic Law, which is

concerned with the fiscal management of the Government of the Special Administrative Region (SAR). I should like to spend a few minutes making a simple comparison to enable Members to understand that Hong Kong has experienced significant changes in terms of its fiscal management upon the introduction of the Basic Law, so much so that the Government has to make extra efforts to deal with problems, instead of effortlessly achieving its targets by revising a few tax rates. In my view, fiscal reforms must not be introduced without undergoing thorough examination and in-depth analysis.

With regard to the motion moved by Dr YEUNG Sum, which begins with "as the general public has not yet been able to benefit from the recovery of the economy", I consider this first sentence of the wording acceptable. But then, as it proceeds to suggest the Government "having regard to its huge fiscal reserves", I need to point out that according to Article 107 of the Basic Law, Hong Kong shall strive to achieve a fiscal balance, avoid deficits and follow the principle of keeping expenditure within the limits of revenues. In some ways, Article 107 has not specified any mechanism for using the fiscal reserves, nor has it given the SAR Government permission to make use of the reserves in a certain manner. Basically speaking, it only requires that a fiscal balance must be achieved over the medium term but has not given any instructions on the utilization of the fiscal reserves. We have already discussed this point during past Budget debates. If the Government should hold fast to this object as its golden rule, it would of course be subject to huge constraints when it seeks to make use of the fiscal reserves. I believe this issue is well worth a study.

Coming back to the motion moved by Dr YEUNG Sum, it goes on to say that the Government should, having regard to the growth in the economy, correspondingly increase government spending. But the provision under the Basic Law does not say so; it provides, instead, that the SAR shall "keep the budget commensurate with the growth rate of its gross domestic product (GDP)". There is greater flexibility in this provision of the Basic Law, as it assumes that while government revenue and expenditure will rise when the economy is booming, public expenditure will be adjusted downwards with an economic downturn. In the past, the Government relied its income heavily on proceeds from land sale, stamp duty, as well as other revenue items which would fluctuate tremendously with the short-term economic cycle. When the economy was booming, there could of course be increases in government revenue and expenditure; when the economy was at its downturn, naturally there would be revenue and expenditure cutbacks. In this connection, while it was possible to

draw on the fiscal reserves in the past, it was not uncommon for former Financial Secretaries to cut back on government expenditure substantially. Just this part of the provision alone, which requires that expenditure be kept commensurate with the GDP growth rate, is enough to show that the proposals for the Budget put forward by Dr YEUNG Sum are indeed not comprehensive enough. As the motion moves on to urge the Government to "relieve the tax burden on the lower and middle classes", it has in effect assumed that people's income would increase with positive economic growth. Yet the Financial Secretary has mentioned on a public occasion that there was visibly a GDP mismatch existing in Hong Kong.

I think the following two points warrant in-depth study by Members. Firstly, Hong Kong can no longer rely on land revenue and stamp duty for its income; as such, the amount of revenue coming from the local territorial tax net might not necessary rise even if there should be positive economic growth. As regards profits tax revenue, many a time it has reflected the fruits of economic growth with a "time lag" of two to three years; as for other times, the fruits were never reflected. As a result of the changes in the tax regime, the problem of mismatch has already emerged. Secondly, it is the relationship between Hong Kong and the Mainland, a subject on which many economists are also conducting research currently. In fact, the GDP is no longer reflective of the real situation of the Hong Kong economy. I wonder if Members are aware that many Hong Kong businessmen are making investments in the Pearl River Delta region. In this connection, a number of years ago many people bought housing units and stocks and shares in Hong Kong, yet the money with which they made such investments was earned in the Mainland and might not necessarily be taxable in Hong Kong. Further still, even at the present time many businessmen engaged in import/export trades are getting loans from overseas banks or banks in the Mainland rather than from banks in Hong Kong. From this, we can see how grave this problem of mismatch has developed and how far-reaching its impact can be. Given that Hong Kong is actually in the midst of an economic recession, it is simply impossible for the Government to cut back on expenditure.

I thought I had only spoken for a while, but in fact I have almost used up my speaking time unknowingly. I just wish to briefly say that I agree very much with Dr the Honourable Raymond HO in that we should study the relevant data and the real economic situation before speaking on this motion. A number of Members have referred to the story of "crying wolf" in their speeches. For the first two times the protagonist cried wolf in that story, there was actually no wolf; but the third time he cried wolf, there were indeed wolves. If what

happened in the story was true, we must not take the budget deficit issue lightly today; hence, I hold that it is not appropriate to put forward any significant tax reform before the tax review commission conducts an overall review of the tax regime. Under the circumstances, I cannot support the various reforms put forward by Members today. I only hope that we can have the chance to further study the subject in the future.

Thank you, Madam President.

**PRESIDENT** (in Cantonese): Does any Member wish to speak?

**MISS MARGARET NG** (in Cantonese): Madam President, the motion debated initiated by Dr YEUNG Sum today can be taken as a warm-up exercise for the Budget. I believe the Financial Secretary is very pleased to have more opportunities to listen to Members' views.

The most difficult thing for me to do this evening is to decide how to vote. Madam President, I am afraid I may be "indecisive" when we vote on this motion later because I do not agree with some of the wordings of the motion and the amendments. In theory, I should vote against the motion and both amendments because there is something in there that I disagree with. But if I vote against all of them, I may be overreacting. Actually, the motion seeks to, taking note of the prerequisite, make some adjustment to minor details, and urge the Financial Secretary to consider and examine a number of taxation measures. In budgeting, it is indeed essential for the Financial Secretary to consider and examine all proposals raised by Members, no matter how ridiculous, ignorant and improper those proposals may appear to him. Such being the case, I should therefore vote for the motion and both amendments. In my opinion, our prime consideration should be whether or not we have a balanced budget. We should examine how a balance can be struck after finding out the actual figures and situation. Some proposals may appear to be unacceptable when examined alone, but will become acceptable under certain extreme circumstances. Sometimes, we may not like a certain part of a proposal. However, it will become acceptable if we can get what we like by accepting this part. Therefore, we should take a holistic approach in viewing the motion.



I did not realize I have something to say until after the Honourable Eric LI has spoken. Unfortunately, what I am going to say may sound pessimistic. I am fortunate that I have a little knowledge of the Basic Law. According to Mr Eric LI, Article 107 of the Basic Law has not provided for any principles according to which the reserves can be used. Therefore, he feels that the reserves cannot be used. Madam President, we actually need not worry because the overriding principle of Article 106 of the Basic Law is that we shall have independent finances. We can enjoy great freedom so long as we can keep expenditure within the limits of revenues and achieve a fiscal balance. Actually, we can do whatever we like and decide how the reserves can be used.

In the final analysis, Madam President, both the motion and the amendments contain something that I can agree and disagree. I think the Government should consider how a balance can be struck ultimately. Insofar as this motion is concerned, I may now agree with some parts that I originally objected. At the same time, I may disagree with some parts that I originally agreed. For instance, I do not object to raising certain taxes in principle, but should I indicate approval if there is obviously no need for such increases? This is why I may object. Since I still have reservations in many areas, I shall make my decision depending on the actual circumstances. In this case, should I abstain from voting? Although this is what I should do, but I decided that I should leave the Chamber before voting. This is because, in consideration of the unique arrangement made by the Basic Law with respect to voting, an abstention may affect the voting result of a motion. Having said that, why do I choose to spend so much time speaking here? Madam President, there were times when Members stood up suddenly and left this Chamber in protest. I am afraid if I leave the Chamber hurriedly, some people might think that I am trying to stage a protest and that might affect Members' sentiment. Therefore, although I have decided not to cast any vote, I still choose to spend more than four minutes explaining why I will abstain from voting and will not be here later to let my colleagues and the Financial Secretary know that I do not mean them disrespect. Thank you, Madam President.

**MR LAW CHI-KWONG** (in Cantonese): Madam President, the scope of this motion topic is very extensive. It is fortunate that there are many Democratic Party members in this Council, and we can speak on different aspects of the motion. I am responsible for speaking on the issue of green taxes mentioned in the motion.

Like the principle of sustainable development, the concept of a green economy also advocates that while people seek to maintain economic growth, they must try to protect environmental resources and improve the quality of living in society as a whole, including the lower classes. That is why the proposals of the Democratic Party regarding the Budget for next year are all aimed at promoting green economy and bringing about a fair, new society.

In the '70s and '80s, the environmental policies of countries in Europe and America were based mainly on regulations; after the '80s, they started to explore the possibility of adopting some green taxation measures and other economic means (such as licensing). In the '90s, these countries, battered by economic recession and serious unemployment, proposed to introduce green taxes on the one hand and to reduce the taxation costs of employing workers on the other (one example being social security insurance). This enabled them to achieve a win-win solution, meaning that they could manage to protect the environment on the one hand and to increase job opportunities by reducing the burden of enterprises on the other. In other words, the aim of green taxation measures in these countries is to shift the burden of taxation instead of increasing tax revenue. In 1994, Denmark, the Netherlands, Norway and Sweden implemented reforms on a limited scale, and now the revenue from green taxes accounts for only about 3% to 4% of their respective Gross National Product. Many countries have now set up their own special committees to launch or intensify green taxation reforms.

The Democratic Party proposes that the Government should include green taxes in the scope of its taxation review. But we must stress that, as pointed out earlier on, the aim of green taxes should be changing people's consumption behaviour and promoting environmentalism instead of increasing the overall revenue of the Government. One feature of green taxes is to impose taxes on those goods that are more polluting while reducing the taxes for less polluting goods. The resultant difference in taxes will encourage consumers to purchase less polluting goods. Environmental considerations aside, the Democratic Party also thinks that reforms relating to green taxes must take account of the competitiveness of enterprises and the burden on low-income earners. On the basis of the principles mentioned above, the Democratic Party has put forward 11 proposals on green taxes, but I am not going to elaborate on them here, and I will simply give a brief list of them: the determination of first registration tax and vehicle licence fees based on the degree of pollution, the reduction of duties for less polluting fuels, tax concessions for manufacturers of environmental

protection equipment and those engaged in related trades, the introduction of pollution tax for goods (such as disposable cameras), recycling tax (such as the recycling of plastic bottles) and landfill charges.

In Miss CHAN Yuen-han's amendment, reforms relating to green taxes are deleted, and instead, a proposal on promoting green industries is added. I hope Miss CHAN Yuen-han can realize that green tax policies are one of the ways that can indirectly promote green industries, and green taxes, in particular, are a significant economic incentive that can encourage enterprises to change their modes of production and people to alter their consumption habits. It should also be noted that green tax reforms are in fact a worldwide trend, and for this reason, the Government should include such reforms in its taxation review. In fact, in view of the changes brought about the new economy and the development of a green economy, the Government should consider the idea of setting up a research group under its existing establishment (under the Finance Bureau, for example). This group should take up public finances as a topic of regular research, conduct studies on green taxes and release the research findings to the public.

**PROF NG CHING-FAI** (in Cantonese): Madam President, as pointed out by a number of colleagues, the debate today is somewhat like an indeterminate equation. We seem to be trying to use two equations to solve four unknowns, and there are many possibilities of substitution. The main problem is we do not know the bottomline of the Financial Secretary, nor do we know what his Budget will be like. The only thing we can say now is that we hope he can think about a widening of the tax base at an appropriate time and adopt flexible taxation policies to promote economic development, instead of simply doing some piecemeal jobs to formulate a balanced Budget. Actually, we must wait to see what the financial conditions this year are before we can decide what to do next. Therefore, I really appreciate the Honourable Margaret NG's wisdom; I will follow her example and abstain from voting. This also gives me a good reason to leave the Chamber at an earlier time.

**PRESIDENT** (in Cantonese): Does any other Member wish to speak?

(No Member responded)

**PRESIDENT** (in Cantonese): Dr YEUNG Sum, you may now speak on the two amendments.

**DR YEUNG SUM** (in Cantonese): Madam President, the Financial Secretary is seated facing us, and I must say that I have listened very carefully to this debate and spoken very carefully as well. I hope that before he leaves his post, he can offer the people of Hong Kong more tax concessions.

Madam President, certainly I know that we do not yet have the Budget with us. However, as elected Members, we appreciate people's aspirations, and we understand what the economic conditions are like. I think we should at least state what we expect to see in the Budget. I think this is something we can do. Although we are not in power, we can still voice our views. The Democratic Party does not wish to stick to the practice of voicing its responses only after the Government has made known its proposals. This time around, I wish to abandon this usual practice, and on behalf of the Democratic Party, I wish to state its expectations of the Budget before it is announced by the Financial Secretary. We wish to adopt this new practice instead of passively responding to the Government's proposals. We wish to be proactive, and we wish to state our expectations of the Budget. We have even conducted an opinion survey to gauge people's views.

Madam President, we have many different opinions, but having listened to Members' remarks, I notice that we also have some common grounds.

**PRESIDENT** (in Cantonese): Dr YEUNG Sum, please be reminded that you are supposed to speak on the two amendments.

**DR YEUNG SUM** (in Cantonese): Yes, Madam President.

We are basically prepared to support the points raised in Miss CHAN Yuen-han's amendment, and these include the extension of the home loan interest deduction period, tax deduction for contributions to private medical insurance schemes, the abolition of the upper limit on the deduction for expenses on self-education and the granting of additional deduction for SME expenses on scientific research and training. We have in fact put forward some similar

proposals before. Our only reservation is related to the reduction of the rates percentage charge from 5% to 3%. Rates constitute a relatively stable source of government revenue. Such a drastic rate of reduction as proposed will mean a reduction of revenue by as much as \$5.6 billion. So, we will consider whether we should support such a proposal. However, since our overall objective is to relieve the burden on the lower and middle classes, we will still support Miss CHAN Yuen-han's amendment.

The Democratic Party will, however, oppose Mr James TIEN's amendment. The main reason for this is that in his amendment, all our proposals on salaries tax and profits tax are removed, and he only urges to wait until the outcomes of the taxation review are announced. But the point is that this taxation review and only deal with the question of whether or not Hong Kong has run into a structural deficit, and it has nothing whatsoever to do with our fiscal management and the equity or otherwise of the taxation system. For this reason, the Democratic Party will oppose the amendment of Mr James TIEN and support Miss CHAN Yuen-han's amendment.

**SECRETARY FOR THE TREASURY** (in Cantonese): Madam President, I would like to express my appreciation to Dr YEUNG Sum for choosing to debate such a hard topic as financial management on a warm and soft occasion like St Valentine's Day. I would like to thank the Honourable Members who have spoken earlier on the motion, for they have given up the time they should be spending with their dear ones on Valentine's Day to put forward their views on the motion.

Madam President, starting from the middle of last year, the Financial Secretary has been consulting the Honourable Members of the Legislative Council, the political parties, the professional bodies, the financial sector and the media on the 2001-02 Budget. He has also been trying to listen to the expectations of people from different walks of life for the Budget through various channels. As a matter of fact, all the proposals raised in the original motion of Dr YEUNG Sum and the amendments proposed by Miss CHAN Yuen-han and Mr James TIEN, as well as the views put forward by Honourable Members earlier, have been mentioned by Members both with and without political affiliations when the Financial Secretary consulted Members of the Council belonging to different constituencies. On those occasions, the Financial Secretary made an unequivocal undertaking that in compiling next year's Budget,

all the views would be considered in detail. This practice is proven throughout the years and it would be likewise adopted this year.

Madam President, notwithstanding what I have just said, we attach enormous weight to the motion debate today, and that is why the Financial Secretary is personally attending the debate to listen to the speeches made. This is to ensure that before the next year's Budget is finalized, all the views expressed in this Council can be heard and considered.

Madam President, three weeks from now the Financial Secretary will deliver in this Chamber his Budget speech for the next financial year. By that time, issues of public concern like our economic development, people's livelihood, public revenue and expenditure, and any proposals on tax concessions or increases will all be addressed. In addition, Honourable Members who are well-acquainted with the procedures of budgetting will know that after the Financial Secretary has delivered his Budget speech, the Secretary for the Treasury will issue a letter to Honourable Members both with and without political affiliations, listing out the views they have expressed, which of these views have been accepted, and those about which the Administration has reservations and thus cannot be included in the Budget.

Madam President, owing to the above arrangement and the confidentiality of the Budget, I am afraid I cannot respond now to the points raised by Honourable Members in their speeches, and it is not appropriate for me to do so either. I beg Honourable Members for their understanding.

**PRESIDENT** (in Cantonese): I now invite Miss CHAN Yuen-han to move her amendment to the motion.

**MISS CHAN YUEN-HAN** (in Cantonese): Madam President, I move that Dr YEUNG Sum's motion be amended as set out on the Agenda.

**Miss CHAN Yuen-han moved the following amendment: (Translation)**

"To add "as well as small and medium enterprises," after "on the lower and middle classes"; to add "and extending to 10 years the period for which the deduction can be granted" after "increasing the amount of home

loan interest deduction"; to delete "(c) abolishing the standard rate of salaries tax and setting the maximum marginal rate of salaries tax at a level similar to the rate of profits tax;"; to delete "(d)" and substitute with "(c)"; to delete "(e)" and substitute with "(d)"; to delete "tax reform, on the basis of the tax shifting principle as far as possible, and with the aim of not increasing the Government's overall revenue," and substitute with "industries and"; and to add ", so as to achieve objectives such as reducing the wastage of resources and protecting the environment; (e) providing tax deduction for contributions to private medical insurance schemes; (f) abolishing the upper limit on the deduction for expenses on self-education; (g) reducing the rates percentage charge from 5% to 3%; and (h) granting an additional deduction equivalent to 1.5 times of the expenses of small and medium enterprises on scientific research and training" after "the public's spending habits through financial incentives".

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Miss CHAN Yuen-han to Dr YEUNG Sum's motion, be passed.

**PRESIDENT** (in Cantonese): I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

**PRESIDENT** (in Cantonese): Those against please raise their hands.

(Members raised their hands)

Miss CHAN Yuen-han rose to claim a division.

**PRESIDENT** (in Cantonese): Miss CHAN Yuen-han has claimed a division. The division bell will ring for three minutes.

**PRESIDENT** (in Cantonese): Will Members please proceed to vote.

**PRESIDENT** (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Functional Constituencies:

Mr CHEUNG Man-kwong, Mr CHAN Kwok-keung, Mr SIN Chung-kai, Mr WONG Yung-kan, Mr LAW Chi-kwong, Miss LI Fung-ying and Mr IP Kwok-him voted for the amendment.

Mr Kenneth TING, Mr James TIEN, Dr Raymond HO, Mr Eric LI, Dr David LI, Dr LUI Ming-wah, Mr HUI Cheung-ching, Mrs Sophie LEUNG, Mr Howard YOUNG, Mr LAU Wong-fat, Mrs Miriam LAU, Mr Timothy FOK, Mr Abraham SHEK, Mr Henry WU, Dr LO Wing-lok and Mr LAU Ping-cheung voted against the amendment.

Mr Michael MAK abstained.

Geographical Constituencies and Election Committee:

Mr Albert HO, Mr Martin LEE, Mr Fred LI, Miss CHAN Yuen-han, Mr CHAN Kam-lam, Mr Jasper TSANG, Dr YEUNG Sum, Mr LAU Kong-wah, Miss CHOY So-yuk, Mr Andrew CHENG, Mr SZETO Wah, Mr TAM Yiu-chung, Mr Albert CHAN, Mr WONG Sing-chi, Mr Frederick FUNG, Ms Audrey EU and Mr YEUNG Yiu-chung voted for the amendment.

Mr David CHU, Mr NG Leung-sing and Mr Ambrose LAU voted against the amendment.

THE PRESIDENT, Mrs Rita FAN, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 24 were present, seven were in favour of the amendment, 16



against it and one abstained; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 21 were present, 17 were in favour of the amendment and three against it. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the amendment was negatived.

**MR FRED LI** (in Cantonese): Madam President, in accordance with Rule 49(4) of the Rules of Procedure, I move that in the event of further divisions being claimed in respect of the motion "Proposals for the Next Budget" or any amendments thereto, the Council do proceed to each of such divisions immediately after the division bell has been rung for one minute.

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr Fred LI be passed.

**PRESIDENT** (in Cantonese): Does any Member wish to speak?

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

**PRESIDENT** (in Cantonese): Those against please raise their hands.

(No hands raised)

**PRESIDENT** (in Cantonese): I think the question is agreed by a majority respectively of each of the two groups of Members, that is, those returned by functional constituencies and those returned by geographical constituencies through direct elections and by the Election Committee, who are present. I declare the motion passed.

**PRESIDENT** (in Cantonese): Now that we have dealt with Miss CHAN Yuen-han's amendment, Mr James TIEN, you may move your amendment.

**MR JAMES TIEN** (in Cantonese): Madam President, I move that Dr YEUNG Sum's motion be amended, as set out on the Agenda.

**Mr James TIEN moved the following amendment: (Translation)**

"To add ", improve the business environment" after "the lower and middle classes"; to delete "increasing" after "(a)" and substitute with "doubling"; to add "to \$200,000" after "the amount of home loan interest deduction"; to delete "introducing a mechanism" and substitute with "maintaining the existing arrangements"; to delete "allowances to be adjusted annually in line with the rate of inflation and to remain unchanged in times of deflation; (c) abolishing the standard rate of salaries tax and setting the maximum marginal rate of salaries tax at a level similar to the rate of profits tax; (d) introducing a progressive" and substitute with "and"; to delete "system with two tax bands" and substitute with "before the Government's Task Force to Review Public Finances comes up with its conclusions"; to delete "(e)" and substitute with "(c)"; to delete "promoting green tax reform, on the basis of the tax shifting principle as far as possible, and with the aim of not increasing Government's overall revenue, changing the modes of production of" and substitute with "encouraging"; and to delete "public's spending habits" and substitute with "public to promote environmental protection"."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr James TIEN to Dr YEUNG Sum's motion, be passed.

**PRESIDENT** (in Cantonese): I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

**PRESIDENT** (in Cantonese): Those against please raise their hands.

(Members raised their hands)

Mr James TIEN rose to claim a division.

**PRESIDENT** (in Cantonese): Mr James TIEN has claimed a division. The division bell will ring for one minute.

**PRESIDENT** (in Cantonese): Will Members please proceed to vote.

**PRESIDENT** (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Functional Constituencies:

Mr Kenneth TING, Mr James TIEN, Dr David LI, Mr HUI Cheung-ching, Mrs Sophie LEUNG, Mr Howard YOUNG, Mr LAU Wong-fat, Mrs Miriam LAU, Mr Timothy FOK, Mr Abraham SHEK, Mr Henry WU and Mr Tommy CHEUNG voted for the amendment.

Dr Raymond HO, Mr Eric LI, Dr LUI Ming-wah, Mr CHEUNG Man-kwong, Mr CHAN Kwok-keung, Mr SIN Chung-kai, Mr WONG Yung-kan, Mr LAW Chi-kwong, Miss LI Fung-ying, Mr Michael MAK, Dr LO Wing-lok, Mr IP Kwok-him and Mr LAU Ping-cheung voted against the amendment.

Geographical Constituencies and Election Committee:

Mr David CHU and Mr Ambrose LAU voted for the amendment.

Mr Albert HO, Mr Martin LEE, Mr Fred LI, Miss CHAN Yuen-han, Mr CHAN Kam-lam, Mr Jasper TSANG, Dr YEUNG Sum, Mr LAU Kong-wah, Miss CHOY So-yuk, Mr Andrew CHENG, Mr SZETO Wah, Mr TAM Yiu-

chung, Mr Albert CHAN, Mr WONG Sing-chi, Mr Frederick FUNG, Ms Audrey EU, Mr YEUNG Yiu-chung and Mr NG LEUNG-sing voted against the amendment.

THE PRESIDENT, Mrs Rita FAN, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 25 were present, 12 were in favour of the amendment and 13 against it; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 21 were present, two were in favour of the amendment and 18 against it. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the amendment was negated.

**PRESIDENT** (in Cantonese): Dr YEUNG Sum, you may now reply. You still have three minutes 13 seconds.

**DR YEUNG SUM** (in Cantonese): Madam President, I wish to say to the Secretary for the Treasury that though we are very busy, we have not missed the Valentine's Day, because to every one of us here, every day is St Valentine's Day. *(Laughter)*

Madam President, despite our many divergent views, we actually share several common grounds. I hope that a few weeks later, the Financial Secretary can respond to these common grounds. First, we agree that we should make use of our reserves, and make use of them effectively, even if there is really going to be a deficit of \$10 billion. This is a point clearly made by Members in their speeches. Second, we do not think that any new types of taxes should be introduced, including sales tax and land departure tax. Many Members have raised this point. Third, we think that the home loan interest deduction should be increased from \$100,000 to \$200,000. Fourth, we agree that economic incentives should be adopted to promote environmental protection, which means tax reduction or other means should be introduced. Fifth, we agree unanimously that the tax burden for the middle class should be reduced. This must be done, by whatever means possible. Though we may differ on some details, we are unanimous on this major principle.

I hope that the Financial Secretary can consider these points very seriously and bring good tidings to us three weeks later. That way, the Financial Secretary can give his work in his present capacity a good ending.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the motion moved by Dr YEUNG Sum as set out on the Agenda be passed. Will those in favour please raise their hands?

(Members raised their hands)

**PRESIDENT** (in Cantonese): Those against please raise their hands.

(Members raised their hands)

Dr YEUNG Sum rose to claim a division.

**PRESIDENT** (in Cantonese): Dr YEUNG Sum has claimed a division. The division bell will ring for one minute.

**PRESIDENT** (in Cantonese): Will Members please proceed to vote.

**PRESIDENT** (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Functional Constituencies:

Mr CHEUNG Man-kwong, Mr SIN Chung-kai, Mr LAW Chi-kwong, Miss LI Fung-ying and Mr Michael MAK voted for the motion.

Mr Kenneth TING, Mr James TIEN, Dr Raymond HO, Mr Eric LI, Dr David LI, Dr LUI Ming-wah, Mr HUI Cheung-ching, Mr CHAN Kwok-keung, Mrs

Sophie LEUNG, Mr WONG Yung-kan, Mr Howard YOUNG, Mr LAU Wong-fat, Mrs Miriam LAU, Mr Timothy FOK, Mr Abraham SHEK, Mr Henry WU, Mr Tommy CHEUNG, Dr LO Wing-lok, Mr IP Kwok-him and Mr LAU Ping-cheung voted against the motion.

Geographical Constituencies and Election Committee:

Mr Albert HO, Mr Martin LEE, Mr Fred LI, Dr YEUNG Sum, Mr Andrew CHENG, Mr SZETO Wah, Mr Albert CHAN, Mr WONG Sing-chi, Mr Frederick FUNG and Miss Audrey EU voted for the motion.

Miss CHAN Yuen-han, Mr CHAN Kam-lam, Mr Jasper TSANG, Mr LAU Kong-wah, Miss CHOY So-yuk, Mr TAM Yiu-chung, Mr David CHU, Mr NG Leung-sing, Mr YEUNG Yiu-chung and Mr Ambrose LAU voted against the motion.

THE PRESIDENT, Mrs Rita FAN, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 25 were present, five were in favour of the motion and 20 against it; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 21 were present, 10 were in favour of the motion and 10 against it. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the motion was negatived.

## **NEXT MEETING**

**PRESIDENT** (in Cantonese): I now adjourn the Council until 2.30 pm on Wednesday, 21 February 2001.

*Adjourned accordingly at seven minutes past Ten o'clock.*

**Annex I****WRITTEN ANSWER****Written answer by the Secretary for Works to Mr LEE Cheuk-yan's supplementary question to Question 5**

In regard to the range of the ratios of the additional amounts successfully claimed to the original amount of consultancy fee in respect of consultancy agreements for infrastructure projects involving consultants who are the lowest bidder of those contracts, it is from 1% to 42% with an average of 27%.

**Annex II****WRITTEN ANSWER****Written answer by the Secretary for the Environment and Food to Miss CHOY So-yuk's supplementary question to Question 6**

The Environmental Protection Department (EPD) is negotiating with Vivendi legal details of the terms of the new Guarantee and Undertaking, and the work is expected to be completed in two or three months. According to legal advice, before the EPD grants formal approval to the application, the original Guarantee and Undertaking will still be valid, and Waste Management Incorporated will still be responsible for Pacific Waste Management Limited.