

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 30 May 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.

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 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 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.

MEMBERS ABSENT:

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

THE HONOURABLE CHAN KWOK-KEUNG

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

PUBLIC OFFICERS ATTENDING:

THE HONOURABLE DONALD TSANG YAM-KUEN, J.P.
THE CHIEF SECRETARY FOR ADMINISTRATION

THE HONOURABLE ANTONY LEUNG KAM-CHUNG, G.B.S., J.P.
THE FINANCIAL SECRETARY

THE HONOURABLE ELSIE LEUNG OI-SIE, J.P.
THE SECRETARY FOR JUSTICE

MISS DENISE YUE CHUNG-YEE, J.P.
SECRETARY FOR THE TREASURY

MR LAM WOON-KWONG, G.B.S., J.P.
SECRETARY FOR HOME AFFAIRS

MRS LILY YAM KWAN PUI-YING, J.P.
SECRETARY FOR THE ENVIRONMENT AND FOOD

DR YEOH ENG-KIONG, J.P.
SECRETARY FOR HEALTH AND WELFARE

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

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 LAW KAM-SANG, J.P., ACTING SECRETARY GENERAL

MRS JUSTINA LAM CHENG BO-LING, ASSISTANT SECRETARY
GENERAL

MR RAY CHAN YUM-MOU, ASSISTANT SECRETARY GENERAL

TABLING OF PAPER

No. 88 — Vocational Training Council
Annual Report 1999/2000

ORAL ANSWERS TO QUESTIONS

PRESIDENT (in Cantonese): Questions. Question time usually lasts no more than one and a half, with each question being allocated about 15 minutes in average. I would like to inform Members that supplementaries should be as concise as possible and Members should not make statement when asking supplementaries.

First question.

Assistance to Disadvantaged Groups in Making Use of Information Technology

1. **MR SIN CHUNG-KAI** (in Cantonese): *Madam President, hindered by financial difficulties or physical disabilities, disadvantaged groups are often denied the opportunities to obtain information and communicate with others by means of information technology. In this connection, will the Government inform this Council:*

- (a) *whether financial assistance out of public money or charitable funds is currently provided to the disadvantaged groups for purchasing computers and communications equipment; if so, of the details, and the respective amounts of assistance provided in each of the past three years;*
- (b) *whether it will set up assistance funds or extend the scope of the existing assistance programme; if so, of the details; if not, the reasons for that; and*
- (c) *as most of the auxiliary aids for the disabled to use computers and access the Internet are very expensive, whether it will consider offering tax concessions to people who purchase these devices?*

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Madam President,

- (a) We understand that people with disabilities, senior citizens, people with low incomes, housewives and new arrivals may have less opportunities to access information and communication technologies (ICT). The Government is committed to encouraging and supporting disadvantaged groups to use ICT, through learning and accessing ICT.

As regards question (a), financial assistance is provided for purchasing ICT equipment, development of ICT programmes and providing ICT training for disadvantaged groups.

Set up with an allocation from the Special Coin Suspense Account, a Central Fund for Personal Computers assists people with disabilities to set up workstations at home so as to help them find and sustain employment. The Fund assisted 64 applicants with a total expenditure of \$995,000 over the past three financial years. The Sir Edward Youde Memorial Awards for Disabled Students offer grants to disabled students to purchase personal aids or study aids (including ICT devices) for effective learning. The Scheme assisted 36 disabled students with a total grant of \$668,000 over the past three academic years. A breakdown by years is at Annex A.

Six funds provide financial assistance, through allocations to non-governmental organizations, for promoting the use of ICT for disadvantaged groups, with a total sum of \$21.8 million allocated over the past three financial years. For details on a breakdown by funds by years, please refer to Annex B.

In the 2000 policy address, \$200 million has been set aside for the Quality Education Fund for the purchase of notebook computers for loan to needy students. With about 23 500 notebook computers, about 72 000 students in some 500 schools are expected to benefit under the scheme.

- (b) A grant of \$3 million from the Lotteries Fund was injected in March 2001 into the Central Fund for Personal Computers so that the

scheme can be extended. We expect that about 200 more disabled persons will benefit.

\$0.5 million has been allocated to the Sir Edward Youde Memorial Awards for Disabled Students for providing grants to disabled students in the 2001-02 academic year.

In addition, the Lotteries Fund has recently approved grants totalling \$40.7 million for installing personal computers with Internet facilities at rehabilitation centres, multi-service centres for elders and social centres for elders for use by people with disabilities and the elders, and for providing information technology awareness training for them.

- (c) We already have in place a generous system of deductions and allowances under our existing salaries tax and profits tax regimes, which provide sufficient tax incentives to encourage taxpayers to make use of ICT.

Under our current salaries tax regime, all taxpayers are allowed to deduct from their assessable income all outgoings and expenses which are necessarily incurred in the production of their assessable income. In this connection, for computers and Internet-related equipment in general, and special supporting equipment for people with disabilities (such as braille), they may claim depreciation allowances in respect of the actual expenditure incurred in such purchase, at an initial allowance of 60% of the expenditure in the year of purchase, and an annual allowance of ranging from 10% to 30% on the reducing value of the same equipment in the first and each subsequent year of assessment where he or she has assessable income chargeable to salaries tax, until the entire amount of the purchase expenditure has been deducted.

Under our current profits tax regime, taxpayers are allowed to deduct from assessable profits depreciation allowances on expenditure for purchasing plant and machinery if they are

necessarily incurred in carrying on a trade, profession or business for the purposes of earning profits chargeable to profits tax. In this connection, for purchase, repair or maintenance of any computer and Internet-related equipment in general, and that of special supporting equipments for people with disabilities, while the rates of depreciation allowances are the same as those under salaries tax as mentioned above, we allow as an alternative 100% immediate write-off for qualifying expenditure on such equipment in the first year of purchase.

Separately, a Disabled Dependent Allowance of \$60,000 is granted, under salaries tax, if an individual is maintaining a dependent who is eligible to claim an allowance under the Disability Allowance Scheme. This Allowance is in addition to any allowance already being claimed by the taxpayer in respect of the disabled family member in question. This Allowance is in recognition of the special daily living needs of people with disabilities, including computer-aid living (such as voice synthesizer software).

Lastly, the Government will consider improving our existing tax concession alongside all other tax-related proposals, having regard to all relevant factors including our overall fiscal conditions, in the context of drawing up revenue proposals for the annual budget.

Annex A

Breakdown on Financial Assistance provided to the Disadvantaged Groups
for the Procurement of ICT devices

	<i>1998-99</i>	<i>1999-2000</i>	<i>2000-01</i>	<i>Total</i>
Central Fund for Personal Computers	\$380,000	\$65,000	\$550,000	\$995,000
Sir Edward Youde Memorial Awards for Disabled Students	\$233,290	\$219,600	\$215,580	\$668,470

Annex B

Breakdown on Financial Assistance provided to non-government organizations
for promoting the use of ICT among Disadvantaged Groups

	<i>1998-99</i>	<i>1999-2000</i>	<i>2000-01</i>	<i>Sub-total</i>
	<i>(\$million)</i>	<i>(\$million)</i>	<i>(\$million)</i>	<i>(\$million)</i>
Lotteries Fund	4.5	13	0.6	18.1
S K Yee Fund for the Disabled	0.33	0.4	0.2	0.93
Queen Elizabeth Foundation for the Mentally Handicapped	0.03	0.79	0.65	1.47
Sir Robert Ho Tung Charitable Fund	-	-	0.34	0.34
Board of Management of the Chinese Permanent Cemeteries	0.05	0.175	0.7	0.925
General Chinese Charities Fund	-	0.03	-	0.03
			Total	21.8

MR SIN CHUNG-KAI (in Cantonese): *Madam President, in part (b) of the main reply, the Secretary stated that a grant totalling \$3.5 million had been allocated from two funds in March 2001 and in the 2001-02 academic year. Will the Secretary inform this Council how long the relevant grant can last in coping with the needs? In other words, has the Government assessed the scope of demands in this area? The relevant grant might satisfy the needs of 250 persons only. What is the gap between the amount of assistance and the actual needs?*

PRESIDENT (in Cantonese): Which Secretary will answer this supplementary question? Secretary for Health and Welfare.

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Madam President, the two funds are specially designed for disabled students and working people with disabilities. The remaining fund will be used to provide them with training. In the light of past expenditure, we estimate that the two funds are able to provide adequate assistance for the needy.

MR LEUNG FU-WAH (in Cantonese): *Madam President, in part (a) of the main reply, the Secretary mentioned that the Central Fund for Personal Computers assisted 64 disabled persons with a total expenditure of \$995,000 over the past three years. In going through the information in Annex A, I found that the amounts of assistance provided over the years had varied greatly. In 1998-99 and 1999-2000, the amounts of assistance given were \$380,000 and \$65,000 respectively. In 2000-01, however, the amount rose to \$550,000. Will the Secretary inform this Council of the reasons for such a big gap in the amounts of assistance provided annually?*

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Madam President, the amount of grant depends on the number of applications received each year and is made in accordance with our established criteria. I believe the reduction in the amount of assistance was not caused by a lack of resources. Rather it is because the grant is determined according to the number of applications received each year.

MR WONG SING-CHI (in Cantonese): *Madam President, will the Secretary inform this Council whether the Government has allocated additional resources to provide computer facilities suitable for use by disadvantaged groups or disabled persons in community centres, libraries or other public venues, and what is the utilization rate of those facilities?*

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Madam President, such facilities are provided at different levels of the community, such as centres for the elderly and rehabilitation centres. New facilities have also been provided for the use of the public.

PRESIDENT (in Cantonese): Mr WONG Sing-Chi, has your supplementary question not been answered?

MR WONG SING-CHI (in Cantonese): *Madam President, may I ask the Secretary what the utilization rate of those facilities is?*

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Madam President, I am afraid I do not have such data at hand. I will give the Honourable Member a written reply. (Annex I)

MISS CHAN YUEN-HAN (in Cantonese): *Madam President, the measures currently taken by the Government are conducive to the elimination of information impoverishment. I would like to further raise a supplementary question. In part (c) of the main reply, the Secretary stated that tax concessions under salaries tax are offered to people with disabilities for the purchase of certain essential computer equipment. Nevertheless, the Secretary also pointed out earlier that, in addition to people with disabilities, disadvantaged groups cover new arrivals and people with low incomes. With respect to this latter group of people, will the Secretary inform this Council whether the Government has considered, in promoting the elimination of information impoverishment, apart from providing computer facilities in communities, doing something in connection with salaries tax by, for instance, offering tax concessions to families with a monthly income of less than \$4,000 for the purchase of computer equipment?*

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Madam President, I have mentioned in the main reply that the Government will give consideration in the light of our overall financial position. I believe allowances are not necessarily the most effective solution insofar as providing assistance to people with low incomes is concerned because they generally do not need to pay salaries tax. Therefore, we must consider helping them by other means, such as by providing them with the means to acquire technologies or financial assistance.

DR YEUNG SUM (in Cantonese): *Madam President, free electronic mail accounts are now provided by the Government to the public free of charge. Will the Government consider distributing temporary or time-limited Internet cards to the disadvantaged groups or needy families so as to encourage them to go on-line?*

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Madam President, the Government does not have such a plan yet. Certainly, we will consider ways to help these disadvantaged groups in future.

MR LAW CHI-KWONG (in Cantonese): *Madam President, this issue has been debated for quite some time already. In part (b) of the main reply, it is mentioned that computer facilities are provided in rehabilitation centres and multi-service centres for elders. When the Honourable WONG Sing-Chi raised his supplementary question earlier, he also made some recommendations. Will the Government consider the overall application of information technology in mainstream services, that is, the application of information technology in all mainstream services accessible by all disadvantaged groups, particularly people with disabilities?*

PRESIDENT (in Cantonese): Which Secretary will answer this supplementary question? Secretary for Health and Welfare.

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Madam President, the social welfare sector has already formed a joint committee to discuss ways to help the disadvantaged groups and review ways to improve its overall strategies with respect to the application of information technology by the social welfare sector.

PRESIDENT (in Cantonese): We have spent more than 15 minutes on this question. We now proceed to the second question.

Legislation on Protecting Employees' Rights and Benefits

2. **MR JAMES TIEN** (in Cantonese): *Madam President, on 1 May, Labour Day, this year, some labour organizations criticized that Hong Kong's existing legislation on protecting employees' rights and benefits had remained unchanged for 30 years, and alleged that the stipulations concerned were outdated and even lagged behind those of some countries in Southeast Asia. In this connection, will the Government inform this Council:*

- (a) *of the major amendments made to the legislation on the rights and benefits or the protection of employees, in the past 30 years, and the contents of the amendments;*
- (b) *whether it has assessed the implications of these amendments on employers' costs; and*
- (c) *how the existing major legislative provisions on the protection of employees' rights and benefits in Hong Kong compare to those in other neighbouring jurisdictions?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, in Hong Kong, the legislation on protection of employees' rights and benefits can be broadly divided into three categories. The Employment Ordinance protects the basic rights and benefits of employees in the course of employment. The Employees' Compensation Ordinance, the Employees Compensation Assistance Ordinance, the Pneumoconiosis (Compensation) Ordinance and the Occupational Deafness (Compensation) Ordinance are to ensure that employees are compensated for injuries, deaths and occupational diseases arising from employment. The Factories and Industrial Undertakings Ordinance and the Occupational Safety and Health Ordinance ensure that employees work in a safe working environment. All along, the Government has introduced and amended labour legislation to improve employees' rights and benefits in a way which is commensurate with the constant changes in social needs as well as our socio-economic developments. In reviewing and enacting labour legislation, the Government takes into account the needs of both employers and employees, with a view to striking a reasonable balance between the interests of both parties. Major amendments to the above three categories of legislation in the past 30 years are detailed at the Annex in chronological order.

In short, considerable improvements have been made in the past 30 years to enhance the rights and benefits as well as the protection of employees. These cover various areas as follows:

- (i) The scope of the Employment Ordinance has been extended from initially covering only manual employees and non-manual workers with a monthly salary of \$1,500 or below to all salaried employees;
- (ii) Provision for leave has been increased progressively from initially only one rest day in every period of seven working days to include 12 statutory holidays every year and seven to 14 days paid annual leave;
- (iii) The number of accumulated paid sickness days has been substantially increased from 24 to 120 while sickness allowance has been progressively increased from one half to four fifths of wages;
- (iv) Provisions on 10 weeks' maternity leave have been introduced, employees on maternity leave shall obtain payments at a rate of four fifths of their normal wages;
- (v) Provisions on severance payment and long service payment have been introduced. The ratio of such payments to wages has been gradually increased and the eligibility for such payments has been relaxed;
- (vi) Provisions against "unreasonable dismissal" and "unlawful dismissal" have been introduced. Employees who have been unreasonably or unlawfully dismissed may claim for remedies, including reinstatement or re-engagement, terminal payments, compensation, and so on. Meanwhile, employees engaged in union activities are protected from discrimination by employers;
- (vii) The Protection of Wages on Insolvency Fund has been set up to ensure that wages in arrears, payment in lieu of notice, severance payment, and so on, are payable to employees upon bankruptcy of employers;

- (viii) Employers are required to take out employees' compensation insurance for employees. The Employees Compensation Assistance Fund has been set up to provide assistance to employees who fail to receive compensation from employers who have not taken out insurance or insurers who have become insolvent;
- (ix) Specific compensation funds have been set up for occupational diseases with long incubation period and the scope of compensation has been progressively extended to cover 46 occupational diseases;
- (x) On many occasions, the amount of compensation for various employees' compensation items have been enhanced and their coverage extended;
- (xi) Statutory protection of occupational safety has been extended from initially covering only factories and industrial undertakings and employees employed therein to all employees and workplaces, including offices, commercial premises, schools, hospitals, and so on; and
- (xii) The Mandatory Provident Fund Scheme has been launched to provide retirement protection for employees and the self-employed.

As shown in the Annex, since 1970, we have been improving employees' rights, benefits and protection continuously. We have enacted a total of 31 new laws or regulations on the protection of employees' rights and benefits with 32 major amendments.

In early 1997, the Government carried out an assessment of the impact of the protection of employees' rights and benefits on employers. The assessment covered 11 items of employees' rights and benefits under five labour-related ordinances. The ordinances were the Employment Ordinance, the Employees' Compensation Ordinance, the Employees' Compensation Insurance Levies Ordinance, the Protection of Wages on Insolvency Ordinance and the Pneumoconiosis (Compensation) Ordinance. The 11 items of employees' rights and benefits were paid annual leave, statutory holidays, rest days, sickness allowance, maternity leave, severance payment, long service payment, protection of wages on insolvency, pneumoconiosis compensation, employees' compensation and related insurance levies. The assessment results showed that

in order to comply with the above legislative requirements as at end of 1996, employers had to incur an additional total cost amounting to about 7% of the total wage bill, or about 2% of our Gross Domestic Product at that time.

I have just outlined the efforts made to enhance our employees' rights and benefits over the past few decades. However, it is difficult to compare Hong Kong employees' rights, benefits as well as welfare with those in the neighbouring countries directly. It is because different places have different cultural backgrounds, social and political circumstances, economic structures, modes of production and per capita incomes. Moreover, different systems are adopted by different places in their provision of employment rights, benefits and protection. We are, however, certain that the remuneration of Hong Kong employees is in general no worse than those in other Southeast Asian countries or economies.

Madam President, in formulating labour legislation, the Hong Kong Government has been monitoring closely and making reference from the labour standards of the International Labour Organization and other economies (particularly those with comparable level of development as Hong Kong). We have to ensure on one hand our labour rights and benefits are keeping pace with the time, such that they are in line with the global trend and on the other hand, the overall employment conditions will enable Hong Kong to remain competitive in the face of globalization.

Annex

Major Legislative Amendments During the Period from 1970 to 2001

For the legislative year 1970-71 to the year 1975-76

- In 1970, to make provisions for maternity protection and to provide 10-week maternity leave under the Employment Ordinance.
- In 1972, FIU (Electrolytic Chromium Process) Regulations were made to provide safety measures for electrolytic chromium process.
- In 1973, Construction Sites (Safety) Regulations were made to provide specifically for safety, health and welfare measures on construction sites.

- In 1973, FIU (Lifting Appliances and Lifting Gear) Regulations were made to provide safety measures for lifting appliances and lifting gear.
- In 1974, to make provision for severance payment, and to provide protection for workers against acts of anti-union discrimination under the Employment Ordinance.
- In 1974, to raise the maximum compensation for total permanent incapacity and death under the Workmen's Compensation Ordinance (re-named as Employees' Compensation Ordinance at present) by one third.
- In 1975, FIU (Abrasive Wheels) Regulations were made to provide for the safety of persons employed in operating abrasive wheels.
- In 1975, FIU (Work in Compressed Air) Regulations were made to provide safety measures for persons working in compressed air in tunnels, caissons or other pressure chambers.
- In 1976, to increase the number of statutory holidays from six to 10 under the Employment Ordinance.
- In 1976, FIU (Spraying of Flammable Liquids) Regulations were made to control spraying of flammable liquids.
- In 1976, FIU (Goods Lifts) Regulations were made to control the use of goods lifts.
- In 1976, FIU (Dry Batteries) Regulations were made to protect workers from health hazards arising from the manufacturing of dry batteries.
- In 1976, FIU (Guarding and Operation of Machinery) Regulations were made to provide guarding for dangerous machinery and parts thereof.

For the legislative year 1976-77 to the year 1980-81

- In 1977, to increase the maximum number of paid sickness days that can be accumulated from 24 to 36, and to increase sickness allowance to two thirds of a day's wages, and to provide for paid annual leave under the Employment Ordinance.

- In 1977, FIU (Cartridge-Operated Fixing Tools) Regulations were made to regulate the safe operation of cartridge-operated fixing tools, including training and certification of operator.
- In 1977, FIU (Protection of Eyes) Regulations were made to protect workers from eye injury at work.
- In 1980, to extend the coverage of the Employees' Compensation Ordinance to all non-manual workers so that all manual and non-manual workers are given protection under the Ordinance.
- In 1980, to set up the Pneumoconiosis Compensation Scheme through enactment of the Pneumoconiosis (Compensation) Ordinance to provide compensation for pneumoconiotics who were diagnosed to have contracted the disease in 1981 or later.
- In 1981, FIU (Fire Precautions in Notifiable Workplaces) Regulations were made to provide for fire safety precautions in notifiable workplaces.

For the legislative year 1981-82 to the year 1985-86

- In 1981, to provide for maternity leave pay for female employees at the rate of two thirds of their normal wages under the Employment Ordinance.
- In 1982, to require all employers to take out employees' compensation insurance policy for their employees under the Employees' Compensation Ordinance.
- In 1982, FIU (Electricity) Regulations were made to ensure worker's safety in connection with the use of electricity.
- In 1983, to increase the number of statutory holidays to 11, and to increase the maximum number of paid sickness days which can be accumulated to 120 under the Employment Ordinance.
- In 1983, to increase the number of compensable occupational diseases under the Employees' Compensation Ordinance from 21 to 34.

- In 1984, to increase the rate of severance payment from one half to two thirds of a month's wages for every year of service under the Employment Ordinance.
- In 1985, to provide for long service payment to employees under the Employment Ordinance.
- In 1985, the Protection of Wages on Insolvency Ordinance provided for the establishment of the Protection of Wages on Insolvency Fund. Under the ordinance, employees who are owed wages, wages in lieu of notice and severance payments by their insolvent employers may apply to the Fund for ex gratia payments.
- In 1986, FIU (Asbestos) Special Regulations were made to control work with asbestos.

For the legislative year 1986-87 to the year 1990-91

- In 1986, FIU (Safety Officers and Safety Supervisors) Regulations were made to provide for compulsory employment of safety officers and safety supervisors in construction sites.
- In 1986, FIU (Carcinogenic Substances) Regulations were made to require control and labelling of certain carcinogenic substances.
- In 1988, to provide for long service payment to be paid to employees who resign because of ill health or old age, and to dependants of employees who died in service under the Employment Ordinance.
- In 1988, to expand the scope of the Employees' Compensation Ordinance to include employees of local establishments injured while working outside Hong Kong.
- In 1988, FIU (Dangerous Substances) Regulations were made to require control and labelling of dangerous substances.
- In 1990, to remove the wage ceiling for non-manual employees for application of the Employment Ordinance; and to increase the number of

days of paid annual leave to between seven to 14 under the Employment Ordinance.

- In 1990, FIU Ordinance was amended to cover catering establishments.
- In 1991, to set up the Employees Compensation Assistance Scheme through the enactment of the Employees Compensation Assistance Ordinance to provide assistance to injured employees who were not able to obtain compensation because their employers failed to take out insurance or their insurers became insolvent.

For the legislative year 1991-92 to the year 1995-96

- In 1992, FIU (Noise at Work) Regulation was made to protect workers' hearing at work.
- In 1992, FIU (Cargo and Container Handling) Regulations were made to provide safety measures for handling cargoes and containers.
- In 1993, to raise the maximum compensation for total permanent incapacity and death under the Employees' Compensation Ordinance by 1.3 fold. Eight compensable occupational diseases were added in the same year.
- In 1993, to replace the lump sum compensation for pneumoconiotics by a monthly compensation for incapacity, payable until their deaths, through the amendment of the Pneumoconiosis (Compensation) Ordinance. In addition, to introduce new compensation items including compensation for pain, suffering and loss of amenities, expenses for medical treatment, expenses for care and attention, and so on.
- In 1994, Construction Sites (Safety) Regulations were amended to prohibit the employment of persons under 18 years of age in construction sites.
- In 1994, FIU (Suspended Working Platforms) Regulation was made to regulate the safe operation of suspended working platforms.
- In 1995, to remove the maximum limit of 12 months' wages for calculating severance payment and long service payment; and to increase

the maternity leave pay to four fifths of an employee's normal wages under the Employment Ordinance.

- In 1995, to extend the maximum period in respect of which periodical payments for temporary incapacity are payable under the Employees' Compensation Ordinance from two years to three years.
- In 1995, to provide compensation for employees suffering from noise-induced deafness due to their employment in specified noise occupations through the enactment of the Occupational Deafness (Compensation) Ordinance.
- In 1995, to enact the Mandatory Provident Fund Schemes Ordinance for the setting up of mandatory provident fund schemes to provide for retirement protection for employees and the self-employed.

For the legislative year 1996-97 to the year 2000-01

- In 1996, to increase the rate of sickness allowance from two thirds to four fifths of an employee's wages under the Employment Ordinance.
- In 1996, to increase the periodical payment payable to injured employees during their period of temporary incapacity under the Employees' Compensation Ordinance from two thirds to four fifths of their normal earnings. Furthermore, to eliminate the 3-day qualifying period of sick leave for entitlement to periodical payments and medical expenses.
- In 1997, to reduce the qualifying period of service for pro-rata end of year payment; to improve the maternity provisions by removing the qualifying service for maternity leave, relaxing the criteria for entitlement to maternity leave pay, and enhancing the protection for pregnant employees.
- In 1997, to provide employment protection for employees against unreasonable dismissal, unreasonable variation of the terms of employment contract as well as unreasonable and unlawful dismissal under the Employment Ordinance, and employees can claim for compensation from their employers.

- In 1997, new FIU (Asbestos) Regulation was made to replace the old FIU (Asbestos) Special Regulations to strengthen the control of the work with asbestos.
- In 1997, Occupational Safety and Health Ordinance was made to ensure the protection of safety and health of employees in non-industrial sectors.
- In 1997, Occupational Safety and Health Regulation was made to protect the safety and health of employees in workplaces and workers engaged in manual handling operations.
- In 1997 and 1998, to improve the Occupational Deafness Compensation Scheme by revising the Occupational Deafness (Compensation) Ordinance. Improvement items included lowering the deafness threshold for compensation from 50 dB to 40 dB, increasing the number of compensable noisy occupations by eight and lowering the qualifying service period from 10 to five years in respect of occupations that are particularly noisy.
- In 1998, new FIU (Confined Spaces) Regulation was made to replace the old FIU (Confined Spaces) Regulations to strengthen the safety measures for work in confined spaces.
- In 1998, Construction Sites (Safety) Regulations were amended to provide higher safety standards to persons working in construction sites.
- In 1999, to include the Labour Day as a Statutory Holiday under the Employment Ordinance.
- In 1999, FIU (Safety Management) Regulation was made to require certain industrial undertakings including construction sites and container handling industries to implement a safety management system.
- In 1999, FIU Ordinance was amended to introduce Mandatory Safety Training to workers in construction and container handling industries.
- In 2000, to clarify the wordings of certain provisions of the Employment Ordinance such that an employer may not summarily dismiss an employee without notice or payment in lieu of notice on the ground that the employee takes part in a strike.

- In 2000, to improve the settlement mechanism of fatal compensation claims by revising the Employees' Compensation Ordinance so that employers are required to pay compensation in full to family members of the deceased instead of his dependants. The Amendment Ordinance also provides an additional avenue for the Commissioner for Labour to determine claims where there is no dispute between the parties concerned, whereby shortening the processing time for fatal compensation claims by nine to 15 months. Furthermore, the funeral expenses borne by the employer was raised from \$16,000 to \$35,000.
- In 2000, FIU (Loadshifting Machinery) Regulation was made to regulate the safe operation of loadshifting machines, including training and certification of operator.
- In 2001, to make clear the intention of the provisions that an employer shall not dismiss an employee during pregnancy or paid sick leave, except in the circumstances where summary dismissal is justified under section 9 of the Employment Ordinance.

MR JAMES TIEN (in Cantonese): *Madam President, as regards the additional labour legislation enacted over the past 30 years as set out in the many pages of the Annex to the main reply, employers absolutely support them, and in particular, many of them have nothing to do with increasing employers' costs. I would like to follow up on the third, fourth and fifth paragraphs of the main reply. It appears that the Secretary has failed to compare our existing labour welfare with those in the neighbouring countries. I think a comparison can be made of the 11 major items under five of the 31 ordinances mentioned in the fourth paragraph of her main reply. To comply with the relevant requirements (the situations in 1996 and now certainly will have little difference) an additional cost amounting to about 7% of the total wage bill was bound to be borne by employers at that time. May I ask if this 7% is reasonable compared to that of our neighbouring countries? Can the Secretary further confirm the provisions in the remaining 20-odd ordinances actually will not increase employers' costs?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, the 11 items of employment rights and benefits under the five ordinances have in fact seen continuous improvement over the past 30 years. The 31 new ordinances and 32 amendments mentioned by me have basically

included such employment rights and benefits whereby some of them were amendments related to occupational safety. In 1997, the Government mainly assessed the impact of employment rights and benefits on employers and no assessment was conducted in respect of occupational safety. We have no idea whether or not our neighbouring countries have carried out the same kind of assessment, nor can we have access to the relevant data. However, I must emphasize again that all countries and places have their own cultural and economic backgrounds, so it is very difficult to draw a comparison directly. On the whole, we will follow the global trend and make reference to practices in other regions as far as labour rights and benefits are concerned. I can say the basic rights, benefits and remuneration for Hong Kong labour are in general no worse than their counterparts in other regions.

MR JAMES TIEN (in Cantonese): *Madam President, the Secretary has not answered my supplementary question. As mentioned by me earlier, in order to comply with the relevant requirements, an additional cost amounting to about 7% of the total wage bill was borne by employers. Compared to other Southeast Asian countries, is this a reasonable figure? This is a simple and easy comparison.*

PRESIDENT (in Cantonese): Secretary, do you have the relevant information?

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, I have already answered it. Firstly, we do not know whether or not other regions have carried out assessments in this regard; secondly, as no data of other regions are available, so I cannot tell if the relevant figure of other regions is above or below 7%.

MR LAU CHIN-SHEK (in Cantonese): *Madam President, the Secretary has not answered part (c) of the main question. I would like to add some information first. In Hong Kong, China, Taiwan, Singapore, South Korea, Malaysia and Japan, mainly in respect of labour rights and benefits*

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

MR LAU CHIN-SHEK (in Cantonese): *My supplementary question is, firstly, labour in Hong Kong is devoid of collective bargaining power, statutory minimum wages, stipulated working hours and unemployment insurance. Can it then be admitted that we have lagged behind the neighbouring regions? Secondly, are there any specific timetables and improvement measures to bring those labour rights and benefits in line with the global trend mentioned in the sixth paragraph of the Secretary's main reply?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, I believe when a comparison is made, the relevant party will just take what they want. I can point out some of the labour rights or welfare in Hong Kong which are better than those in other places. The Honourable Member did not mention, for example, the arrangements of maternity leave and paid sickness leave in Hong Kong which are better than those in some other places. As regards the collective bargaining power, minimum wages, and so on mentioned by Mr LAU earlier, in-depth studies on these problems have actually been conducted in Hong Kong. We have also held debates on them in this Council, discussing why certain items cannot apply to the actual situation of Hong Kong. However, collective bargaining is in itself simply a tactic or a process. Even collective bargaining is not provided for in Hong Kong, we can have discussions on labour welfare through tripartite negotiations. Hong Kong has a very good mechanism in the Labour Advisory Board where tripartite negotiations can be conducted. The so-called tripartite set-up includes the employer, the employee and the government representatives. For many years, the tripartite mechanism has proved to be effective in fighting for some reasonable rights and benefits for employees with certain interests of the employers being looked after and balanced at the same time. It is consistent with the spirit underlying any legislation on collective bargaining, that is, social dialogue. Therefore, even the International Labour Organization also agrees that we have done pretty well in this respect.

PRESIDENT (in Cantonese): Mr LAU, has your supplementary question not been answered?

MR LAU CHIN-SHEK (in Cantonese): *Yes, Madam President. In fact, does the Secretary admit that Hong Kong has lagged behind other countries in these areas?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, I do not agree that we have lagged behind but we are actually different from other regions in certain aspects. I believe Mr LAU has basically conducted some studies in this respect, hence I will not negate the accuracy of the information. However, every region has its particular social system, so we must seek an arrangement which is suitable for our system, and I think the existing mechanism in Hong Kong is good.

MR LEUNG YIU-CHUNG (in Cantonese): *Madam President, in answering the Honourable James Tien's supplementary question, the Secretary mentioned that the protection provided for in many ordinances is no worse than those in other Southeast Asian countries. However, at present, the figures of industrial casualties in Hong Kong are still high, which are actually much worse than those in other countries or regions. If the figures I have at hand are correct, the figures of industrial casualties in Hong Kong should top the list in Asia. In answering Mr James TIEN's question, the Secretary mentioned ordinances in connection with occupational safety or industrial undertakings. May I ask the Secretary in what areas we have to make further improvements so as to ensure that the figures of industrial casualties in Hong Kong, if not lower, will not be higher than those in other places? Is there any timetable for such improvements?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, we can see from the Annex that in the past few years, we have done a lot in respect of industrial safety and there have been substantial amendments to the relevant ordinances. In fact, the figures of industrial accidents have been dropping year after year. As to whether the figures of industrial casualties in Hong Kong remain the highest in Southeast Asia, I have no data at hand for comparison. However, we must be careful when making such a comparison and we must know clearly on what basis that the relevant figures are calculated and what basic assumptions made. With these, can we be assured that the same criteria are employed for comparison. That is, we should compare an orange with an orange, and an apple with an apple. Certainly, much more publicity and education efforts have to be made in respect of industrial accidents. Insofar as regulation is concerned, legislation is in place. As regards what effects can be achieved, apart from the strenuous efforts made by us, the results also rely on the co-ordination among the three parties: society,

employers and employees in enhancing the public awareness of industrial safety. Only then can the figures of industrial accidents be lowered.

PRESIDENT (in Cantonese): Mr LEUNG, has your supplementary question still not been answered?

MR LEUNG YIU-CHUNG (in Cantonese): *Madam President, the Secretary admitted that further improvements are still warranted in certain areas*

PRESIDENT (in Cantonese): Mr LEUNG, are you asking a question on a part of your supplementary question earlier which has not been answered?

MR LEUNG YIU-CHUNG (in Cantonese): *Yes. May I ask what the relevant timetable is and how such improvements will be carried out?*

PRESIDENT (in Cantonese): Secretary, Mr LEUNG asked about the timetable in his supplementary question earlier.

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, Mr LEUNG did not mention the areas which he thinks we have to make improvement. Nor did he say specifically in which areas we have not done enough and needed further enhancement. However, we have tabled the relevant issues such as the working hours and safety standards for information technology staff, and so on at the Legislative Council for discussion. We have also tabled to the Legislative Council some bills on labour legislation, such as the bill in connection with welding work, and we are also studying other bills related to industrial safety. In the meantime, I cannot provide full examples explaining which bills will be tabled before the Legislative Council shortly.

PRESIDENT (in Cantonese): This Council has spent more than 16 minutes on this question, but many Members are still waiting to ask their questions. Since

only a few Members have been able to raise their supplementary questions, I allow one more Member to ask the last supplementary question.

MR LEUNG FU-WAH (in Cantonese): *Madam President, in the sixth paragraph of the main reply, the Secretary mentioned that the Hong Kong Government had paid attention to and made reference to the labour standards of the International Labour Organization and other places (particularly those with comparable level of development as Hong Kong). In my personal experience, the Government used to make comparisons among the four small dragons in the past. But two of the four small dragons are now "lame". May I ask the Government what regions we are actually being compared with?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): *Madam President, generally speaking, we are comparing with our neighbouring regions. I have also mentioned it is most crucial to take Hong Kong's actual situation into consideration when we enact any legislation, and we cannot follow the other's practice blindly.*

PRESIDENT (in Cantonese): Third question.

Subsidizing of Kindergartens

3. **MR YEUNG YIU-CHUNG** (in Cantonese): *Madam President, under the Kindergarten Subsidy Scheme (KSS), non-profit-making kindergartens receive subsidies at a rate of \$41,000 for each class per year. In respect of the subsidizing of kindergartens, will the Government inform this Council:*

- (a) *of the total amount of salaries paid every year by non-profit-making kindergartens to the Qualified Kindergarten Teachers (QKTs);*
- (b) *whether it will consider providing each non-profit-making kindergarten with a subsidy equivalent to the total amount of salaries paid to the QKTs (salaries subsidy) so as to replace the subsidy under KSS; if it will, of the implementation timetable; if it will not, the reasons for that; and*

- (c) *whether, if it will provide the salaries subsidy, it has assessed the respective percentages of the subsidy in this year's estimated expenditures for early childhood education and for education as a whole, and how the subsidy compares with the estimated expenditure for KSS this year?*

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

- (a) The Government does not have information on the salaries of teachers employed by non-profit-making kindergartens territory-wide. For the 2000-01 school year, there are 463 local non-profit-making kindergartens employing some 4 000 QKTs (including principals). The monthly salary recommended by the Government for QKTs ranges from \$12,595 to \$23,170. The total annual salaries for these teachers calculated at the mid-point salary of \$18,140 amount to about \$870 million.
- (b) The Government's policy on provision of subsidy for early childhood education is basically to ensure that no student will be deprived of kindergarten education for lack of financial means. On the one hand, we help needy parents pay kindergarten fees by providing direct assistance under the Kindergarten Fee Remission Scheme (KFRS). On the other hand, we provide subsidies to non-profit-making kindergartens to relieve pressure on school fees. This takes the form of rates and rent reimbursement, and direct payment to kindergartens to assist them in attaining the objective of employing at least 60% QKTs. We are now conducting a comprehensive review of the KSS with a view to further raising the percentage of QKTs in each kindergarten and ensuring a proper utilization of resources. It is expected that the review will be completed shortly. We will implement any new arrangements in the 2001-02 school year, after consultation with the kindergarten sector.

In the course of the review, we have solicited the views of the kindergarten sector. Some operators urged the Government to provide each non-profit-making kindergarten with a level of subsidy

equivalent to the total amount of QKT salaries. In fact, the subsidy under the KSS was calculated on a "per student" basis until the 1998-99 school year when it became a "per class" grant. Although the subsidy is calculated on the basis of a class size of 30, we note that for kindergartens joining the KSS, 20% of classes now have less than 15 students while 9% have even less than 10 students, which is not cost-effective. Directly subsidizing teachers' salaries involves a lot of administrative work and is not value for money. Accordingly, we have great reservation about the proposal.

- (c) If the Government were to provide a salary subsidy, calculated at the mid-point salary of QKTs, to the 463 local non-profit-making kindergartens for employing 4 000 QKTs, a total of \$870 million would be required. The amount would be 4.8 times higher than the estimated expenditure on the KSS for the 2001-02 school year (about \$150 million). It would represent some 91% of the estimated total expenditure on early childhood education (about \$960 million), or 1.6% of the estimated overall expenditure on education (about \$55.33 billion). We agree that we should make additional provision to improve early childhood education. We will enhance the quality of kindergarten principals and teachers, and actively review the level of fee remission and KSS subsidy.

MR YEUNG YIU-CHUNG (in Cantonese): *Madam President, I am glad to hear the Secretary say that the authorities concur there is a need to increase resources to improve early childhood education. In fact, additional resources are the principal and core issue of kindergarten education. May I ask the Government whether it has plans to increase the relevant resources?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): *Madam President, I have already mentioned in the main reply that we are going to improve early childhood education in three areas, and of course all of these three areas will involve additional resources. Firstly, we will enhance the quality of kindergarten teachers; secondly, we will actively review the level of fee remission; and thirdly, we will improve the KSS. With regard to the review of the KSS, we hope to consultation with the kindergarten sector soon. Honourable Members will know what kind of proposals we have when they are*

publicized. As to the KSS, some improvements have actually been made in this school year. We are now studying whether it is necessary to offer additional help to parents by providing them with more direct assistance in the wake of an increase in the kindergarten operational expenditure caused by enhancement in the quality of kindergarten teachers. We will publicize the relevant details in due course.

MR CHEUNG MAN-KWONG (in Cantonese): *Madam President, at present, approximately 35% of kindergarten teachers have yet to receive suitable training. If the Government changes the mode of subsidy by subsidizing QKTs' salaries direct, then the more QKTs employed the more subsidies kindergartens will get, then, will that be helpful to encouraging kindergartens to push for more teachers to receive training? Simply by expending \$800 million, the Government can enhance the quality of teachers in some 436 kindergarten comprehensively to the benefit of over 100 000 pupils. Why it is not cost-effective?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, it actually depends on what kind of direct subsidy of QKTs' salaries the Honourable Member is talking about. The point asked in Mr YEUNG's main question was whether a subsidy equivalent to the total amount of salaries paid to QKTs would be provided, that is, we have to provide an amount of salaries subsidy equivalent to the actual salaries paid to QKTs by kindergartens. To do this, we have to know the exact salaries paid to each teacher by each kindergarten, and it involves enormous administrative expenditure and work, which is not something we wish to see.

I have also cited an example and many figures earlier for Honourable Members' reference. When we started to calculate the KSS on a "per class" basis, we noted that even the class size was relatively small, we still had to pay a subsidy equivalent to an assumed class size of 30. If we are to subsidize the salaries of teachers, the same problem will also arise. Perhaps it be inconceivable to Honourable Members, but for a class with only three or four pupils, we still have to consider it as one class with one teacher in our calculation. As a result, even though we are willing to make additional provisions, we have to use them properly and effectively. In contrast, providing direct subsidy to offset the salaries of teachers is not necessary the most cost-effective way.

In fact, the existing KSS is somewhat equivalent to subsidizing teachers' salaries. At present, for each class of 30 pupils, we will provide a subsidy of a certain amount, which is calculated on the assumption that the kindergarten has 60% of its teachers being QKTs. Therefore, if the proportion of QKTs rises in the future, we may have to make corresponding adjustments to the "per class" subsidy. We are now studying the issue in this direction, and hopefully we can come up with some proposals to facilitate consultation with the kindergarten sector.

MR JASPER TSANG (in Cantonese): *The Secretary said that as the subsidy was calculated on a "per class" basis, thus the cost-effectiveness would be affected because some classes would have fewer students. May I ask the Secretary, considering government subsidies provided to secondary and primary schools are also calculated on the "per class" basis, then, whether the same cost-effectiveness problem exists in secondary and primary schools because of smaller classes? If the problem does not exist, why the Government is unable to adopt the same management approach for kindergartens? If the problem does exist, why do secondary and primary schools need not address the cost-effectiveness problem?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, there are vast differences between the two. Especially in the case of subsidized secondary and primary schools, when primary schools have fewer pupils, we can reduce the number of classes. I believe Honourable Members know that due to the changing demographic structure, a number of primary schools are facing a contraction in the number of classes. However, since kindergartens are a private market, we cannot control their number. So we will provide subsidies when non-profit-making kindergartens lodge applications with the Government. As to the planning for primary and secondary schools, it is under the total control of the Government, ranging from the number of new schools, to the granting of land for the construction of new secondary or primary schools. These are the most fundamental differences.

MISS CYD HO (in Cantonese): *Madam President, in the Secretary's main reply, she has virtually dismissed the possibility of directly subsidizing teachers' salaries, saying that it is not cost-effective. However, it is little different from*

the KFRS. May I ask the Secretary, with regard to the current review on subsidy schemes, will she consider consulting with parents besides consultation with the kindergarten sector, as one of the proposed schemes may provide parents with direct assistance via a voucher system, which is more cost-effective?

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, we are now reviewing two schemes concurrently, one of them being the KFRS, and the other the KSS. As the targets of the KSS are kindergarten operators, we therefore will basically conduct more consultations with the kindergarten sector. However, if there is a need for us to conduct a public consultation, we will carry out by way of the mass media in addition to consultation with the Legislative Council. With regard to the KFRS, we will certainly face up to parents in order to make the consultation more comprehensive.

MISS CHOY SO-YUK (in Cantonese): *Madam President, the Secretary mentioned in the main reply that due to certain classes would have fewer pupils, thus the proposed approach would not be adopted. However, will the Government consider pegging the subsidy at the percentage of QKTs? In this way, the quality of education can be upgraded and at the same time, kindergartens would be encouraged to employ more QKTs.*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, at present, we have a teacher-to-pupil ratio governing this. Basically, the teacher-to-pupil ratio for upper kindergarten should be 1 to 30. As a result, when we calculate the amount of subsidy under the KSS, we will therefore assume that one teacher will take care of a class of 30 pupils. At present, we find that the number of pupils in each class is extremely irregular. In some kindergartens, there may be as many as 45 pupils in one class, while some kindergartens only have as few as two in one class. As a result, the distribution of subsidy is absolutely uneven. We now hope to look for ways to establish a more direct relationship between the amount of subsidy and the teacher-to-pupil ratio.

MR LEE CHEUK-YAN (in Cantonese): *Madam President, the Secretary mentioned in part (b) of the main reply that the Government was conducting a*

comprehensive review of the KSS with a view to further raising the percentage of QKTs. May I ask the Secretary whether the authorities have set a target, for example, to raise the percentage of QKTs to 100%, and then draw up a timetable to stipulate that the target shall be achieved within a certain number of years? In this way, the relevant progress can be clearly presented.

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, we promulgated last year that hopefully by the 2003-04 school year, all newly inducted kindergarten teachers should be QKTs before they take up the employment. We will continue to increase the number of training places in the coming four years. If everything goes smoothly, we estimate that by 2003 or 2004, we will have sufficient QKTs. By that time, all kindergartens will achieve the 100% target.

DR YEUNG SUM (in Cantonese): *Madam President, more and more educational researches have proved that pre-primary education is essential. However, the Government has all along set the percentage of QKTs at a very low level. The Secretary mentioned in part (c) of the main reply that calculated at the mid-point salary of some 4 000 QKTs, only \$870 million would be required. Given that we have such an enormous surplus, why is the Government unwilling to consider the proposal and to expeditiously make all kindergartens have a full force of QKTs with resolve?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, we have held a number of discussions in this Council on whether a comprehensive subsidized early childhood education can ensure the quality. According to our calculation, especially to those kindergartens under the KSS, besides rates and rent reimbursements, direct assistance under the KFRS — because needy families may get fee remission and the fees may be paid by the Government on the families' behalf, and in addition to the KSS, the actual subsidy provided by the Government to each kindergarten has exceeded 40% of the operational expenditure of that single kindergarten. We hope to subsidize early childhood education in two aspects, one of them is that parents be given the choice, that is, they can choose the kindergarten for their children. Consequently, we are heading in two directions; one of them is to improve the KSS, and the second one is to enhance the level of fee remission. We hope this

will give kindergartens more impetus to improve their quality. We do not wish to see the same situation in primary and secondary schools occur again in early childhood education, where the Government has to take care of everything.

PRESIDENT (in Cantonese): Fourth question.

Study of Nitrogen Dioxide, Photochemical Smog and Particulates and their Control Measures

4. **DR RAYMOND HO** (in Cantonese): *Madam President, the Government obtained funding approval in October 1998 for commissioning a two-year consultancy study entitled "Study of Nitrogen Dioxide, Photochemical Smog and Particulates and their Control Measures", with a view to formulating effective measures to tackle air pollution problems. In this connection, will the Government inform this Council of:*

- (a) *the progress and preliminary findings of the study;*
- (b) *the scheduled time for completing the whole study and publishing its findings; and*
- (c) *the public expenditure incurred so far?*

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

- (a) The Consultant completed in March this year the collection of air quality data of the Pearl River Delta region and information on the air pollution control measures in Hong Kong and Guangdong. The Consultant is now processing the data collected and utilizing computer modelling to forecast the air quality in the Pearl River Delta region from the present to 2010. As air pollution problems are very complex, the findings of the study have yet to be processed and analysed.
- (b) According to current schedule, the Consultant will complete the study and submit a report to both Hong Kong Special Administrative

Region (SAR) and Guangdong Governments within this year. As it is a joint study by both Governments, the two sides would jointly study the report and decide the date for releasing the study results.

- (c) The Finance Committee approved \$15 million for the study. Up to now, a consultancy contract of \$11.67 million has been awarded. \$7.04 million has been paid to the Consultant.

DR RAYMOND HO (in Cantonese): *Madam President, in conducting research work, consultants usually will produce interim reports, conclusions or opinions. For a research that has gone on for more than two years particularly, there should be a rather detailed interim report normally. In respect of this particular study, can this Council be provided with an interim report, if available?*

SECRETARY FOR THE ENVIRONMENT AND FOOD (in Cantonese): Madam President, we do not have an interim report for this particular study.

MISS CHOY SO-YUK (in Cantonese): *Madam President, in conducting the study, the relevant personnel collected air samples from the Pearl River Delta region. Will the Government inform this Council who decided where to collect the samples?*

SECRETARY FOR THE ENVIRONMENT AND FOOD (in Cantonese): Madam President, for the purpose of this study, the relevant parties have set up a research group comprising Hong Kong, mainland and overseas experts. The data collected by the Consultant consist of two parts. One part comes from the data collected by the relevant departments and units in Hong Kong and the Mainland, but if the relevant departments and units cannot provide the data, the Consultant will collect the data itself.

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

MISS CHOY SO-YUK (in Cantonese): *Madam President, I asked about the distribution of samples taken. If the locations are too many for the Secretary to specify now, she may inform this Council of the approximate number of locations and their distribution.*

SECRETARY FOR THE ENVIRONMENT AND FOOD (in Cantonese): Madam President, I do not have the information on hand, so I will answer the Honourable Member in writing. (Annex II)

DR RAYMOND HO (in Cantonese): *Madam President, after the study, will the Government consider setting up a cross-boundary environmental co-ordination committee, similar to the cross-boundary Hong Kong and Mainland Infrastructure Projects Co-ordination Committee? However, I am not referring to a committee that holds only a meeting every few years. I expect to see a committee that meets more frequently to co-ordinate work on issues of pollution for both sides of the boundary.*

SECRETARY FOR THE ENVIRONMENT AND FOOD (in Cantonese): Madam President, in his policy address in 1999, the Chief Executive announced the formation of a Joint Working Group on Sustainable Development and Environmental Protection. The Working Group had met several times. It has a topical subgroup under it studying air pollution, and there are other topical subgroups on other issues of environmental protection and sustainability.

MISS CHOY SO-YUK (in Cantonese): *Madam President, in answering the supplementary question raised by Dr the Honourable Raymond HO, the Secretary indicated there was no interim report per se. Will the Secretary inform this Council of the particular reason why no interim report will be published for public comment that would make the report more comprehensive?*

SECRETARY FOR THE ENVIRONMENT AND FOOD (in Cantonese): Madam President, as Members know, the study is mainly concerned with predicting the air quality in the Pearl River Delta region from the present to 2010. We must collect data on air pollution with a view to finding out the source of

pollution and coming up with measures of prevention and mitigation. These three areas of work are related. When the study started, I had yet to take up my present post as Secretary for the Environment and Food. However, I believe the authorities must have considered the usefulness of releasing an interim report before launching the study. It might have been decided not to release the same because after some deliberation it might have come to the view that the release of data or analysis without the prevention and mitigation measures would not be the best course of action to take.

MR ALBERT HO (in Cantonese): *Madam President, in part (a) of the main reply, the Secretary indicated that the Consultant would utilize computer modelling to predict the air quality in the Pearl River Delta region from the present to 2010. Will the Government inform this Council whether the prediction is premised on no improvement to the relevant conditions? If during the interim we take some improvement measures, how will the prediction be made? Will the Secretary please give a brief explanation?*

SECRETARY FOR THE ENVIRONMENT AND FOOD (in Cantonese): *Madam President, as far as I know, in utilizing computer modelling for prediction, the Consultant will predict the future air pollution scenario under different environmental conditions, including conditions in Hong Kong. In 1999 and 2000, we did launch a series of projects and initiatives to improve air quality. The Consultant will make different predictions under different circumstances. For example, it will make predictions on the air quality in 2010 given that the 1999-2000 programmes to improve air quality are all completed. Another prediction will be made on the air quality in the Pearl River Delta region given that the study, which includes prevention and mitigation measures, is completed and the measures are implemented. In other words, the air quality in 2010 may vary. What will it be like if the said measures are taken? By how much will it improve if additional measures are taken? Therefore, it is not just a single prediction, but a multiple one.*

DR RAYMOND HO (in Cantonese): *Madam President, I was somewhat surprised to learn that there is no interim report up to now for a study that has been conducted for over two years. Since the study will not end until 2010, can we have a preliminary conclusion or can some information be released now*

regarding the factors affecting pollution? For example, does pollution come from industry, the use of diesel on the Mainland or some such factors? Will the Administration inform this Council what a preliminary conclusion or solution could be? If there is no interim report, will the Government provide Members with such information?

SECRETARY FOR THE ENVIRONMENT AND FOOD (in Cantonese): Madam President, as I pointed out in my main reply, analytical work is being done on data relating to pollution. Therefore, at this stage, we cannot announce any interim results. I have stated clearly that the relevant results are being processed, and the data analysed. I wish to inform Members that the study was formally launched in October 1999, less than two years ago.

PRESIDENT (in Cantonese): Fifth question.

Difficulties Encountered by HKSAR Passport Holders when Entering Visa-free Countries

5. **MR LAU KONG-WAH** (in Cantonese): *Madam President, it has been reported that some Hong Kong Special Administrative Region (SAR) passport holders were required to apply for visas and pay the relevant fees on the spot while going through immigration clearance upon arrival in certain countries which, according to announcements made by the Administration, had granted visa-free access to SAR passport holders (visa-free countries). In this connection, will the Government inform this Council:*

- (a) of the number of complaints or requests for assistance received relating to this kind of incidents in the past three years, and the follow-up actions it has taken;*
- (b) of the countries which have signed Visa Abolition Agreements with the Administration, and whether the implementation dates and other detailed arrangements had been specified when such agreements were signed; of the visa-free countries which have not signed such agreements with the Administration; and*

- (c) *whether it keeps regular contacts with the local consulates of the visa-free countries to verify that the visa-free treatment remains in effect; if not, how the Administration ascertains that such treatment is still in effect?*

SECRETARY FOR SECURITY (in Cantonese): Madam President,

- (a) During the past three years (June 1998 and May 2001), the Administration received eight cases of requests for assistance from SAR passport holders who were required to apply for visas and pay the relevant fees on the spot while going through immigration clearance in certain countries which, according to announcement made by the Administration, were visa-free countries. Upon their return to Hong Kong, they reported their unpleasant encounters to the Immigration Department (ImmD) and sought assistance in clarifying the visa requirements with the countries concerned. No complaint was directed against the Administration in all eight cases.

The ImmD followed up by writing to the relevant local consulates or their embassies in Beijing to express our concern, request an investigation into the matter and seek assurance that similar incidents would not occur again in future. For all the countries concerned, the ImmD has not received any request for assistance of a similar nature thereafter.

- (b) At present, 90 countries and territories grant visa-free access to SAR passport holders. Among them, 30 have signed bilateral visa abolition agreements. The rest apply visa-free treatment to us through administrative arrangements. Details are set out at Annex.

Operational information such as the date of implementation, scope of application and essential operational details are clearly specified in all visa abolition agreements. In cases where visa-free access is granted through administrative arrangements, similar information is exchanged through written notification between Hong Kong and the party concerned.

- (c) The Administration maintains close dialogue with foreign countries and territories with a view to maximizing travel convenience for

SAR passport holders. Apart from regular contact with the local consulates, we work through our Economic and Trade Offices overseas, the Beijing Office and various Chinese Diplomatic and Consular Missions to ensure that all information relating to visa-free access for SAR passport holders is up-to-date. We also maintain regular liaison with representatives of the tourism sector and air transport operators so as to ensure that problems detected, if any, will be brought to our attention promptly.

Annex

Position of visa-free access for SAR passport holders
(as at 26 May 2001)

- I. Thirty countries/territories have signed agreements or have exchanged letters with the SAR:

Country/Territory

1. Benin
2. Cape Verde (Republic of)
3. Chile
4. Congo
5. Ecuador
6. Egypt
7. Ghana
8. Israel
9. Jamaica
10. Jordan
11. Lesotho
12. Liechtenstein
13. Maldives
14. Mali
15. Marshall Islands (Republic of)
16. Mauritius
17. Mongolia
18. Namibia
19. Niger
20. Papua New Guinea

Country/Territory

21. Samoa
22. Seychelles
23. Slovak Republic
24. Sri Lanka
25. Suriname
26. Switzerland
27. Tanzania
28. Thailand
29. Trinidad and Tobago
30. Uganda

- II. Sixty countries/territories have announced visa-free treatment for SAR passport holders through administrative arrangement (such as written notification and press release):

Country/Territory

1. Austria
2. Bahamas
3. Bahrain
4. Bangladesh
5. Belgium
6. Belize
7. Bermuda
8. Botswana
9. Burundi
10. Canada
11. Croatia
12. Denmark
13. Djibouti
14. Dominica (Commonwealth of)
15. Falkland Islands (Malvinas)
16. Finland
17. France
18. Germany
19. Gibraltar
20. Greece

Country/Territory

21. Hungary
22. Iceland
23. Indonesia
24. Ireland (Republic of)
25. Italy
26. Kiribati
27. Republic of Korea
28. Luxembourg
29. Malaysia
30. Micronesia (Federated States of)
31. Montserrat
32. Nepal
33. Netherlands
34. Netherlands Antilles
35. New Zealand
36. Niue
37. Northern Mariana Islands
38. Norway
39. Pakistan
40. Palau
41. Peru
42. Philippines
43. Portugal
44. San Marino
45. Singapore
46. Slovenia
47. South Africa
48. Spain
49. St Helena
50. St. Kitts and Nevis
51. St Vincent and the Grenadines
52. Sweden
53. Turkey
54. Tuvalu
55. United Arab Emirates
56. United Kingdom
57. Vanuatu

Country/Territory

- 58. Venezuela
- 59. Yemen (Republic of)
- 60. Zimbabwe

MR LAU KONG-WAH (in Cantonese): *Madam President, it will obviously be very inconvenient and frustrating if Hong Kong residents are required to apply for visas on the spot while going through immigration clearance upon arrival in certain countries which, according to announcements made by the Administration, are visa-free countries. At present, though it was said that only eight cases of requests for assistance were received and no complaint had been lodged with the Government, can the Secretary clarify whether there are any loopholes in the procedures for announcement, and whether any improvements can be made? Furthermore, can the Secretary tell us which countries were involved in those cases and how much money was paid by way of fees?*

SECRETARY FOR SECURITY (in Cantonese): Madam President, the procedures for dissemination of information are as follows: when a country or territory decides to grant visa-free treatment to SAR passport holders, its first duty is to ensure that its immigration or border control officers are aware of such arrangements, and this practice should be adopted by the governments of all visa-free countries and territories. Once we have reached a visa-free access or bilateral visa abolition agreement with those countries or territories, we will remind them of this point. In fact, even without our reminder, they should know that steps should be taken to ensure that their immigration departments or border control units are aware of such arrangements at once.

Recently, SAR passport holders were granted visa-free treatment by the European Union (EU) and similar procedures were taken. The EU Office informed us that it would make sure that the border control officers of the relevant European countries were aware of the relevant arrangements. Of course, in many cases, for example, in the case of the EU that covers such an extensive region or certain remote countries like those in Africa or places rarely visited by Hong Kong people, sometimes mistakes will be made for it is not very often that the officials of those countries will come across SAR passports. Such incidents have occurred both before and after the reunification.

As regards what has the ImmD done to help the dissemination of such information? First of all, the relevant information will be posted on the website of the ImmD with explanations; the ImmD will also keep members of the public informed of the latest visa-free arrangements. Moreover, the ImmD will also keep the Airport Operators Committee informed of such arrangements for it represents airline operators, and by notifying the Committee, airline operators will know which countries have granted visa-free access to SAR passport holders. For example, if a passenger has to take a flight to Italy, and since the EU has already granted visa-free access to SAR passport holders, the relevant airline operator should not request that the passenger should have an Italian visa on his passport. Through the Hong Kong Tourist Association, the ImmD will also notify travel agencies which countries and territories have granted visa-free access to SAR passport holders.

As regards the eight cases that occurred in the past three years, according to our information on hand, one of these cases involved travelling to Italy, one to Canada, one to Austria, one to Spain, one to Switzerland, one to Egypt, one to Mongolia and one to Zimbabwe. In fact, four out of these eight cases have been resolved satisfactorily. One of these cases involved three SAR passport holders who were refused entry to Italy from Switzerland while travelling on a package tour. They rang up the ImmD in Hong Kong at once and requested for assistance. The ImmD then contacted the Chinese Embassy in Italy immediately and requested them to inquire with the Italian Government. Finally, those people were admitted to Italy with only some delay in their itinerary. They phoned the ImmD for assistance on the 16th and were admitted to Italy on the 18th, and this case was also immediately resolved.

The other three cases were also satisfactorily resolved. After investigations, the relevant local consulates told us that individual officers had made mistakes and we were assured that similar incidents will not occur again in the future. Two cases involved airline operators, namely, the Japan Airlines (JAL) and Swissair, and they both admitted that certain personnel have made mistakes in wrongly requesting the persons concerned to get visas. One of the operators admitted its fault and already apologized to the passenger. It is now looking into the issue of compensation. As regards the two other cases, the ImmD has already inquired with the relevant governments and is now awaiting their reply.

What is most important is that after these cases were brought to the attention of the ImmD, and after it had inquired with the governments of the

relevant countries through their local consulates or the Chinese Embassies in country, it has never received any further complaints involving the same country.

MR HOWARD YOUNG (in Cantonese): *Madam President, as regards the complaint cases mentioned by the Secretary earlier, can she tell us whether those people who were refused entry to the countries concerned have travelled from Hong Kong direct or via a third place? It is because such incidents rarely happen to people travelling from Hong Kong direct, but if they are travelling indirectly to those places, then I can understand that such cases can occur under a lot of circumstances, and the ways to resolve them may also be different.*

SECRETARY FOR SECURITY (in Cantonese): Madam President, the Honourable Member is right in his assumption. Most of those cases do not involve direct flights or just transits from Hong Kong. For example, in the Italian case, the person concerned had tried to seek entry from Geneva to a small town in Italy; the person who were refused entry to Canada had flown to Canada from Japan on JAL; the one who went to Austria had tried to go there from Germany; the one who went to Spain had tried to go there from Gibraltar; the one who was refused entry to Spanish territory planned to go there from Zurich on Swissair; and presumably, one person had tried to go to Egypt from a certain place in Africa; and another person went to Zimbabwe from Kenya. From this, we can see that the tracks of Hong Kong people can really be found all over the world, their routes are unpredictable, and some of the small towns are even unknown to me. Under such circumstances, it is unavoidable that such incidents do happen at times. However, we have already requested the relevant governments to address these incidents squarely.

MR JAMES TO (in Cantonese): *Madam President, I am sorry, my question has already been asked.*

MISS CHOY SO YUK (in Cantonese): *Madam President, may I ask the Secretary whether the Government will amend the relevant list regularly and announce the changes officially at the same time? If so, how often will it take place, that is, how often will the list be updated?*

SECRETARY FOR SECURITY (in Cantonese): Madam President, the ImmD will definitely amend the list from time to time. First of all, if there are additional countries or territories that have granted visa-free access to SAR passport holders (the most recent addition is Slovenia), the Government will immediately issue a press release in the hope that it will be published by the media. Moreover, the list and relevant information on the ImmD website will also be updated accordingly. Conversely, if certain territories decide to terminate these visa-free arrangements, information will also be released by the ImmD.

MR LAU KONG-WAH (in Cantonese): *Madam President, the Secretary mentioned earlier that compensations will be made by some airline operators, so how much will be paid in terms of compensations? However, if a mistake is made by a country which has charged the Hong Kong travellers fees, then does the Secretary have an obligation to help them seek a refund?*

SECRETARY FOR SECURITY (in Cantonese): Madam President, let me first answer the question on airline operators. I understand that the passenger involved in one of the cases has accepted the apology of the airline operator and the issue of compensation is now under discussion. That passenger may also file a claim with the Small Claims Tribunal and seek compensation through a formal channel. If the airline operator has really made a mistake, I think the passenger will lodge a direct complaint to the airline operator. As regards the government of overseas countries, according to my past experience, they do also make mistakes sometimes. I do not know whether Members still recall that in the early '80s, France had once granted visa-free treatment to Hong Kong British Dependent Territories passport holders.

I remember that I once dealt with a case in this connection. In the early '80s, Mrs CHAN, a resident of London, bought a weekend tour package to take her children to Paris, but she was turned away on arrival at the De Gaulle Airport because it was claimed that she did not have a visa. Mrs CHAN suffered great losses; she was both disappointed and angry, and the tour fees were also wasted. She protested many times, and I recalled that the French Government eventually admitted its mistake. As regards the issue of compensation, I believe it depends on the circumstances of individual cases, and also whether the subject in question thinks that his losses can be fully

compensated in monetary terms. Moreover, the amount of compensation should, after all, be claimed by the subject in question against the relevant government.

PRESIDENT (in Cantonese): Mr LAU, has your supplementary question not been answered?

MR LAU KONG-WAH (in Cantonese): *Madam President, the Secretary has not answered my supplementary question. My question is: If the complainant requests the Secretary for assistance in claiming compensations, will the Secretary do so?*

SECRETARY FOR SECURITY (in Cantonese): Madam President, I trust that the responsibility of the Government is chiefly to alert foreign governments that they should ensure that their border control officers will not commit the same mistakes again; as for whether compensations should be made and how much is appropriate, it is after all a matter between the subject in question and the relevant government, and I believe it is inappropriate for us to intervene in such matters. Of course, under our legal aid policy, if the persons concerned wish to seek legal assistance, then they can apply for legal aid in relation to cases happened in Hong Kong, but if the cases happen in foreign territories, then we cannot offer any assistance under our legal aid service.

MISS EMILY LAU (in Cantonese): *Madam President, though this question is on visa-free access treatment for SAR passport holders, I hope the President will allow me to ask the Secretary the following question: There are several millions of British National (Overseas) (BN(O)) passport holders in Hong Kong who also enjoy visa-free treatment but it is not the same as that enjoyed by SAR passport holders. At present, some Hong Kong residents may not be aware that they will encounter difficulties when they travel on those passports to countries that have not granted visa-free treatment to BN(O) passport holders. Will the SAR Government do something so that Hong Kong residents will at least know that under certain circumstances, such as if they travel on another passport, that is, the SAR passport, to some places, they will be granted visa-free treatment? Can the SAR Government do something in this connection, so that those people*

will not travel on their existing passports, only to be turned away upon arrival at the airport of their destination? What can the SAR Government do in this connection? Of course, it will be even better if something can be done to help holders of the other passport, and can the Government do something about this?

PRESIDENT (in Cantonese): Miss Emily LAU, you are also aware that your supplementary question is not relevant to the subject of the main question. Could you try to rephrase your question, so that it will be relevant to the reply of the Secretary for Security? If not, I would not allow you to ask this question.

MISS EMILY LAU (in Cantonese): *Madam President, the relevance between the two issues is visa-free treatment, and that they are both related to Hong Kong people. The fact that this document, the BN(O) passport has been overlooked, is a historical issue, but if the President thinks that this question should not be answered, I will not press it. However, I notice that the Secretary is nodding her head, and I think she would also like to talk about it. Moreover, this is also something that Hong Kong people would like to know. Under such circumstances, can the Government help those people?*

PRESIDENT (in Cantonese): Miss LAU, I rule that you cannot ask this supplementary question. Since I have ruled that you cannot ask this question, I will also not let the Secretary answer it. However, the Secretary may answer your question after the meeting, or you may follow up through another channel.

MR HOWARD YOUNG (in Cantonese): *Madam President, the Secretary has earlier confirmed that in those several cases, the persons in question were refused entry when they tried to enter a country from a third place. Moreover, the Secretary also said she had discussed this issue with the Airport Operators Committee. Apart from notifying the airline operators, will the Secretary consider reminding the Committee that it is most important for the airline operators of the host country to include such information in its "omniscient book", that is, the Travelling Information Manual (TIM). This is because though airline operators from all over the world refer to the TIM, only airline operators of the host country have the right to include such information in the manual. The Hong Kong agent of the Zimbabwe Airlines may have to check the*

information, and then request the Zimbabwe national airlines to include those information in the TIM, to specify that Zimbabwe has granted visa-free access to SAR passport holders. I am not saying that the Secretary should teach airline operators how to do their work, but can the Secretary remind airline operators that they should include the relevant information in the TIM, instead of just telling their staff what should be done?

SECRETARY FOR SECURITY (in Cantonese): Madam President, I trust that the ImmD must have already done something in this connection. As regards the "omniscient book" that Mr YOUNG referred to earlier, the ImmD will also consult it regularly and if any errors are found, the ImmD will certainly notify the relevant airline operator. I would remind the ImmD again to pay more attention to this aspect, and if I find that it has not done so, I will ensure that it will be done. For example, apart from the fact that the Hong Kong office of the JAL should let Hong Kong people know about the sort of treatment they will receive when they visit certain places, we have also requested the JAL to include such details in information provided by the airline.

PRESIDENT (in Cantonese): Sixth question.

Environmental Protection of Streams with Rare or Endangered Species of Fish

6. **MISS CHOY SO-YUK** (in Cantonese): *Madam President, it has been reported that there are many rare or endangered species of fish in 17 streams which are not located in areas designated for the conservation or protection of the environment. In this connection, will the Government inform this Council:*

- (a) *whether it will consider zoning these streams and the nearby land as sites of special scientific interest or conservation areas; if not, of the reasons for that; and*
- (b) *given that the majority of these streams run through private land, of the measures in place to ensure that their ecology will not be damaged by the activities on such land?*

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

- (a) The ecological information of the 17 streams in question comes from a study report issued by the University of Hong Kong. Among the 17 streams, two have already been zoned as "Site of Special Scientific Interest" and "Conservation Area" respectively. Part of another two streams have been zoned as "Conservation Area". The Planning Department is also planning to zone another stream as "Site of Special Scientific Interest" and its bank area as "Conservation Area".

The Agriculture, Fisheries and Conservation Department (AFCD) is now considering the study report and conducting field surveys to ascertain the ecological value of those streams which have not been designated or those for which the Administration has no current plan to designate as "Site of Special Scientific Interest". If there is sufficient information indicating that the streams are of high ecological value, the AFCD and other departments concerned will consider implementing suitable conservation measures including designating the streams and nearby land as country parks, or zoning the areas as "Site of Special Scientific Interest" or "Conservation Area" as appropriate.

- (b) Under the Environmental Impact Assessment Ordinance, the conduct of environmental impact assessment (EIA) is required for all designated projects including those implemented on private land before works are to commence. This is to ensure that the works will not cause adverse impact to the environment, including streams. If the EIA identifies adverse environmental impact arising from the proposed project, the project proponent must use all possible means to avoid such impact, or where such impact is unavoidable, propose mitigation measures to reduce the impact to a level acceptable to the Director of Environmental Protection. In conducting an EIA, ecological impact is a major consideration.

Under the Water Pollution Control Ordinance and the Waste Disposal Ordinance, a person commits an offence if he discharges sewage or disposes of waste into streams without prior approval.

This regulatory mechanism helps to prevent water quality in streams from deteriorating and avoid damages to the natural environment due to human activities.

The AFCD will complete the field surveys as soon as possible and will implement appropriate conservation measures at those streams of high ecological value.

MISS CHOY SO-YUK (in Cantonese): *Madam President, the Secretary mentioned in her main reply that it is an offence to discharge sewage or dispose of wastes into streams without prior approval, but we are aware that enforcement is very difficult. Has the Secretary reviewed if there are any effective measures to protect the streams from pollution? Or has any warning be given to local residents and factories along the streams or any education initiative been planned?*

SECRETARY FOR THE ENVIRONMENT AND FOOD (in Cantonese): *Madam President, the Honourable CHOY So-yuk has raised a very good question. There are more than 100 streams in Hong Kong, so relying on government officials alone for enforcement will subject the conservation of the ecology of the streams to great restrictions. As such, education and publicity are also vital to the conservation of these streams. At present, not only government departments are working towards this goal, many conservation organizations have also put emphasis on promoting public awareness and educating the public about the importance of maintaining clean streams and the significance of protecting the environment. I hope Hong Kong people will become more aware of the importance of the conservation work too.*

MR WONG YUNG-KAN (in Cantonese): *Madam President, the Secretary has stated in part (a) of her main reply that the AFCD and other government departments are considering the study report and conducting field surveys to ascertain the number of streams that have special scientific interest. May I ask the Secretary what criteria are adopted by the Government in evaluating the scientific value of the fish species? Would the Secretary also inform the Council if it is possible that these fish species be relocated in other streams to breed?*

SECRETARY FOR THE ENVIRONMENT AND FOOD (in Cantonese): Madam President, according to the report, 24 fish species with ecological significance, mostly freshwater fish, are found in the 17 streams. As I have mentioned in my main reply, apart from the study of those streams which have not been designated as "Site of Special Scientific Interest", the AFCD will conduct field surveys, we hope to commence the work within this year.

I believe we should retain and protect the fish species *in situ*, if possible, instead of relocating them to another site. The relocation process may do harm to the species, especially to the rare ones. Regarding the criteria adopted by the AFCD in evaluating the ecological importance and the need for conservation of these streams, as far as I know, the naturalness of the stream, that is, whether it has been artificially modified, as well as the number, diversity and rarity of species it supports, and the recovery capacity of the streams, that is, whether the species can recover quickly after being damaged, and the quality of the water are considered. In addition, the AFCD will also consider the uniqueness and the representativeness of the streams.

DR TANG SIU-TONG (in Cantonese): *Madam President, it has been mentioned that the AFCD will conduct field surveys in the streams to ascertain the ecological value of the streams. Then may I ask the Secretary that if the area is privately-owned, whether the Government will purchase the land or implement other measures to ensure the survival of the fish species in their original habitat?*

SECRETARY FOR THE ENVIRONMENT AND FOOD (in Cantonese): Madam President, the supplementary question raised by Dr the Honourable TANG Siu-tong covers an area of review of our current conservation policy. If the site of ecological importance is located in private land, and it is to be designated as "Conservation Area" or "Site of Special Scientific Interest", we have to consult the landowner. The law entitles the landowner to raise objection through appropriate procedures. We plan to review the current conservation policy, and a consultation paper will be issued by the end of this year. In the review, one of the major subjects is how we can protect sites of special ecological importance located in private land in a most effective way which is also acceptable to all parties concerned.

MR HENRY WU (in Cantonese): *Madam President, the Secretary mentioned in her reply that there are more than 100 streams in Hong Kong. The information about the 17 streams in our discussion comes from the study report issued by the University of Hong Kong. Given that so many rare species can be found in these 17 streams alone, has the Government conducted any other study or conservation work in the rest of the streams?*

SECRETARY FOR THE ENVIRONMENT AND FOOD (in Cantonese): *Madam President, as far as I know, although there are more than 100 streams in Hong Kong, most of the upper to middle courses of these streams have already been zoned within the boundary of country parks. The lower course of some streams has also been designated as country parks. As Members may be aware, 38% of the land in Hong Kong (which is a relatively high percentage) has been zoned as country parks or special areas. The AFCD is planning to conduct a study to examine streams within the boundary of country parks. Such work cannot be completed by the AFCD alone. The AFCD works closely with universities and organizations in the related fields, to enhance co-operation and co-ordination among different institutions.*

MR LAW CHI-KWONG (in Cantonese): *Madam President, the study report was issued by the University of Hong Kong. I was surprised, and therefore, may I ask the Secretary why the Government did not conduct these studies proactively, with particular reference to those on "Site of Special Scientific Interest" and "Conservation Area"? We are discussing the conservation of streams in this meeting, we may discuss valleys or any other woodlands in the next meeting. Why does the Government not take the initiative to conduct similar surveys and studies?*

SECRETARY FOR THE ENVIRONMENT AND FOOD (in Cantonese): *Madam President, the Honourable LAW Chi-kwong works in the university. Researchers and scholars from academic institutions have constantly mentioned to me that environmental protection, as well as conservation work should be a joint effort of different parties, and should not be the sole responsibility of the Government and academic institutions. Having assumed my current office, I have expressed on various occasions that I am willing to have exchanges with the*

tertiary institutions and university scholars. After I have settled the incident of avian flu, I will exchange views with them on conservation and hopefully on environmental protection later. I believe that by taking this approach, it will be more effective than having the Government to take up the sole responsibility or the leading role in conservation, and it will also encourage more Hong Kong people to take part in these important initiatives.

DR RAYMOND HO (in Cantonese): *Madam President, the Secretary stated in part (b) of her main reply that, under the Environmental Impact Assessment Ordinance, all projects must conduct EIA before works are to commence, to ensure that the works will not cause adverse impact to the environment, and the project proponent must use all possible means to avoid such impact. In addition, under the Water Pollution Control Ordinance and the Waste Disposal Ordinance, a person commits an offence if he discharges sewage or disposes of waste into the streams without prior approval. May I ask the Secretary about the law enforcement situation of these Ordinances? Have any persons and how many have been prosecuted over the past three years?*

SECRETARY FOR THE ENVIRONMENT AND FOOD (in Cantonese): Madam President, I would like to make a clarification first, that is, under the Environmental Impact Assessment Ordinance, not all projects are required to conduct EIA before the projects can commence. Only designated projects are required to do so, and I believe Dr the Honourable Raymond HO is also aware of this. Therefore, under the Environmental Impact Assessment Ordinance, there are a series of designated projects that are required to conduct EIA before the works are to commence. Regarding the request for prosecution figures, I will provide a written reply later on. (Annex III)

MISS CHOY SO-YUK (in Cantonese): *Madam President, I am very pleased to learn that the Secretary is evaluating the ecological values of the 17 streams mentioned in the university study report, and prepared to implement conservation measures to protect these streams. May I ask the Secretary if the Government has laid down any clear criteria to define which streams should come under special conservation?*

SECRETARY FOR THE ENVIRONMENT AND FOOD (in Cantonese): Madam President, I have already explained the criteria for assessing the ecological values of the streams when I answered the supplementary question raised by the Honourable WONG Yung-kan.

PRESIDENT (in Cantonese): Question time ends here.

WRITTEN ANSWERS TO QUESTIONS

Proposed Requirement for Listed Companies to Publish Quarterly Results

7. **MR NG LEUNG-SING** (in Chinese): *Madam President, it has been reported that the Securities and Futures Commission (SFC) and the Stock Exchange of Hong Kong Limited (SEHK) are studying the feasibility of requiring companies listed on the Main Board of the SEHK to publish their results on a quarterly basis. In this connection, will the Government inform this Council:*

- (a) *of the major stock markets which have adopted the quarterly reporting requirement (QRR);*
- (b) *whether the relevant authorities have compared the respective advantages and disadvantages of QRR and annual reporting requirement;*
- (c) *whether it has assessed the financial impact of QRR on listed companies of different sizes; if it has, of the measures the relevant authorities will take to reduce such impact; and*
- (d) *of the measures the relevant authorities will adopt to encourage listed companies to issue their quarterly reports in a more environmentally-friendly manner?*

SECRETARY FOR FINANCIAL SERVICES (in Chinese): Madam President,

- (a) The SFC and the SEHK are collecting information on the relevant regulations and practices in other major financial markets with

respect to quarterly reporting. The findings will form part of the public consultation on a review of the Listing Rules later this year.

- (b) Under the existing Listing Rules, all listed issuers on the Main Board are required to issue annual reports to their shareholders. In addition, they are required to issue interim reports on a half-yearly basis. The SFC and SEHK are considering the feasibility of changing the interim reporting requirement from half-yearly to quarterly. The pros and cons of this change will be set out in the paper for public consultation mentioned above.
- (c) The SFC and SEHK are in the preliminary stage of their study on the proposal and have yet to make an assessment of the financial impact on listed companies and benefits to investors and the market.
- (d) The SEHK announced in January this year that listed issuers may apply for waivers from the requirement that all annual and interim reports should be issued in both English and Chinese. Such waivers would allow listed issuers to send these reports to their shareholders in either English or Chinese in accordance with the choice of their shareholders. The SEHK further announced in March that it may, upon the application of listed issuers, grant waivers to allow them to send annual and interim reports through electronic means to their shareholders who have given consent for them to do so. For the long-term arrangements, the SEHK intends to amend the Listing Rules to promote dissemination of information such as reports, notices and circulars issued by companies through electronic means.

Prevention of Default on Medical Charges

8. **DR TANG SIU-TONG** (in Chinese): *Madam President, of the medical charges written off by the Hospital Authority (HA) in 1999-2000, the outstanding charges defaulted by those in-patients of public hospitals who were not entitled persons accounted for \$15.5 million. In this connection, will the Government inform this Council:*

- (a) *of the number of such default patients, together with a breakdown by the reasons for hospitalization, and the number of such patients who*

were admitted to hospitals for further treatment after emergency treatment; and

- (b) *whether the authorities plan to require such in-patients to pay deposits at the time of admission, or adopt other measures to prevent default on medical charges?*

SECRETARY FOR HEALTH AND WELFARE (in Chinese): Madam President,

- (a) In 1999-2000, the HA had to write off \$15.5 million due to the default of payment of hospital fees by 1 215 patients who were non-entitled persons or could not be established as entitled persons. Some 1 066 of these patients were admitted through the Accident and Emergency Departments. According to the information available, these 1 215 patients were admitted to the HA hospitals for treatment of various accident and emergency conditions such as injuries by accidents, poisoning from toxic substances, drugs or alcohol, neurological emergencies, obstetric emergencies, cerebrovascular diseases, respiratory diseases, gastro-intestinal disorders, diabetes and endocrine disorders, kidney diseases, and various infective and cancerous conditions. However, the HA's database does not group the write-off cases by reason of hospitalization. As such, statistics on patient breakdown by reason of hospitalization are not readily available.
- (b) At present, the HA requires a non-entitled person or a person who could not be established as an entitled person to pay a deposit of \$19,000, which is equivalent to six days of hospital charges, prior to or on admission into a public hospital. A demand note for payment of hospital fees will be issued to such person after seven days of hospitalization and once every seven days thereafter. That said, a non-entitled person or a person who could not be established as an entitled person may not be required to settle payment of the requisite deposit prior to or on admission under the following exceptional circumstances:
- (i) the patient requires medical treatment or service of an emergency nature; or

- (ii) the Hospital Chief Executive is personally satisfied with a written guarantee of payment of hospital fees due by the patient's employer or the organization responsible for the patient's hospital fees.

In respect of (i) above, the HA hospitals will issue a demand note for payment of deposit and/or hospital fees as soon as practicable after the patient is admitted to the hospital.

Petitions Presented to Court for Bankruptcy Orders

9. **MR ERIC LI** (in Chinese): *Madam President, regarding petitions presented to the Court for bankruptcy orders, will the Government inform this Council whether:*

- (a) *it has assessed the reasons for the increasing number of petitions for bankruptcy orders in recent years;*
- (b) *it has statistics on the number and percentage of cases in which the debtors were civil servants or employees of public-funded bodies in all petitions in the past five years; and*
- (c) *a civil servant is required to report to his supervisor immediately upon his knowledge of the presentation of a petition to the Court for a bankruptcy order against him, or upon the presentation of such a petition by himself; whether assistance will be provided to the civil servant concerned; if so, of the details; and whether the pension benefits of the civil servant will be affected by his bankruptcy?*

SECRETARY FOR THE CIVIL SERVICE (in Chinese): Madam President, the Administration's reply is set out below, in the same order:

- (a) Based on the information gathered by the Official Receiver's Office in its handling of bankruptcy cases, the increase in the number of petitions might have resulted from the economic downturn in the past few years and more debtors filing their own petitions for bankruptcy.

- (b) The following table gives the number and percentage of cases in which the debtors were civil servants:

	<i>1996</i>	<i>1997</i>	<i>1998</i>	<i>1999</i>	<i>2000</i>
Overall	543	639	893	3 071	4 606
Civil servants	7 (1.3%)	10 (1.6%)	78 (8.7%)	342 (11.1%)	380 (8.3%)

We do not have statistics on the number of cases where the debtors were employees of public-funded bodies.

- (c) Under the Civil Service Regulations, a civil servant who becomes insolvent or bankrupt, irrespective of whether bankruptcy proceedings have been taken against him, is required to submit, as early as possible, a complete statement of the facts of his case to his Head of Department, for onward transmission to the Civil Service Bureau (CSB). In parallel, the Official Receiver's Office will notify the CSB of all cases where bankruptcy proceedings are taken against a civil servant.

To assist a civil servant with short-term financial difficulties, financial assistance by way of advance of salary or loans through departmental relief/welfare funds may be provided to a civil servant for specified purposes, for example, to cover expenses related to treating the illness of family members and other domestic distress.

Once the officer is adjudicated bankrupt, the Official Receiver or the appointed trustee will, in accordance with the Bankruptcy Ordinance, take over the case, including the role of acting as a mediator between the creditors and the bankrupt. Nevertheless, officers designated by departmental management to handle staff welfare matters will continue to counsel civil servants who face bankruptcy. Where necessary, counselling services by clinical psychologists may also be offered to assist them to tide over the stress and anxiety arising from their situation.

The pension benefits of a civil servant will not be affected if he is discharged from bankruptcy before his retirement. If the

bankruptcy order is still in force when he retires, or if he is adjudicated bankrupt after his retirement, the pension benefits that are due to him will be withheld temporarily until the bankruptcy order is discharged. By then, the pension payment withheld during the period of bankruptcy will be granted back to him. During the period of bankruptcy, he may apply to draw down the pension benefits he is otherwise entitled to for maintenance or discharge of debts. These provisions aim to safeguard the livelihood of a retired civil servant in the event of bankruptcy.

Compiling Court Conviction and Acquittal Statistics in Respect of Individual Magistrates

10. **MISS EMILY LAU:** *Madam President, will the executive authorities inform this Council whether the police have a practice of compiling court conviction and acquittal statistics in respect of individual magistrates; if so,*

- (a) of the reasons for, the commencement date and the total duration of such a practice; and*
- (b) of the measures they have taken to dispel the possible concern of the magistrates that such statistics have a bearing on their promotion prospects and may create pressure that may drive them to convict more defendants?*

SECRETARY FOR SECURITY: Madam President, the police maintain statistics on court case results in respect of different magistracies. However, they do not compile statistics on conviction and acquittal in respect of individual magistrates.

- (a) Statistics relating to court case results are maintained by the police as a management tool to monitor the performance of police officers. Such statistics are used by regional commanders to assess whether and how the services provided by the police can be further improved. While the conviction of a person is a matter for the court, general statistics on court case results may sometimes be indicative of the police's performance. For example, the number of cases where

costs are awarded against the prosecution and the number of defendants found with "no case to answer" may cause the police commanders to re-examine whether or not court papers have been adequately prepared, whether documents required to be disclosed to the defence are being disclosed in a timely manner, or whether the assistance given to the prosecution has been sufficient. The collection of these statistics will allow police commanders to make an early identification of areas where closer attention or greater supervision is called for. The statistics collected from magistracies will not be used for anything other than meeting the police's own internal management responsibilities.

The practice of maintaining statistics on court case results is a well-established and historical one that pre-dates available records.

- (b) According to information provided by the Judiciary Administrator, the Judiciary has never received any formal or informal complaints about the police's practice of collecting statistics on court case results. None of the magistrates has raised any concern on the subject in the past.

The Judiciary Administrator also advised that the Judiciary had not compiled any statistics on conviction rate of individual magistrates as they did not see a need to keep such statistics. Conviction rate is not one of their considerations in the promotion or appointment of magistrates.

Nuisance Caused by Oil-contaminated Mud at Former Site of Kai Tak Airport

11. **DR RAYMOND HO** (in Chinese): *Madam President, it has been reported that large piles of oil-contaminated mud are dumped at the former site of the Kai Tak Airport, exuding petrol smells to nearby residential premises from time to time. In this connection, will the Government inform this Council:*

- (a) *of the reasons for dumping the contaminated mud at the site;*
- (b) *of the impact on the health of people after inhaling air containing petrol particulates; and*

- (c) *how it plans to dispose of the contaminated mud to reduce the nuisances caused to the residents nearby?*

SECRETARY FOR PLANNING AND LANDS (in Chinese): Madam President,

- (a) The piles of mud at the former site of the Kai Tak Airport are mostly (about 90%) crushed rocks obtained from the demolition of structures at the old airport while a small portion (about 10%) is decontaminated mud from the decontamination project being conducted at the former airport site. These mud and rocks are stored there only on a temporary basis and will be used in the future reclamation and land formation at Kai Tak Nullah and Kowloon Bay.
- (b) Demolition wastes are not oil-contaminated. Decontaminated mud is no different from ordinary mud and will not exude petrol smell or affect the health of the people. As regards the decontamination works currently carried out at the former airport site, detailed environmental impact assessment has been conducted before its commencement. Moreover, stringent controls have been stipulated in the Environmental Permit issued by the Environmental Protection Department (EPD) to ensure that the decontamination works will not affect the air quality in the vicinity.
- (c) At present, the contractors spray water and shotcrete on the mud and rocks piled on the runway every day so as to keep them moist and prevent dust from blowing about. The Territory Development Department has been closely monitoring the air quality in the area surrounding Kai Tak. Since the commencement of demolition works at the old airport in October 1998, the air quality has not been adversely affected due to the works. On average, staff of the EPD conduct on-site inspections to the Kai Tak airport once a month and have not detected any emission of petrol smell from the mud and rocks so far. The Government has so far not received any complaint about the air quality in the area.

Franchised Bus Routes Served by a Mix of Air-conditioned and Non Air-conditioned Buses

12. **MR LAU KONG-WAH** (in Chinese): *Madam President, regarding the franchised bus routes served by a mix of air-conditioned (A/C) and non-A/C buses, will the Government inform this Council:*

- (a) *of the current number of such routes;*
- (b) *of the respective numbers of routes where the differences in full journey fares between A/C and non-A/C buses are below \$3, between \$3.1 and \$5, between \$5.1 and \$8 and above \$8.1;*
- (c) *whether franchised bus companies must obtain prior approval by the Administration before they can arrange for certain routes to be served entirely by A/C buses, and whether they are required to announce such arrangements; if so, how such announcements will be made; and*
- (d) *whether the Administration has stipulated for these routes the ratios, at different times of the day, of the trips plied by A/C buses to those by non-A/C buses, and of the circumstances under which franchised bus companies are allowed to deploy A/C buses only on such routes during rush hours?*

SECRETARY FOR TRANSPORT (in Chinese): *Madam President, A/C buses were first introduced in the late 1980s and have since progressively expanded in operation to become the standard for franchised bus services. In view of the increasing popularity of A/C buses and taking into account Hong Kong's climate and weather condition, bus companies will continue to introduce A/C buses in phases when old buses are due for replacement. As a matter of fact, according to the results of a passenger opinion survey co-ordinated by the Transport Department in January this year, one of the major areas that bus passengers wished to see improvement in terms of comfort was to provide more A/C buses.*

At present, there are 123 bus routes jointly operated by A/C and non-A/C buses (mixed operation routes). Among these routes, 111 routes (or 90%) have a fare differential of less than or equal to \$3.0 between the full journey A/C and

non-A/C fares; and the remaining 12 routes (or 10%) have a fare differential of between \$3.1 and \$5.0. None of the mixed operation routes has a fare differential of more than \$5.0.

Approval from the Transport Department is required before bus companies could convert a non-A/C or mixed operation route into a route to be served entirely by A/C buses. The relevant District Councils are consulted on the A/C bus conversion plan through the annual consultation exercise on bus route development programmes. Bus companies will advise passengers of the changes prior to the effective date by putting up notices at the relevant bus termini and bus stops. The route information at bus stops and the bus companies' web pages will also be updated to provide the relevant information. Inquiries on the details of A/C bus deployment on a particular route may also be made through the hotlines of the bus companies.

Normally for mixed operation routes, A/C and non-A/C buses are dispatched evenly in proportion to their numbers throughout the operating hours. The relevant District Councils will be consulted for any special arrangement for the deployment of A/C and non-A/C buses.

Industrial Land in Urban Area

13. **MISS EMILY LAU:** *Madam President, regarding industrial land space in the urban area, will the Government inform this Council of:*

- (a) *the total area of land currently zoned as industrial land, and its breakdown according to the following:*
 - (i) *land that is unoccupied; and*
 - (ii) *land that is occupied for commercial purpose or by non-polluting industries;*
- (b) *the total area of land zoned as industrial land in 1990;*
- (c) *the area of industrial land rezoned in the last 10 years to alternative uses, and the percentage of it that has been redeveloped, or is in the process of redevelopment, for non-industrial use;*

- (d) *the estimated area of industrial land required in the next 10 years; and*
- (e) *the estimated respective amounts of industrial land that can be rezoned for commercial and residential uses?*

SECRETARY FOR PLANNING AND LANDS: Madam President,

- (a) There are currently 213 hectares of industrial land in the urban area. Of these, about 15 hectares are unoccupied. According to a sample survey conducted by the Planning Department in late 1999, 58% of the total floorspace in industrial buildings built in and after 1990 was used for commercial purpose. For industrial buildings built before 1990, the corresponding percentage was 45%. The survey did not distinguish between polluting and non-polluting uses.
- (b) In 1990, the total area of industrial land in the urban area was 411 hectares. Subsequently, an additional 28 hectares of industrial land, mostly on newly reclaimed areas, were zoned in early '90s.
- (c) In the past 10 years, 226 hectares of industrial land in the urban area were rezoned to alternative uses, 191 hectares of which were rezoned after mid-1997. About 6% of the 226 hectares have been redeveloped or are in the process of redevelopment for non-industrial use.
- (d) By 2011, the demand for industrial land in the urban area is estimated to be 140 hectares. We are reviewing the coverage of activities in industrial buildings with a view to facilitating the operation of non-manufacturing activities such as information technology and telecommunications industries. The demand for industrial land may have to be reassessed in future.
- (e) We intend to rezone about 80 hectares of land for commercial or residential uses in the next few years.

Sale of Second Lot of MTRC Shares

14. **MR HENRY WU** (in Chinese): *Madam President, regarding the sale of the second lot of shares in MTR Corporation Limited (MTRCL), will the Government inform this Council:*

- (a) whether it has set a timetable for the sale, if it has, of the details;*
- (b) of the criteria it plans to adopt for selecting the sponsors, financial advisers, underwriters and distributors; and*
- (c) whether it has drawn upon the experience gained in the initial public offering of MTRCL shares last year to arrange for the sale in a more equitable, open and transparent manner; if it has, of the details?*

SECRETARY FOR THE TREASURY (in Chinese): Madam President,

- (a) Market conditions permitting, we plan to launch the second tranche sale of MTRCL shares within this financial year.
- (b) On the selection of Global Co-ordinators and Financial Advisers, our assessment will be based on the technical and fee proposals submitted to us by interested parties. Our decision will be based mainly on the proposed structure of the sale, relevant experience and expertise of the team assigned to the job, the fees structure and level of rates proposed, the bidders' commitment to Hong Kong, familiarity with the MTRCL and issues arising from privatization secondary offerings.

One of the main tasks of the Global Co-ordinators is to propose the syndicate structure and related arrangements including the optimal composition and selection criterion, if any, of underwriters and distributors. In consultation with the Government's Financial Adviser, we will vigorously vet all proposals recommended by the Global Co-ordinators to ensure that the sale is conducted to the highest standard of probity and integrity.

- (c) The initial public offering (IPO) as a whole was very successful and its selling arrangements were generally satisfactory. We are,

however, not complacent about our achievements and will continue to improve various arrangements by building on the invaluable experience gained during the IPO. For example, we have started a dialogue with the local brokerage industry with a view to obtaining their views and suggestions. We will also be seeking the views of the parties concerned on permitting applicants for the second tranche sale of MTRCL shares to submit their names and addresses in either Chinese or English.

Maintenance for Items in Flats Sold under Tenants Purchase Scheme

15. **DR TANG SIU-TONG** (in Chinese): *Madam President, on the 9th of this month, a passer-by was hit and injured by a iron window frame which fell from a public rental housing (PRH) unit in Tai Wo Estate, Tai Po, sold under the Tenants Purchase Scheme. In this connection, will the Government inform this Council:*

- (a) *according to the relevant standards under the existing building legislation and those adopted by the Hong Kong Housing Authority (HA), of the design life of iron window frames in PRH units during which they should not come loose; and*
- (b) *of the items in a sold PRH unit which are under the maintenance responsibility of the HA and the respective maintenance periods for such items; and how the HA's practice in these aspects compares with that of private developers?*

SECRETARY FOR HOUSING (in Chinese): Madam President, the Buildings Ordinance provides for the planning, design and construction of buildings. The Building (Construction) Regulations stipulate that all materials used in building works, such as window frames, must be of a suitable nature and quality, and be applied, used or fixed so as to perform their functions adequately. The HA follows this statutory requirement in designing and constructing public housing flats. Neither the Buildings Ordinance nor the HA's building guidelines sets out specifically the design life for window frames. Generally speaking, window frames should be durable and should not become loose if properly used and maintained.

Before flats are sold under the Tenants Purchase Scheme, the Housing Department will complete all necessary maintenance or repair works. Outstanding repairs, if any, will be completed as soon as practicable after sale. After the handover of flats, maintenance and repair of internal fittings are the responsibility of owners. This arrangement is in line with private sector practice.

Employers not Taking Out Valid Insurance for Employees

16. **MR ANDREW CHENG** (in Chinese): *Madam President, under the Employees' Compensation Ordinance (Cap. 282), employers are required to take out insurance to ensure that in case employees are injured or die in the course of their employment, the insurance companies concerned will undertake the liability for compensation. In this connection, will the Government inform this Council of the respective numbers of employers warned and prosecuted by the Labour Department for failing to take out valid insurance for their employees, the number of convicted cases and the average penalties imposed by the Courts in each of the past three years?*

SECRETARY FOR EDUCATION AND MANPOWER (in Chinese): Madam President, the numbers of warnings given and prosecution instituted by the Labour Department in the past three years against employers' failure to take out employees' compensation insurance as required under the Employees' Compensation Ordinance are as follows:

	1998	1999	2000
No. of prosecutions	990	923	1 042
No. of convictions	928	861	981
Total fine	\$2,662,605	\$2,336,740	\$2,642,670
Highest fine recorded in a single case	\$15,000	\$10,000	\$12,000
Average fine	\$2,869	\$2,714	\$2,694
Written warnings*	4	6	7

* The prosecution policy of the Labour Department is to prosecute all employers who fail to take out valid employees' compensation insurance as required under the law. Nevertheless, the Labour Department will consult the Department of Justice in special circumstances, for example, when the employment relationship between the employee and the employer cannot be clearly established. If it is considered that there is insufficient evidence to support successful prosecution, the Labour Department will issue warning letters instead of instituting prosecution.

Effectiveness of Waste Separation and Recovery Programme

17. **MR DAVID CHU** (in Chinese): *Madam President, it was reported that only small quantities of waste had been collected each day from the waste separation bins placed at 165 public places under a Waste Separation and Recovery Programme which started in October last year. In this connection, will the Government inform this Council of:*

- (a) *the criteria adopted for selecting the locations for waste separation bins;*
- (b) *the effectiveness of the Programme; and*
- (c) *the measures to encourage the public to make use of the waste separation bins?*

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

- (a) Since October last year, the Food and Environmental Hygiene Department (FEHD) has installed waste separation bins at various public places, including exits of Mass Transit Railway and Kowloon Canton Railway stations, public transport interchanges, markets and refuse collection points. At present, the FEHD adopts the following criteria in selecting locations for placing such bins:
 - (1) convenience — to facilitate use of the bins by the public;
 - (2) good pedestrian traffic flow; and
 - (3) spaciousness — to ensure that the bins will not obstruct pedestrians.
- (b) At present, the FEHD has placed 203 waste separation bins at 193 locations. Between October 2000 and April 2001, a total of 61.1 tonnes of paper, 3.9 tonnes of aluminium cans and 11.8 tonnes of plastic bottles were collected from these bins. As the programme has only been in place for a short period of time, and more time is required to enhance the public's environmental awareness and to

change their behaviour, it is too early to fully assess the effectiveness of the programme. Nevertheless, we will constantly review and improve our work in waste separation and collection.

- (c) We will continue to focus on public education and publicity to encourage members of the public to separate waste.

Handling of Discarded Computers

18. **MRS SOPHIE LEUNG** (in Chinese): *Madam President, regarding the handling of discarded computers, will the Government inform this Council whether:*

- (a) *it has compiled statistics on the number of computers discarded in each of the past three years;*
- (b) *it has adopted any measures to prevent pollution of the environment by the heavy metals contained in the components of discarded computers; and*
- (c) *it will consider setting up a collection centre to handle discarded computers; if so, when it plans to set up such a centre; if not, of the reasons for that?*

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

- (a) Last year, about 2 600 tonnes of electronic wastes were disposed of at landfills. Most of them were computers, monitors and circuit boards. We do not have the figures on discarded computers, nor do we have the data on electronic wastes before 2000.
- (b) Computer wastes from commercial and industrial sources normally come in larger quantities. They have to be collected by licensed collectors as required by the Waste Disposal Ordinance to ensure that the heavy metals contained therein will not pollute the environment during transportation. These waste computers are dumped in designated trenches in landfills and then covered with

soil. As for computer wastes from domestic sources, they are normally collected for reuse. According to our observation, only a small quantity is mixed with other wastes and is treated as general domestic wastes.

The landfills are lined with impermeable liners to prevent underground leakage of contaminated liquid. Such liquid is properly collected and treated to ensure that the environment will not be polluted.

- (c) The Environmental Protection Department is examining the feasibility of alternative measures to handle electronic wastes, including discarded computers. An example is to promote collection programmes undertaken by producers to strengthen recycling of this type of wastes.

Imposing Ceiling on Flat Prices under Home Purchase Loan Scheme

19. **MR KENNETH TING** (in Chinese): *Madam President regarding the Home Purchase Loan Scheme (HPLS) implemented by the Hong Kong Housing Authority, will the Government inform this Council whether it knows:*

- (a) *the respective numbers of loan applications approved in each of the past three years which involved the purchase of flats at prices between \$3 million and under \$4 million, between \$4 million and under \$5 million, and \$5 million or more;*
- (b) *the reasons for not imposing a ceiling on flat prices under the HPLS; whether it will consider imposing such a ceiling; if not, of the reasons for that; and*
- (c) *the justifications for providing loans to families which can afford purchasing flats at prices over \$5 million?*

SECRETARY FOR HOUSING (in Chinese): Madam President, in the past three years, the Housing Authority granted 21 048 loans under the HPLS. Successful applicants who purchased flats at the quoted price ranges were as follows:

	<i>Between \$3 million and under \$4 million</i>	<i>Between \$4 million and under \$5 million</i>	<i>Over \$5 million</i>
1998-99	460	81	32
1999-2000	172	36	14
2000-01	154	27	14

Loan applicants are required to meet specified conditions or eligibility criteria. Green Form applicants, who are existing public housing tenants, are required to surrender their rental flats to the Housing Authority after they have purchased flats with the loan. This arrangement aims to encourage better-off tenants to vacate heavily subsidized public rental flats for re-allocation to other needy households. The Housing Authority does not impose a ceiling on flat prices so as to give them more flexibility in choosing flats for purchase. The vast majority of successful applicants who bought flats of over \$5 million were Green Form applicants.

White Form applicants, that is, those living in private sector accommodation, are subject to restrictions on income and asset levels and the "no domestic property" rule. In addition, downpayments paid by them cannot exceed the asset limit, currently at \$600,000 for families and \$300,000 for single persons. The Housing Authority considers that the application of income, asset and downpayment restrictions should be sufficient to prevent White Form applicants from purchasing flats of high value, while still allowing them a good choice of flats for purchase. Very few White Form applicants purchased flats exceeding \$3 million, and those who did managed to do so with other loans or sponsorship from other sources such as parent or relatives.

The Housing Authority does not consider it appropriate to impose a ceiling on flat prices under the HPLS for Green Form applicants as this may defeat the intention of the Scheme to encourage better-off tenants to vacate their flats. In 2001-02, the Scheme is not available to White Form applicants.

Regulation and Number of Mainlanders Settling in HKSAR

20. **MR JAMES TO** (in Chinese): *Madam President, regarding the regulation and the number of mainland people settling in the Hong Kong Special Administrative Region (SAR), will the Government inform this Council:*

- (a) *of all the channels currently available to mainland people for settling in the SAR (such as the One-way Permit (OWP) Scheme catering primarily for family reunion, application for residence in Hong Kong after investing and residing in Hong Kong for seven years, or obtaining permission to stay in Hong Kong in accordance with specific government policies), and the respective application procedures;*
- (b) *of the number of people who have been permitted to settle in the SAR through each of the above-mentioned channels since the reunification; and*
- (c) *as Article 22 of the Basic Law stipulates that "For entry into the Hong Kong Special Administrative Region, people from other parts of China must apply for approval. Among them, the number of persons who enter the Region for the purpose of settlement shall be determined by the competent authorities of the Central People's Government after consulting the government of the Region", of the number of people permitted to enter the SAR for settlement each year, as determined by the Central People's Government after consulting the SAR Government in accordance with the above stipulation, together with a breakdown by the channels mentioned in (a) above?*

SECRETARY FOR SECURITY (in Chinese): Madam President,

- (a) At present, the only designated channel for mainland residents to enter Hong Kong for settlement is the OWP System. It is administered by the mainland authorities. Applicants have to apply through the relevant mainland Public Security Bureau offices in accordance with their rules and regulations. Other than persons claiming right of abode in Hong Kong under paragraph 2(c) of Schedule 1 to the Immigration Ordinance, the OWP applicants are assessed in accordance with a Points System to determine their priority for entry. For persons seeking to enter Hong Kong under paragraph 2(c) of Schedule 1 to the Immigration Ordinance, they should apply for a Certificate of Entitlement from the Director of Immigration according to the procedures as set out in the Government's Gazette Notice published on 16 July 1999.

For mainland residents entering Hong Kong for other purposes, if they meet the requirements of paragraph 2(b) of Schedule 1 to the Immigration Ordinance, that is, being a Chinese citizen who has ordinarily resided in Hong Kong for a continuous period of not less than seven years before or after the establishment of the SAR, they will become permanent residents and enjoy the right of abode in Hong Kong. This applies to mainland residents entering Hong Kong to work, including those admitted under the Admission of Talents Scheme and Admission of Mainland Professionals Scheme. It also applies to spouses and the children who have entered Hong Kong as dependents of the successful applicants under the Admission of Talents Scheme. Under both schemes, the admitted persons will initially be granted a permission to enter Hong Kong to take up employment for a period of one year. Subsequent applications for extension of stay will only be granted if they continue to be employed and satisfy the eligibility criteria of the relevant scheme. Otherwise, they have to return to the Mainland.

Under the current administrative arrangements, persons who would like to establish their right of abode may apply for verification of eligibility for a permanent identity card. They should send the application form (Form ROP 145), duly completed, together with photostat copies of the relevant supporting documents by post to the Right of Abode Section of the Immigration Department at 25th floor, Immigration Tower, 7 Gloucester Road, Wan Chai. When making the application, the applicant must be staying in Hong Kong legally.

- (b) From 1 July 1997 to 30 April 2001, 212 034 OWP holders have entered Hong Kong for settlement.

So far no person admitted under the Admission of Talents Scheme, which has been in operation only since December 1999, has become a Hong Kong permanent resident pursuant to paragraph 2(b) of Schedule 1 to the Immigration Ordinance. The Admission of Mainland Professionals Scheme will begin operation on 1 June 2001.

- (c) According to paragraph 4 of Article 22 of the Basic Law, the number of persons who enter Hong Kong for the purpose of

settlement shall be determined by the competent authorities of the Central People's Government after consulting the SAR Government. Pursuant to Article 22, the current average daily quota for mainland residents entering Hong Kong for settlement under the OWP scheme is 150, that is, 54 750 per year. This number was determined by the Central People's Government following consultation with Hong Kong.

BILL

First Reading of Bill

PRESIDENT (in Cantonese): Bill: First Reading.

THE OMBUDSMAN (AMENDMENT) BILL 2001

CLERK (in Cantonese): The Ombudsman (Amendment) Bill 2001.

Bill 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 Bill

PRESIDENT (in Cantonese): Bill: Second Reading.

THE OMBUDSMAN (AMENDMENT) BILL 2001

CHIEF SECRETARY FOR ADMINISTRATION: Madam President, I move that the Ombudsman (Amendment) Bill 2001 be read the Second time.

The Ombudsman (Amendment) Bill 2001 aims to formalize the separation of the Office of The Ombudsman (the Office) from the Government. It provides the Office with the powers and flexibility to manage its resources effectively and to meet public demand for its services.

To strengthen the independence of the Office, we have proposed in the Bill to establish The Ombudsman as a separate corporate entity, capable of taking and defending civil actions. The Bill clarifies that The Ombudsman is not a servant or agent of the Government. It empowers The Ombudsman to acquire and hold property, and enter into contracts; to impose on The Ombudsman accounting, audit and reporting requirements; and to protect The Ombudsman and staff from personal civil liability.

We have reviewed the operation of the Ombudsman Ordinance and have put forward a number of minor improvements as well. For example, we propose to empower The Ombudsman to use a variety of means to improve its services to the public, including conducting preliminary inquiry and mediation. The Bill also proposes to empower The Ombudsman to appoint advisers, and to remove the constraint on the publication of investigation report so long as the identities of the relevant parties are not disclosed.

While steps are being taken to provide greater flexibility to The Ombudsman over staffing and financial management arrangements, we should, in preserving public interest, also ensure that The Ombudsman and staff will act with propriety and continue to be accountable to the public over resource management. We have, therefore, proposed that the Prevention of Bribery Ordinance should apply to The Ombudsman as it does to other major statutory bodies. It will continue to be subject to examination by the Director of Audit as well. Needless to say, The Ombudsman will continue to account for the utilization of resources before the Legislative Council in the capacity of a Controlling Officer under the Public Finance Ordinance.

Finally, with the agreement of the Equal Opportunities Commission and the Privacy Commissioner's Office, we have proposed to expand the ambit of the Ombudsman Ordinance to cover these two statutory bodies. Hence, complaints against these two bodies on the ground of maladministration will in future be handled by The Ombudsman.

Thank you.

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

In accordance with the Rules of Procedure, the debate is now adjourned and the Bill referred to the House Committee.

MEMBERS' MOTIONS

PRESIDENT (in Cantonese): Members' motions. 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. Members should know that I am obliged to direct any Member speaking in excess of the specified time to discontinue.

First motion: Attracting eligible persons from the Mainland to invest and spend money in Hong Kong.

ATTRACTING ELIGIBLE PERSONS FROM THE MAINLAND TO INVEST AND SPEND MONEY IN HONG KONG

MR JAMES TIEN (in Cantonese): Madam President, the economic slump has lasted for a few years in the wake of the financial turmoil. We have certainly fared better compared to other Southeast Asian countries and we have actually seen that new investments have been made in Hong Kong. However, the general public feel that they have not been able to share these new investments. As Mr Antony LEUNG, the Financial Secretary, has said, Hong Kong has to pool talents and money. The Admission of Mainland Professionals Scheme recently implemented by the Government will certainly pool more talents. As regards pooling money, before the reunification, we had certain reasons to be concerned about whether the free entry of over 1 billion people from China to Hong Kong would cause a lot of problems to Hong Kong. Insofar as making investments and taking up residence in Hong Kong is concerned, people from other countries such as the United States, Europe and Southeast Asia can come to Hong Kong and make investments at any time, and they can even become permanent residents if they have resided in Hong Kong for seven years. Conversely, mainlanders are subject to discrimination as they cannot come to Hong Kong to do likewise.

The situation was different at that time and no one had ever thought that there would be such prosperous economic development in many places in the

Mainland four years after the reunification. Taking Shanghai as an example, we really dared not imagine that its economic development could be so prosperous within a few years and that a lot of people would become rich and capable to make investments. For this reason, the Liberal Party thinks that mainland investors should be allowed to come to Hong Kong. We could see in these few years that the result has been only fair in relying only on the investments made by employers in Hong Kong. Madam President, I wish to make it clear to Members that our proposal is to attract eligible persons from the Mainland to invest and take up residence in Hong Kong, and "eligible persons from the Mainland" refer to those people approved by the mainland authorities to depart. We find that a lot of eligible persons from the Mainland can go to Canada, the United States and Singapore to make investments but they must secure the approval of the mainland authorities before they can depart. Therefore, we will really miss a good chance if we bar their entry to Hong Kong. Putting it in a less than decent way, "we are letting slip of juicy opportunities into other people's streams". If we disallow the entry of these rich mainlanders to Hong Kong, we will only force them to make their investments elsewhere. Even if we allow them to invest and take up residence in Hong Kong, they may not necessarily be willing to come and we may have to make efforts to persuade them. We have to tell them how good Hong Kong is and suggest that they should invest in Hong Kong. Although we have to make efforts, it is better than the existing policy that disallows their entry to Hong Kong for the existing policy is unreasonable and it deprives wage earners in Hong Kong of new job opportunities.

The latest data of the Bank of China shows that the bank has RMB\$7,000 billion deposits which is an enormous sum, and the annual growth is as high as RMB\$600 billion. In fact, there has been an increase in the number of rich sole proprietors in the Mainland. Now that the Mainland allows the emigration of eligible people and these people know that they can invest, take up residence and do business in other places, why does Hong Kong not allow their entry? Therefore, the Government should review the relevant policy and examine whether it can absorb these people. I wish to emphasize that there should not be any conflict between the immigration of these investors from the Mainland and the One Way Permit Quota System which is mainly for family reunion. In other words, they will not affect the one way permit quota of 150 per day for family reunion.

I wish to express my views on this proposal in respect of quota, investment amounts and the necessary work. Given the practical circumstances, the

Liberal Party tentatively thinks that the quota should be set at 50 people daily, that is, around 18 000 people per annum. I believe these figures will not exert too much pressure on Hong Kong in terms of housing, medical care, transport and education. If the said number of people are all willing to come to Hong Kong, this group of people will come to run businesses in Hong Kong and their businesses may not be the expertise of Hong Kong people. We have noticed that a lot of sole proprietors in the Mainland run various types of business, as they have established certain ties or know how to run businesses in their place, they are superior to us in many aspects. If they come and take up residence in Hong Kong, they may bring our capital or foreign capital into the Mainland and it is after all better than letting them invest in Europe or other places in America. With the consent of the United States Consulate General, I have distributed to Members a document on the amounts of investment. From this document, Members can see that the United States simply requires US\$1 million. I have also looked up the requirements of other countries. For instance, Canada requires CAN\$400,000, around HK\$2 million. Australia requires AUS\$750,000, around HK\$3 million and Singapore requires S\$1.5 million, around HK\$6.5 million. Therefore, I suggest that Hong Kong can require an investment amount of around HK\$5 million. This is only my proposal and I hope that the Government or other colleagues of this Council will express their views and consider whether this is feasible. If the amount is too small, they may not be able to make substantial investments. While the United States requires US\$1 million, it imposes a rider that 10 workers be employed, that is, creating 10 job opportunities. Other countries do not have such a rider because once they make investments, they will certainly employ local workers. I hope that the Government would explore whether we should set the investment amount at \$5 million and specify the number of local workers they should employ.

My views on the points system differ from those of the Honourable Miss Margaret NG. If we approach this issue purely from the angle of investment, the points systems of foreign countries purely focus on the amount of investment, the number of local job opportunities to be created and the industrial undertaking involved. For instance, investments in high-tech industries may score higher points than investments in traditional industries. I hope that the Government would consider these issues.

I also suggest that applicants who are granted approval to come to Hong Kong should not come here alone because they will lack a sense of belonging. We certainly should let them bring along their spouses and single children aged

below 21 to Hong Kong. After residing here for seven years, they can certainly be granted the permanent right of abode just like other foreign nationals. I hope the Government and Members would consider my suggestion.

Concerning part (b) of the motion which proposes facilitating the coming of high-income earners in the Pearl River Delta Region to Hong Kong to travel and spend money, I have actually considered for a long time before including high-income earners in my motion. My proposal is that we should try our best to issue multiple entry permits instead of single entry permits. We find that there are many high-income earners from the north working in the Pearl River Delta. As far as I understand it, their wages range from \$10,000 to \$20,000. Perhaps I have not stated this in detail in my motion; so, Members do not know the meaning of "high income" mentioned by me. They may think that their monthly income exceeds \$100,000 just like that of the high-income earners in Hong Kong. Taking the high-income earners in Shenzhen of the Pearl River Delta as an example, they may not return to Shanghai or Beijing by air on Saturdays and Sundays, but they may wish to go sightseeing in Hong Kong. Conversely, a lot of Hong Kong people go to Shenzhen and spend money there on Saturdays and Sundays, as a result, the business of shops and catering industries in Hong Kong has greatly shrunk. If we allow people in the adjacent regions of the Pearl River Delta to spend money in Hong Kong on Saturdays and Sundays, I believe they will bring more business and job opportunities to our economy and a lot of basic industries.

Why do I propose the issuance of multiple entry permits? It is because it is very difficult for mainlanders to apply for entry to Hong Kong and they are normally only allowed to enter Hong Kong once on each application, therefore, the key lies in how we can facilitate their entry to Hong Kong. We should allow them to enter Hong Kong whenever they wish, and once they overstay, we can put them on a list and bar their entry thereafter. In fact, many foreign countries issue multiple entry permits to high-income earners. For instance, when an applicant applies for a visa to the United States, the American Embassy would certainly ask his occupation and annual salary, and if the Embassy considers that his occupation will not cause him to stay in the United States or his annual salary has reached a certain level, it will issue a visa very soon, even a multiple entry permit. Conversely, if the applicant has low income, the Embassy will ask him more questions. Therefore, my concern today is not related to politics and human rights or the discrimination against low-income earners.

Regarding Miss Margaret NG's amendment, from a long-term and wider perspective, the Liberal Party definitely supports it, but in the short term, I am worried that if the Government has to consider such a significant topic which the Government itself cannot

PRESIDENT (in Cantonese): Mr TIEN, I wish to remind you that you will have five minutes to speak on Miss Margaret NG's amendment later, thus, you should only speak on the motion moved by you now.

MR JAMES TIEN (in Cantonese): Thank you for the reminder, Madam President. As I wish to persuade other Members to support my motion, I have touched upon the amendment as well (*laughter*). I will try not to comment on it now.

I hope the Government would consider whether the issuance of multiple entry permits to high-income earners would be easier than the casual issuance of multiple entry permits to people in the cultural, education and other sectors.

Madam President, as you have reminded me to speak on Miss Margaret NG's amendment later, I would leave it until then. Madam President, I would like to hear more from Miss Margaret NG before voting on her amendment, therefore, I would abstain from voting on it. I know that abstention is the same as opposing the amendment, but even so, we in the Liberal Party would not vote to oppose it. If Miss NG could convince us, we would reconsider the matter. My motion is highly focused, and it illustrates how the points system works and how many people should be admitted, and it will definitely not affect the existing quota for family reunion. As regards tourists, the motion only proposes the admission of high-income earners and we welcome all high-income earners from the Mainland, especially high-income earners in the Pearl River Delta Region. Although the Pearl River Delta Region is a small area, if the Government wishes to attract those people to Hong Kong, it must hold discussions with many mainland departments. If we broaden the scope all at once to include the cultural and academic sectors in our consideration while conversely excluding high-income earners, I am not sure if the Government could do so or whether the mainland departments could take matching actions. My considerations are purely short-term. In the long run, however, the Liberal Party definitely supports Miss Margaret NG's amendment.

Mr James TIEN moved the following motion: (Translation)

"That, in order to further promote Hong Kong's economic development, this Council urges the Government to step up discussions with the relevant mainland authorities, with a view to exploring measures to admit eligible persons from the mainland to invest and take up residence in Hong Kong and to attract high-income earners from the Mainland to spend money in Hong Kong, including:

- (a) in addition to the existing One Way Permit Quota System which is mainly for family reunion, exploring the introduction of a points system for admitting eligible persons from the Mainland to invest and take up residence in Hong Kong; and
- (b) examining whether the current entry restrictions on mainland visitors can be relaxed, particularly the issuance of multiple entry permits to high-income earners in the Pearl River Delta Region, thereby facilitating their coming to Hong Kong to travel and spend money."

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

PRESIDENT (in Cantonese): Miss Margaret NG will move an amendment to this motion, as printed on the Agenda. The motion and the amendment will now be debated together in a joint debate.

I now call upon Miss Margaret NG to speak and move her amendment.

MISS MARGARET NG (in Cantonese): Madam President, I move that Mr James TIEN's motion be amended, as printed on the Agenda.

The amendment proposed by me today seeks to supplement the motion moved the Honourable Mr James TIEN.

It is stated in Mr James TIEN's motion that this Council urges the Government to step up discussions with the relevant mainland authorities, with a

view to exploring measures to admit eligible persons from the Mainland to invest and take up residence in Hong Kong and to attract high-income earners from the Mainland to spend money in Hong Kong. But in my view, to enhance our competitiveness, we not only need to attach importance to the economic investments by the Mainland in Hong Kong, but also take into account the roles of the Mainland and Hong Kong at the social, academic and cultural exchange levels. Hong Kong enjoys some congenital advantages and is able to become a decisive international cosmopolitan because both the Chinese and English languages are given equal emphasis here, a centre of cultural exchanges between the East and the West. For example, if one wishes to study the differences between the Chinese and Western legal systems, the relevant current problems and the long-term development, Hong Kong will be the best place. Promoting the development of the legal system will have direct impacts on international co-operation in economic, trade and other aspects. So the importance is very obvious. Hence, the authorities of the two places should hold discussions and explore suitable arrangements to facilitate the admission of mainland residents to Hong Kong for the conduct of normal activities instead of laying particular stress on investment and consumption. The relevant policies will then be more comprehensive, and will not give outsiders a wrong impression that Hong Kong only welcomes high-income earners.

There are deficiencies in our policies for the application by mainlanders for long-term residence or short-term visit in Hong Kong. Members may not quite understand the system. As the policy for vetting the application by mainland residents to take up residence in Hong Kong is not flexible enough, there are quite a few limitations. On the basis of the information of the Immigration Department, among the 150 quota per day for the admission of mainlanders to take up residence in Hong Kong, over 90% are allocated for the family reunion of children and spouses, including those who have the right of abode. Therefore, only a few are admitted to Hong Kong for other reasons. The prerequisite for entering Hong Kong through this channel is a one way permit (OWP) but applications for OWP are not filed with the authorities in Hong Kong. If granted an OWP, a mainland resident will be admitted to Hong Kong. At present, Hong Kong cannot participate in deciding who can be granted an OWP, and it cannot accept applications under special categories of mainlanders such as professionals to take up residence in Hong Kong beyond the 150 quota per day and it can only passively receive the new arrivals from the Mainland every day. Such restrictions are contradictory to the Admission of Mainland Professionals Scheme proposed by the Government.

Under the existing system, mainlanders do not have the right to file applications for admission to Hong Kong with the Immigration Department of their own accord, and they can only apply for the issue of OWPs with the mainland authorities. However, people in other parts of the world, regardless of their background or purpose, can apply for admission to Hong Kong at any time, and Hong Kong can decide on its own whether it would approve of such applications. In comparison, mainlanders are subject to not a few restrictions in their admission to Hong Kong because of the rigid policy.

Therefore, I agree that the Government should step up discussions with the relevant mainland authorities and explore an additional supplementary points system on top of the existing system of 150 quota per day for family reunion, to facilitate the applications by eligible mainland people for entry and taking up residence in Hong Kong. According to Article 24(2) of the Basic Law, they will become permanent residents of Hong Kong if they have resided in Hong Kong for seven years. The supplementary points system will help to make up for the imbalance in the existing system. I propose that the factors for consideration under the points system should include the ties of the applicants with Hong Kong, academic expertise, working capability and plans for investment.

The Government has proposed the admission of mainland professionals in the budget. There is actually a scramble for professionals all over the world. However, mainland professionals who have come to Hong Kong will generally not stay here long. If those admitted to Hong Kong through this scheme have ties with Hong Kong, they will relatively be more devoted to their work and will have a stronger sense of commitment. If the children of Hong Kong people in the Mainland who have received tertiary education or who have outstanding or special professional knowledge are approved after vetting to come to Hong Kong for reunion, their early admission to Hong Kong will be facilitated and they will not be criticized by others as the burden of Hong Kong. They will make contribution to Hong Kong with their expertise after they have been reunited with their families. Moreover, they will have a stronger sense of belonging than ordinary mainland people who are admitted to Hong Kong through the Admission of Professionals Scheme. Therefore, we will be able to kill two birds with one stone. In my view, the calculation method and quota under the points system should be flexible and suitable adjustments should be made from time to time to meet local needs and to avoid excessive impact on the job opportunities of local workers.

The development and prosperity of Hong Kong rely not only on financial investments, and we have to take the overall progress into account. There are quite a lot of talents with academic and cultural background among our mainland compatriots, so exchanges between both places will promote a more profound understanding in Hong Kong to the benefit of cultural development. Besides, the sharing of experience between various organizations in Hong Kong and the Mainland will be very beneficial to the operation of these organizations.

Madam President, I have done some preliminary research and discovered that there are a lot of examples in which mutual improvements have been effected as a result of such exchanges. For instance, Ms YU Sau-chu, the Chief Executive of the Hong Kong Single Parents Association, has said after an exchange with the Mainland "the mutual discussions related to the operation of single parent families have very positive significance to both parties".

Academic exchange includes the admission of mainland students by the tertiary institutions of Hong Kong. Taking The Chinese University of Hong Kong as an example, some of the students taking bachelor courses and some others from some institutes have come from such famous universities as the Beijing University and the Fudan University. They have come to Hong Kong through scholarship schemes and they get to know Hong Kong better through learning and living here.

According to the Education and Manpower Bureau, all non-local students including mainland students generally hold a one-year visa and they have to apply to the Immigration Department for an extension every year to enable them to continue their studies here. If mainland graduates of local institutions wish to stay and work in Hong Kong, they can only apply through the Admission of Talents Scheme introduced in 1999.

We should really work for further development on this basis.

As regards the measures for mainland people to stay in Hong Kong for exchange for a short term, I suggest the Government and the mainland authorities should explore the relaxation of the restrictions on the entry of tourists. Although two-way professional exchanges are held from time to time, mainland people who come to Hong Kong to attend the meetings are generally approved by the mainland authorities to stay in Hong Kong for a very short time and they do not have enough time to conduct thorough exchanges. For instance,

they are often only allowed to stay for five days if they come to Hong Kong to attend a three-day meeting. Therefore, I support that negotiations be opened with the Mainland over the relaxation of the existing restrictions.

In particular, some people in Hong Kong including me cannot travel northward for exchanges for reasons unknown to us, so, we especially treasure the opportunities for exchanges with people who have travelled southward.

I reiterate that I do not oppose attracting investments from the Mainland, but I oppose only permitting high-income earners from the Mainland to invest and take up residence in Hong Kong and drawing the line in monetary terms alone. It is still questionable as to whether these high-income earners are willing to spend a lot of money in Hong Kong or how much they will spend. Hong Kong should be farsighted and purposefully develop into a diversified society as this is how it can make good use of the "one country, two systems" and become one of the first-class cities.

With these remarks, I beg to move.

Miss Margaret NG moved the following amendment: (Translation)

"To add ", cultural and academic" after "Hong Kong's economic"; to delete "measures" after "with a view to exploring" and substitute with "appropriate arrangements"; to delete "admit eligible" and substitute with "facilitate"; to delete "invest and take up residence in Hong Kong and to attract high-income earners from the Mainland to spend" and substitute with "engage in ordinary activities such as investing and spending"; to delete ", including" after "money in Hong Kong" and substitute with "; these arrangements should include"; to delete "admitting" after "the introduction of a points system for"; to delete "invest and take up" and substitute with "apply for"; to add ", which takes into account the applicants' connections with Hong Kong, their academic and other expertise, working abilities and investment plans" after "residence in Hong Kong"; to delete "particularly the issuance of" after "the current entry restrictions on mainland visitors can be relaxed,"; to delete "to high-income earners in the Pearl River Delta Region" and substitute with "can be issued"; and to add ", and allowing persons from the Mainland sufficient time to stay and attend meetings and participate in academic, professional and cultural exchanges, in order to promote long-term

development of the two regions" after "their coming to Hong Kong to travel and spend money".

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Miss Margaret NG to Mr James TIEN's motion, be passed.

DR RAYMOND HO (in Cantonese): Madam President, a lot of countries have business migration policies. Besides some advanced countries, even developing countries have policies to attract investments to stimulate their economies. I recall that it was reported at the end of last year that the Government of the Special Administrative Region (SAR) would consider setting up a business migration scheme that would absorb mainly Chinese in politically and economically unstable regions of Asia to invest and take up residence in Hong Kong. However, there has been no further news ever since.

For purposes of promoting the future economic development of Hong Kong, the idea of attracting foreign investors merits exploration and we should also consider mainland people who are financially better off. Owing to different factors, some mainland people who are financially better off also intend to take up residence in other places and they are also the major targets of the business migration schemes of some countries. If the SAR Government can formulate a policy to attract them to invest and take up residence in Hong Kong, I believe Hong Kong will offer a certain degree of appeal to these mainland people.

In terms of investment environment, Hong Kong can definitely compare favourably with other advanced regions or countries and it offers similar or even better conditions including a free economy, a sound legal system and a clean government. In respect of language and culture, Hong Kong also provides mainland people with a more familiar environment. Besides bringing capital and investments into Hong Kong and creating jobs, these mainland people will help Hong Kong enormously in developing business opportunities in the Mainland because they are familiar with and have close ties with the Mainland.

To achieve the desired results, we must ensure that there is a fair and comprehensive vetting and approval system. The applicants must make specific

investment proposals and provide the relevant information in detail. We should also ensure that the investors who are granted approval to come to Hong Kong could implement the investment proposals made in their applications within a specified time limit after they have taken up residence in Hong Kong. Considering that there are now an Admission of Talents Scheme and an Admission of Mainland Professionals Scheme to attract different categories of mainland people to work and take up residence in Hong Kong, and that the one way permit quota system also provides another channel for mainland people to come to Hong Kong for family reunion, the relevant scheme should initially focus on the category of mainland people who will invest in Hong Kong. After the scheme has been implemented for a certain period of time, a detailed review should be conducted before determining whether the scheme should be extended to other categories.

In fact, the issue of mainland people taking up residence in Hong Kong is still very sensitive, so, we must handle it carefully and it is more appropriate for the scheme to initially focus on the category of people who will make investments in Hong Kong. As for the restrictions on the entry of mainland travellers, I think that we can handle the matter with greater flexibility. Travelling and spending money in Hong Kong is attractive to those mainland people who are better off. But there are still a lot of restrictions on their entry now which have largely dampened their desire to come to Hong Kong.

As these people have very good opportunities of development in the Mainland, it is very unlikely that they will illegally stay in Hong Kong after they have entered Hong Kong as travellers. Conversely, as they possess considerable spending power, their patronage will be helpful to our tourism and retailing industries and it will also stimulate our economy. Thus, the authorities concerned should really consider relaxing the immigration restrictions on these people to facilitate their travel and spending in Hong Kong. One of the measures that are worth considering is the issuance of multiple entry permits. To prevent people who seek to enter Hong Kong for other purposes from taking advantage of the relevant measure, the authorities concerned must ensure that the vetting and approval of applications for the permits is conducted with stringency.

Madam President, the immigration and traveller clearance policies of every place should change in keeping with its social and economic development, thus, it is time we reviewed the arrangements for the entry of mainland people. Madam President, I so submit. Thank you.

MR LAU CHIN-SHEK (in Cantonese): Madam President, as the economic outlook remains gloomy, a full recovery of the economy just will not happen in the foreseeable future. It is therefore understandable that people are now making every effort to encourage more businessmen to invest and spend money in Hong Kong. For my part, I will adopt an open-minded attitude towards proposals that are conducive to investment and consumer spending without injuring to the rights and interests of local wage earners, regardless of whether they are put forward by businesses, industries or the legal profession, and I will support the Government looking into such proposals in detail.

Today, I just wish to briefly explain a point for Honourable Members' consideration. Speaking of measures to encourage investment, in addition to such immigration arrangements as approval for residence in Hong Kong and issuance of multiple entry permits, I believe, to many overseas investors, the role played by the Government and its aspirations in respect of social and economic development should be their major consideration in deciding whether or not to make long-term investments in Hong Kong.

Earlier on, many people tried to make a comparison between Shanghai and Hong Kong, and some even said that Shanghai would catch up with Hong Kong in 10 years. Regardless of whether forecasts of this kind will realize in the end, we should give due attention to the measures adopted by the Shanghai authorities in development planning and examine whether there is anything than we can learn from the Shanghai experience. Recently, at a dinner reception of the Hong Kong General Chamber of Commerce, the Mayor of Shanghai, XU Kuangdi, delivered a speech on development in the new millennium — Outlook for Shanghai. In addition to investment in infrastructural projects, XU pointed out in his speech that he would also lay emphasis on the full implementation of the strategy for "strengthening the city with technology and education". In this connection, he would commit substantial resources to promoting the development of innovations in technology and make it an objective to raise the ratio of resources invested in social research and development to 2% to 2.5% of the gross national product. With regard to measures to attract talents, XU Kuangdi particularly stressed that the government should focus not only on talents and professionals with doctoral degrees but also the training of young people and attracting them to stay and pursue development in Shanghai. In my view, the success of a place in attracting foreign investment, hinges on whether its government has a visionary perception of social development. The so-called visionary perception of social development must be forward-looking and

composed of strategies that can cater for the development needs of the various sectors and aspects of society, so that the people can see that the government has the resolve and ability to do a good job and to make achievements. Besides, the Government should also afford the people opportunities of participation in long-term planning, for this is the only way to unite the public in one purpose.

Madam President, I support both the original motion and the amendment. In particular, the amendment has extended the coverage of the motion to areas beyond economic interests, such as culture and art. I so submit. Thank you.

DR LUI MING-WAH (in Cantonese): Madam President, we can adopt a number of measures to promote the further development of Hong Kong economy. However, Mr James TIEN's proposal of admitting eligible persons from the Mainland to invest and take up residence in Hong Kong is open to discussion. Why? There are a number of reasons. Firstly, there are limited viable investment projects available locally in Hong Kong. Secondly, if there is any viable project, we do not lack the necessary capital in Hong Kong. Thirdly, if the right to residence in Hong Kong is premised on the amount of investment, then on what basis do we set the investment amount? \$5 million? \$10 million or \$50 million? After 20 years of opening, there are many people on the Mainland who can mobilize such capital for investment in Hong Kong. However, if their capital cannot find any viable outlet in Hong Kong, the capital would be relocated very soon. The United States, Canada and Australia are large countries with abundant resources and well-developed agriculture and industries, attracting business migrants can certainly generate more opportunities for their people. However, business migration is not suitable for Hong Kong.

Mr James TIEN also suggested the issuance of multiple entry permits to high-income earners in the Pearl River Delta Region, thereby facilitating their travel to Hong Kong for spending. The proposal looks reasonable on the surface, but it can achieve little results indeed. Why? There are a number of reasons for that. Firstly, tourism seeks mainly to attract new visitors, and this rule applies to all regions; I do not think Mr James TIEN would visit Beijing or Shanghai twice every year. Secondly, insofar as spending is concerned, we all know that Hong Kong has lagged far behind the Pearl River Delta Region in terms of competitiveness. Otherwise, Hong Kong would not have a trade deficit of \$11 billion in tourism last year. Thirdly, many businessmen in Guangdong hold multiple entry permits, and they frequent Hong Kong for

business rather than travel or leisure. Fourthly, according to the data provide by the former Hong Kong Tourist Association, Hong Kong recorded 3.7 million passenger trips last year, among which visitors from the Mainland spent an average of \$4,800 in Hong Kong, an amount similar to those spent by American visitors. The SAR Government decides on the number of mainland visitors according to the availability of public facilities and the capacity of the service industries, which are limited. Hong Kong is not short of visitors from the Mainland, but the number is regulated by the SAR Government. Finally, I believe Mr James TIEN would also agree that it is difficult to define the standard of high income. Given this difficulty, the operation of one such scheme would also be difficult. Notwithstanding this, if SAR Government does not have the right to vet and approve the admission of mainland people to Hong Kong, how can Hong Kong control the quantity and quality?

Madam President, I appreciate very much the effort made by Mr James TIEN to make the proposal to further improve Hong Kong's economic development. However, as aforementioned, his proposal warrants further examination for its low practicability. In addition, I believe when similar proposals are made, consideration should first be given to the feasibility of the proposals. Moreover, these must be able to achieve practical results, strengthen our economic foundation, and promote the further development of the economy as a whole. Until then, such proposals are meaningful. Members should take Member's motion in the overall interest of Hong Kong and in the long-term perspective. We should never base our consideration on affiliation with individual social groups or political parties, or the interest of any particular sector. Failing this, we would fail the people of Hong Kong. Thank you.

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

MR JAMES TO (in Cantonese): Madam Deputy, originally I thought there would be little "excitement" in the debate today. However, having heard the speech of Dr the Honourable LUI Ming-wah, I could not feel better for he has raised some very different opinions that I have never thought.

On those places which attract immigrants, we should conduct a comprehensive analysis of their investment, economic and cultural developments, so that a comparison can be made with Hong Kong's economic, social and

cultural conditions. I have thought about and inquired why the United States would establish an immigration mechanism based on drawing lots. Theoretically, the lots could not identify who is qualified for immigration or impose conditions, and these are fundamental factors of considerations. I have been given to understand that the United States has conducted a detailed analysis and concluded that, those immigrants who are conducive to the long-term development of the country could not be attracted by setting any particular conditions, therefore, they have to rely on probability by way of drawing lots to absorb these people. The study has been conducted in such depth. However, the question remains: In what aspect do we need to attract immigrants? I agree with Mr James TIEN that we need such people for our economic development. The Honourable LAU Chin-shek has also mentioned in his speech that we should discuss what methods can be employed to help Hong Kong. Therefore, basically I agree that we can consider what Hong Kong needs from the economic perspective.

I disagree with Dr LUI Ming-wah on his theory that Hong Kong does not lack capital. In fact, capital is never enough, the more the better. Are we in lack of capital that we have to attract those mainland people who have recently become rich to come to Hong Kong? This is not the case, and there are complicated reasons behind it. With China's imminent accession to the World Trade Organization (WTO), we have seen developments in a number of areas, and some people are especially confident in investing in China. The Chief Secretary for Administration has recently led a study visit to western China to explore investment opportunities, but how many people are really going to make investments there? There lies a very complicated question. People who possess enormous capital would base in Hong Kong after they have settled here. Under China's legal system, the capital would become "foreign investment". They will then enjoy the flexibility, as well as the ability in risk assessment and judgement, and may have ideas of using their capital different from that of local investors. I believe we should further look into this, and I believe there must be something interesting in it. We need to pay more attention to the details of implementation to avoid abuse. However, there is a lot for us to learn from their success.

I agree with the Honourable Miss Margaret NG that apart from the economic domain, we should also take into account the cultural and academic developments. I am very glad to have heard Mr James TIEN mention at the beginning of his speech that he does not oppose to the long-term consideration in

the cultural and academic aspects. His only concern is that a diverse scope for consideration may hinder the commencement of the scheme. In fact, just as I have mentioned, an initiative to attract immigrants to come to Hong Kong should be considered from different aspects such as the culture and academic aspects and should not be restricted to any particular field. I believe it is not difficult to take other aspects of development into consideration, while it may be more difficult to base entirely on the economic sector, which is sensitive, as mentioned by some Members. What sensitive issue was Dr the Honourable Raymond HO referring to? He did not elaborate on that.

Over the past few days, news commentaries and critics have discussed the issue of sensitivity in two aspects. One of these is the concern that resistance would be generated among people in the Mainland, as they may think that they also need development. If Hong Kong has attracted immigrants from the Mainland, what should they do? Certainly, this can be explained, immigrants are not only attracted to Hong Kong, they are also attracted to the United States and European countries. Whether or not they are prohibited from departure by the mainland authorities is another question. If the mainland authorities do not issue the exit permit, it is meaningless for the migrants to receive any migration visa. However, I do not see the emergence of this concern in the Mainland, at least the Mainland has not imposed any restrictions on major policies. Regarding the theory of resistance generated in the Mainland, I believe if we think what we are doing is beneficial to Hong Kong, then we need not be unduly worried. The Mainland has its thinking and we have our own, we do not need to speculate in every aspect what the Mainland would think. If we follow the example of our Chief Executive who frequently considers what the Mainland thinks, we would become overcautious. Before the Central Authorities have given any instruction, for instance, the Chief Executive has already considered how to control Falun Gong. It would be big trouble then.

Therefore, as long as we think we have a valid reason, we should hold fast to the position, and we may even put up the issue for discussion with the Central Government. In fact, the Central Government has full control over the migration of mainland residents to Hong Kong. As Article 22 of the Basic law stipulates that "For entry into the Hong Kong Special Administrative Region, people from other part of China must apply for approval for the purpose of settlement shall be determined by of the Central People's Government". Hong Kong cannot practically participate in deciding who

can enter and reside in Hong Kong. As mentioned by Miss Margaret NG, Hong Kong can decide on its own whether it would grant approval to people from various parts of the world to enter Hong Kong, but not residents from the Mainland. I would also like to criticize the Government that the Admission of Mainland Professionals Scheme is a violation of Article 22 of the Basic Law. As far as I know, one of the attractions of the Scheme is the right to reside in Hong Kong. Insofar as this scheme is concerned, we have not yet consulted the Central Authorities on the figures. As such, independent of the 150 quota for the One-way Permit Scheme, the Admission of Mainland Professionals Scheme has violated Article 22 of the Basic Law. It can certainly be argued that the professionals do not seek residence in Hong Kong when they are first admitted to the territory, only after they have lived in Hong Kong for five years, and received an extension approval valid for another three years, that they would realize it has already exceeded the requirement of living in Hong Kong for seven years, and started to consider settlement here. Therefore, it can be argued that they are not thinking of residing in Hong Kong when they arrive, and they only start to think about it when they are in Hong Kong, so they have not come to Hong Kong with an intention to settle here. Notwithstanding this, I still believe that it is a violation of the Basic Law in spirit and in letter.

The second point about sensitivity is law and public order. Public order covers two aspects, one of which is the concern whether public order in Hong Kong would be affected. Secondly, would criminal elements from the Mainland enter Hong Kong with a large amount of capital and put Hong Kong under the threat of another case of LAI Cheung-sing? I think these worries are excessive, for even if we have vetted the applicants, we could not know the background of these people, or ascertain that their capital is clean. In fact, the mainland authorities will also vet the applicants, and unless they intentionally allow the outflow of illegal capital and unruly elements to enter Hong Kong, they would also exercise stringent control. In addition, Hong Kong will put in place a vetting and approval system. Whether or not it would eventually result in a lot of unruly elements emerging in Hong Kong, I believe we are overly worried.

Therefore, regarding the motion moved by Mr James TIEN and the amendment moved by Miss Margaret NG, the Liberal Party urges the Government to consider, in addition to the current quota 150 per day for family reunion, attracting immigrants from the Mainland and around the world to help the overall development of Hong Kong.

MR TOMMY CHEUNG (in Cantonese): Madam Deputy, the motion moved by the Liberal Party, if implemented, would not only stimulate the economy but also create job opportunities, I believe it would win the support of colleagues in this Council. However, some colleagues may have some concerns, therefore I would like to do some explaining.

Some colleagues may feel the Liberal Party being money-minded and philistine, or even discriminatory, in using such wordings as "high-salaried earners" and "eligible residents" in the motion. However, if we do not use these wordings, it may not be making sense. The reason is very simple. If we want to attract mainland chefs to come to Hong Kong, we have to offer concessions to "chefs of consummate cooking skills", and if we want to attract mainland table tennis players to come to Hong Kong, we have to offer concessions to "ping-pong masters". Now that we want to attract mainland businessmen to invest in Hong Kong and the rich to spend here, what is wrong with using such wordings as "high-income earners"?

In addition, currently the United States and Japan, when processing the visa applications, would require applicants to produce proof of income. Is that a form of discrimination? Certainly it is not. It is only a means of screening. Moreover, those people who could bring in capital for investment, stimulate economical growth and create job opportunities are often offered concessions throughout the world. Appealing to them is not a discrimination against others.

I wish to emphasize that our proposal is not a full set of residence policy per se, but a specific policy to encourage people to invest and spend money in Hong Kong. Hong Kong has established systems for One Way Permit and the Admission of Mainland Professionals Scheme to allow mainland people to resettle in Hong Kong. Our proposal is independent of these two systems, offering a third channel to attract investors and create job opportunities. In fact, this channel is opened to foreign nationals, so we are only proposing that it be also opened to mainland people, and institutionalized. Therefore, our proposal does not pose any discrimination against anyone but to eliminate the discrimination against mainland people.

On the other hand, some people may question if pressure would be exerted on Hong Kong society if more mainland people are allowed to come to Hong Kong. However, as these people have relatively higher living standards, it is not very likely that they would need to apply for public housing and social

welfare. In respect of education and medical care, they may choose private schools and private hospitals. Even if they do exert a little pressure in these respects, compared with the benefits they bring to Hong Kong, it is still a good deal.

Finally, some people may question the feasibility of the proposal. As the Central Authorities exercise foreign exchange control, it is difficult to ensure that the incoming capital is clean. This question is not difficult to solve. If the SAR Government could work with the mainland authorities and establish a system whereby all applications must obtain the prior approval of the Central Government before they will be processed by the SAR Government, it would eliminate the possibility of "competing for capital" with the Mainland, and also ensure that all incoming capital is clean.

Concerning the catering industry which I represent, to attract more mainland people to invest in Hong Kong to liven up the economy, or to organize tours to short-haul destinations will certainly be beneficial to the industry. I will certainly render my full support. However, as the Government is considering the implementation of total ban on smoking in restaurants, and in view of the abundance of smokers in the Mainland, would it deter the mainland people from coming to Hong Kong if the policy is implemented? In that case, would it help the restaurants, or will the loss outweigh the gain?

Madam Deputy, from a macroscopic point of view, the convergence of Hong Kong with the Mainland has already taken shape. From the business point of view, numerous Hong Kong companies have invested and established factories in the Mainland, and more mainland companies have come to Hong Kong to find opportunities of development, or financing for listing. After the exchanges made over the past few decades, it has fostered the prosperity of Hong Kong and the Pearl River Delta Region. If Hong Kong is to continue the development of high value-added services, and seeks to become the leader in Southern China, we must expedite the convergence with the Mainland to achieve a comprehensive exchange of "people, talents and resources", and bring the advantages of both sides into full play. To attract mainland people to invest, visit and spend money in Hong Kong is a major step to take towards this goal. Madam Deputy, I so submit.

MR LAU WONG-FAT (in Cantonese): Madam Deputy, since the announcement of the Budget, the interest rates in Hong Kong have seen several

reductions in keeping with the United States, but unfavourable news and data have kept emerging continually. Mortgage loans approved by the banks dropped, rate of default mortgage payments increased, rate of economic growth plummeted, and so on. It is very likely that the forecast of "a stable recovery of local economy" is but another fancy misunderstanding.

I believe Hong Kong people who have suffered many privations must have heard enough of such officialdom as "Hong Kong will benefit from the economic growth in China and the influence of interest cuts in the second half of the year". What they have been waiting in earnest is the SAR Government making some achievements and doing something specific to lead Hong Kong onto a path of genuine stable economic recovery.

The biggest troubles with Hong Kong now are the sluggish domestic consumption, depressed property market and slack business in almost every trade. Coupled with Hong Kong people rushing northward to the Mainland for leisure and shopping, more and more businesses including banks are relocating their processes northward, thus adding salt to the wounds of the economy of Hong Kong. Should this situation continue, more and more workers in the consumer businesses can only hope against hope, for fate to befall them.

Mr James TIEN's motion is not a flash in the pan, but a practical proposition that seeks to attract inward investments to stimulate the sluggish economy of Hong Kong. The relevant proposition certainly has quite a few technical problems to overcome. However, given that the objective is correct, we can definitely draw up a feasible proposal.

In this respect, Macao has been far-sighted and implemented some sort of a property investment migration policy. Therefore, the key lies in that Hong Kong Government must make commitment and proactively employ every possible means to launch initiatives that are effective in stimulating local consumption and revitalizing the economy so as to save the wage earners of all trades from their dire straits.

With these remarks, Madam Deputy, I support the motion.

MR HUI CHEUNG-CHING (in Cantonese): Madam Deputy, owing to a historical opportunity, Hong Kong performed as the sole external trade gateway

of China before the 1980s. Enjoying such advantages as low tax rates, a simple tax regime, good law and order situation, convenient communications, efficient transportation, an international reputation of being a free port and having a sound legal system, and given the fact that it is able to accommodate different cultures with an open-minded attitude, gather different forms of entertainment and food specialties, and provide a wider choice of novel goods compared to its neighbouring regions, Hong Kong was the prime destination for local and overseas people who want to invest and spend in Asia. However, as time changes, Hong Kong is now no longer the only international trade port of China. In the mid-1980s, industries in Hong Kong began to move northward because of the rising land prices, production costs and living indexes as a result of economic prosperity. Furthermore, the United States economy has shown signs of recession in recent months. Besides, the economies of Europe, Japan and Southeast Asian countries have found it difficult to make further substantial investments in Hong Kong. As a result, Hong Kong is now showing signs of reducing momentum as its economy is vulnerable to the influence of external economic factors. At the same time, the economy of China has seen constant prosperity and development. As the mainland community becomes less stringent and more stable and private enterprises of various sizes grow rapidly, its nationals are benefited. They have gradually become a huge spending stratum, apart from being able to make investments outside China.

Under such circumstances, Hong Kong naturally needs more than ever stimulus from the Mainland, and absorbs its capital and spending power. As a member of the Small and Medium Enterprises Committee, I understand that more proposals are forthcoming from the Committee. These proposals include attracting more mainland organizations to set up offices and organize large conventions and exhibitions in Hong Kong, encouraging the Hong Kong Government to work with the relevant authorities in the Mainland to streamline the application procedures for mainland visitors coming to Hong Kong, expand the quota, and so on. I really hope that the Government can follow our advice and take action expeditiously.

Actually, Hong Kong enjoys at least three edges of enormous appeal to mainland investors:

First, the professional standard of trade-related services available in Hong Kong, including state of the art container terminal facilities and services in such areas as sea and air transport, financing, accounting, and so on, is on a par with

international standards. The governments and enterprises in the Mainland should be able to make good use of these services.

Second, in financial services, Hong Kong has rich experience, convenient facilities for fund raising, and a high international, professional standard. These factors should attract more mainland enterprises with potentials to come to Hong Kong to raise funds.

Third, compared to the Mainland's complicated tax regime, Hong Kong's tax regime is simple and clear. Its tax rates are low too. Mainland enterprises will find it particularly convenient in financial management.

Madam Deputy, unlike the attempt to attract overseas investors, I believe key to absorbing more capitals and spending power from the Mainland lies not in the provision of inexpensive land or labour, but in the attitude of the officials of the Government of the Special Administrative Region (SAR) which is more important. Some government officials still hold the bureaucratic thinking of "the less trouble the better", or the mentality of keeping the Mainland at a distance. As a result, they lack the momentum to help investors to put their plans into expeditious implementation.

This Monday, I met with a person in charge of a company providing helicopter services in Hong Kong. I was told that mainland officials from a number of provinces and of various ranks had urged the company to provide helicopter services between the Mainland and Hong Kong. At the same time, the company is willing to take the initiative to invest in the relevant infrastructure. In fact, with China's accession to the World Trade Organization, many multinational enterprises in Hong Kong will expand their business to the Mainland. If we can develop fast and convenient helicopter services, we should be able to help attract investors to continue to stay in Hong Kong and attract more mainland investors and visitors with high spending power, particularly those from the Pearl River Delta Region, to conduct business negotiations and visits in Hong Kong. However, the SAR Government now plans to levy a departure tax on helicopter passengers on par with general air passengers. Although this is in line with the principle of fairness, will it deal a great blow to the initiative of the industry which is still suffering losses and deprive Hong Kong of a shortcut that will effectively attract mainlanders to invest and spend money in Hong Kong?

Madam Deputy, qualified investors and people with high spending power have all along been the target of countries all over the world. The United States, Canada, Australia and New Zealand have been using such means as naturalization, right of abode, and so on, to attract people from all over the world in order to inject new blood into their economies and stimulate their business. Apart from sharing the same continent, Hong Kong shares the same race and language with the Mainland too. The authorities concerned should play an active role to encourage eligible mainlanders to reside, invest and spend money in Hong Kong if they can help boost Hong Kong's job opportunities and stimulate the economy. This move is not only logical, but also consistent with the realistic need of Hong Kong.

Madam Deputy, I so submit.

MR CHAN KAM-LAM (in Cantonese): Madam Deputy, Hong Kong has undoubtedly undergone an economic restructuring since the 1997 financial crisis. The Chief Executive has also repeatedly made it clear that Hong Kong has to move in three key directions, namely the tourism industry, services industry and financial industry, in future. Thanks to its past efforts, Hong Kong has won the internationally-renowned reputation of "Shoppers' Paradise" and "Gourmets' Paradise" and successfully opened up the overseas markets. Nevertheless, a comprehensive set of policies for the development of the mainland market has been lacking. According to statistics released by the Hong Kong Tourism Board (HKTB), the average per capita spending of visitors from such key countries as Taiwan, Southeast Asia, Japan, Europe and the United States in 2000 recorded falls ranging from 6% to 21% compared to 1999. The only rise was recorded in the average spending of mainland visitors which has risen more than 10% from \$4,370 in 1999 to \$4,831 in 2000, reflecting the strong spending power of mainland visitors. Therefore, the Democratic Alliance for Betterment of Hong Kong (DAB) supports the proposal made in the original motion with respect to attracting mainland residents to spend money in Hong Kong.

Although the mainland authorities have recently expanded the annual quota under the "Group Tour" Scheme, we still consider it insufficient to attract mainlanders to spend money in Hong Kong by solely relying on a relaxation of the quota restriction. In fact, the quota for mainland visitors is nowhere near exhaustion. In 1999, only some 330 000 mainland visitors visited Hong Kong in package tours, representing some 60% only of the quota of 540 000.

Although the number of mainlanders visiting Hong Kong rose to 450 000 last year, the figure only accounts for 80% of the quota. This shows that a relaxation of the quota and introduction of a comprehensive set of matching measures are needed before we can induce mainlanders to spend money in Hong Kong.

As regards the original motion's proposal of issuing multiple entry permits to high-income earners in the Mainland, we think this special arrangement is not proper for there is a fear that visitors will indirectly be graded in the course of defining "high income". Moreover, the extra income-vetting work generated will further complicate the application procedures. Nevertheless, I must emphasize that the DAB supports in principle the issuance of multiple entry permits to mainland visitors by the mainland authorities. At present, mainlanders can apply for two-way exit permits under a Business Visit Scheme. Holders given multiple endorsement are free to enter and leave Hong Kong for an unlimited number of times in a six-month period. Nevertheless, the Scheme is confined to business activities only. On the contrary, visitors from Taiwan can apply for single or multiple entry permits to Hong Kong. In addition, visitors from more than 170 countries can come to Hong Kong without a visa for a period of stay ranging from seven days to three months. Only mainland visitors are still required to make application for each visit. A multiple-entry-permit scheme can help reduce the number of applications to be processed and shorten the visa-processing time.

When the Business Visit Scheme was launched in 1998, a daily average of 210 people with business endorsement came to Hong Kong. In 1999, the number doubled to 736. Last year, the situation saw a dramatic change, with the number of business visitors rising to a daily average of 1 790, even exceeded the daily average of visitors coming to Hong Kong for purposes of visiting relatives and sightseeing. This proves that the streamlining of procedures offers a certain degree of appeal to visitors.

Madam Deputy, out of 3.78 million mainlanders who visited Hong Kong last year, 1.54 million were two-way permit holders, Group Tour visitors and business visitors. In other words, more than 2 million mainlanders preferred visiting overseas countries before returning to Hong Kong for sightseeing. In our opinion, this has been a result of the complicated procedures for applying for entry into Hong Kong and the Mainland's cumbersome exit and entry procedures. There is a need for the Hong Kong Government to discuss with the mainland

authorities with a view to effecting an early streamlining of the immigration procedures of the two regions. This will not only facilitate the entry of people for purposes of visiting relatives and sightseeing, but also encourage mainland experts and academics to take part in international conventions or academic exchanges in Hong Kong, thereby promoting the long-term development of the two regions.

The DAB also welcomes the National Tourism Administration's decision to increase the number of travel operators for organizing tours to Hong Kong beginning in September this year. With the introduction of competition, tour prices are expected to be adjusted downward accordingly and the standard of service provided by travel operators will be raised.

Nevertheless, it is most important for Hong Kong to raise the standard of its services industry and tourism industry, however simple the procedures for applying for entry into Hong Kong and the entry and exit procedures will become. We are pleased to see that the HKTB has in recent years actively developed new tourist spots and organized large-scale activities to enhance Hong Kong's appeal. However, the Government apparently needs to play a more active role in targetting unscrupulous operations and combating acts of cheating tourists by other unscrupulous means. At the same time, we hope that the Government can enhance its promotion of training of the service industry employees, and put in place a mechanism for monitoring local travel agents in order to build up an image of a quality tourist centre for Hong Kong, leaving tourists a good impression.

Following the entry of China into the World Trade Organization, the mainland markets will be liberalized and the spending power of the people will also rise, Hong Kong should grasp this opportunity to strengthen the tie between the two regions. The DAB is of the view that such tie should not be confined to the economic level. Cultural and academic exchanges are not to be neglected too. Hong Kong should enhance its competitiveness to cope with the changing China with a view to promoting the long-term and comprehensive development of both regions through enhanced co-operation and mutual complement.

Madam Deputy, I so submit.

MS AUDREY EU (in Cantonese): Madam Deputy, while we are here in this Chamber debating the original motion moved by Mr James TIEN, the Court of

Final Appeal (CFA), just two streets away, is conducting a hearing with respect to 5 000 right-of-abode seekers from the Mainland. They all arrived in Hong Kong after the test case of NG Ka-ling had been ruled by the CFA on 29 January 1998 that the abode claimant was entitled to the right of abode. They came to Hong Kong because according to the Court's ruling, like NG Ka-ling, they were legally entitled to the right of abode. Moreover, the Chief Executive and a number of senior government officials indicated that the Government would respect the ruling of the Court. However, the Government later cited the controversial figure of 1 600 000 and stated that a heavy burden would be imposed on Hong Kong if it was to respect the Court's ruling. Subsequently, it resorted to seeking interpretation from the National People's Congress, thereby depriving this group of people of the right of abode.

Madam Deputy, I cited this incident because the difference between this group of people and the mainlanders whom Mr James TIEN is trying to admit only lies in the amount of money they have. People who have no money do not necessarily have no other talents, or they cannot contribute to Hong Kong. If we take a look around us, we can easily find that many tycoons used to be refugees from the Mainland.

Madam Deputy, subsequent to China's reform and liberalization, the financial capability and livelihood of Chinese nationals have seen gradual improvement, with their spending power rising constantly too. It will definitely help Hong Kong's economic development if we can encourage more mainland residents to come to Hong Kong to spend and invest. Nevertheless, our sustainable economic development relies not on money alone, but also such important elements as academic research and development, culture and talents.

I have on a number of occasions visited the Mainland with some professionals and met with a number of mainland scholars. They impressed me as diligent, open-minded and having insight on a number of matters. In the past decade, academic development in China has seen rapid development with the constant emergence of talented people. More academic exchanges between the two regions will bring new inspirations to Hong Kong. We will surely benefit more from such exchanges than from monetary investment and spending. Therefore, in considering ways to admit mainlanders, whether on a temporary or permanent basis, we should widen our horizon and refrain from confining our targets to the rich.

From the angle of overall development, academic and cultural exchanges will promote mutual understanding between the two regions. Since the reunification, Hong Kong has been practising the principle of "one country, two systems". We must not focus on the two systems only. We should also consider one country as well. Since the two regions are of the same country, we must not focus our attention on the economic aspect, vying for the enormous market of the Mainland only. We must try harder to understand the ideology and culture of the other party to enable residents of the two regions to better understand and accommodate one another.

In the past five decades, people living in China and Hong Kong can be said to be living in two completely different worlds and receiving totally different education. There is naturally a huge gap between the residents of the two regions in terms of ideology and culture. Since the reunification, Hong Kong started to practise "one country, two systems", "Hong Kong people ruling Hong Kong", "high degree of autonomy", and is expected to remain unchanged for 50 years. This period of 50 years is exactly meant to give people of the two regions an opportunity to understand each other and narrow their cultural gap, and also to enable Hong Kong people to see that China has become a more open-minded and liberal country than before. At the same time, it gives mainlanders an opportunity to understand that the aspirations of Hong Kong people to democracy, the rule of law and human rights will not topple the country. In order to achieve this goal, the only way is to strengthen academic and cultural exchanges.

Madam Deputy, according to the proposal made by Mr James TIEN, those mainland people who can invest \$2 million may take up residence in Hong Kong while those who earn a monthly income of \$10,000 may come to Hong Kong on multiple trips. While this proposal will offer only very little help to Hong Kong, it is unfair to other mainlanders who have the need to come to Hong Kong.

I consider Miss Margaret NG's amendment more comprehensive for it is able to look after the overall development of the two regions. I therefore hope Honourable colleagues can support the amendment.

Madam Deputy, I so submit.

MISS CHOY SO-YUK (in Cantonese): Madam Deputy, faced with competition from countries all over the world, Hong Kong needs more talented people and money if it is to become New York of Asia or a locomotive pulling China's

economic development. Therefore, it is very important to Hong Kong to attract more foreign capital, provide capital for the local economic development, and create job opportunities in order to bolster its future development.

If we take a look around us, we will find that countries all over the world have respective migration policies to attract capital to foster economic development. For instance, New Zealand, considered to be the "last piece of Pure Land in the world", has formulated a new policy to attract investment migrants. In April 1999, the New Zealand Government promulgated a new immigration law under which applicants are only required to pass a language test, to be aged between 25 and 84, to invest in New Zealand \$1 million in local currency, and to meet certain specific requirements before they can settle in the country. In addition, New Zealand also admits venture migrants. An applicant will become a New Zealand citizen if he can prove that he has successfully founded or acquired an enterprise that has been in existence for at least two years and can bring benefits to the New Zealand economy. In addition, he is required to meet some basic requirements. For instance, he must be able to pass a health examination, present a Certificate of No Criminal Conviction, and reach a certain standard of English, and so on.

As we all know, the Australian Government has also classified migrants into a number of categories, including migrants with investments in stock, enterprise migrants and venture migrants. In addition, clear-cut requirements with respect to asset levels and investment size, and other specific requirements have been laid down.

In the United States, Canada and Singapore — our major rival, different categories of investment migration are available in order to attract the inflow of capital.

What about Hong Kong? Although the Hong Kong Government has not formulated a specific policy for investment migrants or imposed a quota on the annual intake of migrants, expatriates are allowed to, as self-employed people, apply for working visas and extend them on a 1-2-2-3 basis. After living in Hong Kong for a continuous period of seven years, they can apply to become permanent residents. Furthermore, the applicants can, at any time, apply for their spouses and unmarried or dependent children under the age of 21 to take up residence in Hong Kong. As far as I understand it, the Government has so far imposed no minimum requirements on investment migrants. Generally

speaking, an applicant may be granted a visa for taking up residence and working in Hong Kong if they have brought with them a certain amount of capital for investment in Hong Kong and are able to create certain job opportunities here.

Nevertheless, mainlanders are not allowed to invest and reside in Hong Kong by these means. It is worth noting that I have, on several occasions, been told that many mainlanders intending to take up residence in Hong Kong chose to acquire passports from another country and then apply to come to Hong Kong for investment and residence as the nationals of that country. In other words, these applicants can eventually take up residence in Hong Kong in a roundabout way. In order to do so, many investment migrants from the Mainland have to go through several extra steps before they can eventually take up residence here.

In fact, the Government's practice of refusing mainlanders to invest and reside in Hong Kong is outdated. As the Government has already in place a mechanism for admitting expatriates to invest and reside in Hong Kong, it should give mainlanders the same treatment by opening up the same channel to them so that they can lodge applications. Actually, the admission of these mainlanders will bring benefit but no harm to Hong Kong. In addition to the creation of more jobs subsequent to the inflow of capital, there will be increasingly contacts and exchanges between Hong Kong and the Mainland. The imminent entry of China into the World Trade Organization will also bring us huge business opportunities. These people from the Mainland, with their extensive ties in various aspects, will help Hong Kong enormously in expanding the Mainland market.

Moreover, I consider it necessary for the Government to review the details governing the applications by expatriates or mainlanders for admission to invest and reside in Hong Kong in the future. For instance, the Government should formulate a clearer guideline on the minimum amount of investment, impose a restriction prohibiting the transfer of the relevant investment out of Hong Kong. In addition, provisions should also be made with respect to investment items to specify, for instance, the non-speculative nature of the business and the minimum number of staff to be employed. As regards the detailed implementation of the relevant policy, the authorities should also set out clearly that, if necessary, the applicant must explain to the authorities the origins of his assets to minimize the possibility of Hong Kong of being turned into a refuge for overseas or mainland

criminals as a result of the relevant policy. With these remarks, Madam Deputy, I support the original motion.

MR SIN CHUNG-KAI (in Cantonese): Madam Deputy, I know that you have just returned from the western provinces in China after a busy schedule. You have also brought good news, which is the opening up of the vetting and approval mechanism for out-going visitors on the Mainland. At present, four organizations for vetting and approval of tours to Hong Kong have opened up. I trust this will be helpful to tourism in Hong Kong. Indeed, the Democratic Party has been opposing monopoly in this area because in a monopolistic mechanism, mainland residents have to pay \$1,700 before they can obtain a permit to visit Hong Kong. However, they need only pay \$2,200 for a tour to Thailand for seven days and then they may return to the Mainland via Hong Kong. Certainly, this is a mainland practice and we may not be able to exert any influence. Nevertheless, we still think the mechanism should be opened up.

Today, many Members have expressed a lot of views but I think we should discuss the quota system. The Honourable CHAN Kam-lam said a moment ago that out of a quota of 500 000-odd, only 300 000-odd had been used. So, only 70% or 80% had been used and there should still be some room. But why do we have to live with a quota system at all? In the Hong Kong tourism industry, we do not have any quota on any country in the world. Do we have a quota for visitors from the United States? No. As long as the Hong Kong Government thinks a person is fit for visiting Hong Kong, the person may do so. We treat people from Japan and other countries likewise. However, we have a quota for mainland residents, who are residents under "one country, two systems". This may be an arrangement out of security reasons, as pointed out by the Honourable James TO earlier. But security matters should be dealt with by law enforcement authorities, not through a restriction in policy terms. This is my view: I think we need to step up enforcement action against visitors only when they overstay. Once the quota system is abolished, we certainly need to tighten security work, and this involves the Mainland. Four years later, that is, in 2005, the Disney theme park will be completed. It will then need more than just visitors from Hong Kong to survive. After all, the purpose of constructing the Disney theme park is to attract more visitors from the Mainland. Therefore, we need to make the necessary preparations in this regard as early as possible. I do not think we should lay down any policy with an element of discrimination against mainland residents. The Democratic Party supports a policy that relaxes the admission of mainland residents to Hong Kong.

Madam Deputy, the Democratic Party will support both Mr James TIEN's original motion and Miss Margaret NG's amendment. In fact, the policies behind both Members' ideas are similar, though the Democratic Party would regard one of them as encompassing a wider scope. The proposed scope of exchange between Hong Kong and the mainland should not just be economic and it should include the cultural and academic aspects as well. The Democratic Party will certainly lend its support to an expanded scope of exchange.

A Member also mentioned issues such as travel visas. I did say in this Council in the past that issuing business visas for multiple entry to visitors would help not only local employers but also Hong Kong companies with offices in the Mainland. This is because it will help promote trade between Hong Kong and the Mainland, especially when China has joined the World Trade Organization, more companies may be setting up offices in both places. Therefore, allowing mainland people to obtain business visas for multiple trips between Hong Kong and the Mainland is going to be beneficial.

Recently I had the opportunity of coming into contact with Shenzhen officials. I found that more and more Hong Kong people are crossing the boundary to spend so that there is a trade deficit between both places. We may hence consider relaxing measures to attract Shenzhen residents, rich or poor, to visit Hong Kong. Visitors should be arrested or punished only when they overstay. They must understand clearly the time period they are allowed to stay, such as seven days or a certain number of days, and we should let them in with the most expedient methods. Though we are under "one country, two systems", in the long run, the difference between Hong Kong and the Mainland would diminish and the exchanges between the two places will become more frequent. The change would only be a question of speed. Once unnecessary hurdles are removed, we may quicken the change strategically and systematically. Put simply, under an open policy, I think the Government should consider measures to facilitate visits to Hong Kong by granting mainland people business visas, travel visas or visas for Shenzhen residents (since Shenzhen residents have resident's certificates so they should come under a different category). For Shenzhen residents who come to Hong Kong with resident's certificates, we should allow them to stay for two or three days visa-free.

In general, the Democratic Party will support whatever benefits the tourism industry. I trust businesses and small and medium enterprises in Hong Kong, especially the retail sector represented by the President's Deputy, will also support the same because this would increase local job opportunities.

Thus, the Democratic Party will support the original motion and the amendment. Thank you, Madam Deputy.

MR IP KWOK-HIM (in Cantonese): Earlier, Madam Deputy, when I was on a through train to Hong Kong, there was this couple from the Mainland sitting next to me among a group of visitors. They spoke to me, recognizing my familiar face as a Member of this Council. The couple had a leather business exporting leather to Europe, the United States and Southeast Asia. With the imminent accession of China to the World Trade Organization, exporters on the Mainland should be having more business and things should go smoother. But what they told me was another story, and having heard it, I felt there was really a big problem.

The couple paid a visit to Hong Kong for three days only, but the tickets and visa fees alone cost them \$4,000. Since there were two of them, so the cost was \$2,000 per person. What does the cost cover? Only the round trip fare for the through train and an entry visa, but nothing more. Charges for hotel, tours and transport had to be paid separately. That was a large sum and to those people travel to the Mainland frequently and spend money there, the sum was inconceivable. Just for a three-day tour to Hong Kong, each person had to pay \$2,000 for a ticket and a visa. I asked them why they had come to Hong Kong. They said they had been here not for sightseeing but for setting up a company and finding an office. As they could not find other means to come to Hong Kong, they had to use this means which is rather unreasonable and expensive. They were made to do so, because they had no choice. How many such people are doing the same thing, that is, do their own business but come here by way of a tour? I think there are quite a number of them.

I also asked them, "If you want to go elsewhere, not Hong Kong, what will it be like?" These people have their own passports and multiple entry visas for many countries such as the United States, the United Kingdom and countries in Southeast Asia. In applying for their visas, they need only produce proof of their assets, without all the hassle entailed for Hong Kong.

The crux of the problem lies in the fact that immigration control is enforced by both the Mainland and Hong Kong. According to a pamphlet from the Immigration Department (Form ID894), applications for visas for multiple entry to Hong Kong for business purposes must be vetted and approved by public

security authorities on the Mainland. The documents will then be sent to Hong Kong for processing, and ultimately the mainland authorities will notify the applicants. This process would involve a lot of paper chase and one can imagine how cumbersome and time-consuming it is. Even if the couple mentioned by me were willing to take all the trouble and time to obtain this category of visa, they could not get it in reality. So, they could only enter Hong Kong by way of a tour. They thus told me it would be almost impossible to obtain a multiple entry visa to Hong Kong. A Member mentioned earlier that other than this way, some may choose to buy air tickets to countries in Southeast Asia and then hurriedly complete whatever business they need to complete at the Chap Lap Kok Airport while in transit before boarding a plane to return to the Mainland. After cheating for once or twice, they may leave a record of immigration impropriety, which is in fact not what they intend to do. They would rather spend \$2,000 on a travel visa to enter Hong Kong and be law-abiding visitors. This may be unfair because the travel agents involved may be unnecessarily benefited. In the circumstances, the Democratic Alliance for Betterment of Hong Kong (DAB) would support Mr James TIEN's proposal in part (b) of the motion for the issuance of multiple entry permits to mainland people who need to come to Hong Kong to travel or for business.

We hope the Government may conduct a review as soon as possible so that entry restrictions on persons coming to Hong Kong for business or for travel may be properly dealt with.

However, the DAB suspects whether there is a demand by persons from the Mainland wishing to invest and take up residence in Hong Kong, which is among the proposals in Mr TIEN's motion. We do not oppose allowing people with a large amount of capital coming to Hong Kong to take up residence. The history of post-war Hong Kong has proved that this will benefit the development of Hong Kong. However, the Mainland is advancing by leaps and bounds, with business opportunities galore. The findings of the Hong Kong "Go West" Delegation are apt proof of this. Therefore, the DAB considers Mr TIEN's proposal may not achieve much effect, but it would do no harm to try.

We think Miss Margaret NG's amendment would cover a much larger scope and its effect is all the more doubtful. Thus, the DAB has reservations on it.

I so submit. Thank you, Madam Deputy.

THE PRESIDENT resumed the Chair.

MR HOWARD YOUNG (in Cantonese): Madam President, the tourism industry was plunged into a downturn in 1998 following the onslaught of the financial turmoil and the subsequent recession. In order to revitalize the tourism industry, the Government put forward many solutions for the long, short and medium terms. Besides improving the existing tourism facilities and creating a variety of new tourist spots, the Government has also taken many measures to relax the immigration restrictions. One example is the measure targeted at the Mainland, the main source of tourists for Hong Kong. Under this measure, the daily quota for mainland "Hong Kong Tours" was increased from 1 142 persons to 1 500 persons with effect from July 1998, though such tours are organized only by four specified travel agencies. The increased quota has indeed stimulated the local tourism industry to a certain extent. In the past 11 months, an average of 1 227 mainland citizens came to Hong Kong on "Hong Kong Tours" every day. In the first four months of this year, an average daily record of as many as 1 434 was recorded. I understand that in order to meet the demand, the authorities concerned have drawn up plans to further increase the daily quota to 2 000, which can be flexibly adjusted to cater for needs provided that the yearly total does not exceed 730 000. Besides, the organization of "Hong Kong Tours" will also be opened to a greater number of travel agencies. However, up to now, this is still all thunder but no rain, for the mainland authorities have not yet implemented any concrete measures to increase the number of travel agencies permitted to organize these tours.

Since prices in the Mainland are lower than those in Hong Kong, the number of Hong Kong people going north for consumption, according to statistics, was as large as 33.8 million last year, representing a rise of 23% compared to the figure for 1999. In contrast, the number of mainland residents coming to Hong Kong is just 3.79 million, or 10% of the number of Hong Kong people going to the Mainland; in other words, the ratio is about 10:1. The reason for this huge negative balance is that while Hong Kong residents holding Home Visit Permits or Mainland Travel Permits can travel freely between China and Hong Kong, mainland residents wishing to come to Hong Kong for sight-seeing (especially those who do not join any "Hong Kong Tours"), visiting relatives or business are, as observed by the local tourism sector, subjected to many harsh restrictions, most of which are imposed by mainland authorities. These mainland people all need to go through very complicated formalities

before they can come to Hong Kong. We think there is indeed a need for improvement here.

Actually, the consumption power of mainland citizens is by no means weak. In 2000, each mainland citizen visiting Hong Kong spent about \$4,831 here on average (a rise of 10.5% against the figure for 1999), which, I think, is much higher than the average spending of the several dozen million Hong Kong people going to the Mainland every year. So, the negative balance we are faced with today is largely the result of the quota imposed on mainland residents. The economy of Hong Kong has thus suffered much losses, or has been unable to gain any benefits as it otherwise can. The Mainland should have been the main source of tourists for Hong Kong, for even now, mainland tourists still represent as much as 29% of all tourists visiting Hong Kong, and their consumption power is also very high. I think that in order to eliminate the negative balance, the Government should negotiate with the relevant mainland authorities on the prompt implementation of measures that can increase the number of mainland residents visiting Hong Kong. Not only should the quota be increased, but the application procedures for visiting Hong Kong should also be simplified, so as to induce more mainland residents to visit Hong Kong and reduce the existing imbalance. This can produce positive effects on the local tourism industry and the economy as a whole, benefiting the retail businesses, the catering industry, the transportation trades, and so on.

In recent years, the mainland Government has been making strenuous efforts to implement economic reforms; as a result, the mainland economy is gradually becoming increasingly open to inward investments, and large numbers of proprietors of individual businesses have emerged. Although the average income level in the Mainland is still lower than that in Hong Kong, there are still many mainland residents or professionals whose incomes are considered very high by mainland standards. The particularly prosperous economic development in the Pearl River Delta Region has led to the emergence of many middle-class people with high consumption power who like to go on trips during holidays. In recent years, the governmental organizations in the Mainland have adopted a five-day week, with Saturdays and Sundays being rest days. This, together with some statutory long holidays such as the National Day, the Spring Festival and the International Labour Day on 1 May, has induced many mainland residents to go on out-bound tours. And, because of its geographical location, Hong Kong should in fact be their prime destination. Three years ago, when an aviation exhibition was held in Zhuhai, as many as 100 000 mainland residents

from all over the Pearl River Delta Region drove to visit the exhibition. The organizer thus got a lot of revenue from the sale of admission tickets. This shows that the consumption power of mainland people is not low at all.

In order to speed up our economic recovery, promote our tourism industry, and even boost our sluggish retail businesses and catering industry, we propose to induce more mainland residents to come to Hong Kong. Apart from increasing the quota for "Hong Kong Tours", we should also consider the possibility of lengthening the seven-day visa-free stay for mainland citizens stopping over at Hong Kong before going on to other countries. The fact is that at present, the number of mainland residents coming to Hong Kong on "Hong Kong Tours" is not really that large, and they represent just about 10% of the total number of mainland visitors to Hong Kong. There are many others who wish to come to Hong Kong for conferences, business reasons, exhibitions and trade fairs. So, we should put in place more measures to encourage more people from the Pearl River Delta to come to Hong Kong on passes applied for not in their registered permanent residence.

Madam President, I wish to say a few words more. Dr LUI Ming-wah said earlier that we should focus on new visitors instead of old. I wish to point out that most of the 30 million or so Hong Kong residents going to Shenzhen every year are old visitors, and very few of them are new ones. Similarly, those mainlanders coming to Hong Kong are mostly old visitors, whose consumption power is higher than new visitors. These people, who have come to Hong Kong several times for exhibitions, trade fairs and conferences, all have very high consumption power. That is why we should not focus only on new visitors and ignore old ones. This will only tie our hands up.

MR NG LEUNG-SING (in Cantonese): Madam President, in his 1999 policy address, the Chief Executive set down the goal to turn Hong Kong into a leading metropolis in Asia that is comparable to New York in America and London in Europe. To reach this goal, we must, besides retaining the strengths of our original institutions, note one important point: we must learn from the successful experience of other countries in respect of immigration policies and explore (explore, I must stress) and work out measures that can give us greater flexibility in encouraging and fostering the movements of quality people. Specifically, we must try to induce more outsiders with capitals and skills to come to Hong Kong, to energize our social and economic activities, to foster the development of our

culture, sports and arts, and to raise our standards in these areas. In this connection, we must note that because of socio-economic development and the resultant improvements, both money capital and human capital are quickly amassing in the Mainland. This, together with China's imminent accession to the World Trade Organization, will certainly offer huge business opportunities to any economy which can make effective use of capitals and talents from the Mainland.

Unfortunately, over the years, the immigration policy of Hong Kong has been marked by an imbalance: Mainlanders wishing to come to Hong Kong for sight-seeing, work and investment have been subjected to more restrictions than people from overseas, and family reunion has almost been the only way through which mainlanders can come to live in Hong Kong. These restrictions will most certainly pose huge obstacles to the economic activities of Hong Kong in terms of competition and development, and its advantage of being close to the Mainland may be offset by a lack of human resources support. In this way, not only will we find it difficult to consolidate our status as a metropolis, but we will even gradually lose our ability to compete with some major cities in the Mainland, thus losing some of the business opportunities brought about by the liberalization of the mainland market.

The Government has recently put forward a scheme on admission of professionals to Hong Kong. This can offer a more flexible mechanism outside the Admission of Talents Scheme, enabling more mainland people who can make immediate contribution to the operation of our enterprises to come to work in Hong Kong. To a certain extent, the new scheme can rectify the imbalance in the immigration policy mentioned just now, which is why it merits our support. However, in respect of inducing more mainlanders to come to Hong Kong for investment and sight-seeing, Hong Kong still needs to apply a bit more flexibility. One related point which is worth stressing here is that we cannot possibly bring about any changes to the vetting and approval policy of the mainland authorities simply by making any unilateral changes to our own immigration policy. This is a point we can all realize. Hong Kong and the mainland authorities must naturally need to conduct negotiations and studies before they can work out a mutually acceptable proposal. I agree with Dr LUI Ming-wah that this is indeed rather difficult, but we still believe that a feasible solution can be worked out through the studies and negotiations of both sides. But, in the meantime at least, Hong Kong should first show sufficient open-mindedness, such as by positively exploring some reasonable mechanisms to allow mainland people to

come to live in Hong Kong, and by relaxing the entry restrictions on tourists from the Mainland. Statistics of the authorities concerned show that 3.78 million trips to Hong Kong were made by mainland tourists last year, and a total sum of \$18.2 billion was spent, which means a spending of about \$4,830 per capita for each trip, as also mentioned by many Members earlier. This level of spending is markedly higher than the sum of \$800 per capita, which was the spending for each trip made to the Mainland by the people of Hong Kong last year. But we should also note that the number of mainlanders visiting Hong Kong is far smaller than that of those Hong Kong residents visiting the Mainland, which stood at 50 million last year. That is why it is indeed true that the total spending by mainland tourists in Hong Kong is far less than that spent by Hong Kong people in the Mainland, which amounted to \$30 billion. This can aptly show that there are still plenty of potentials for attracting more consumption from mainland tourists. What Hong Kong needs to do is not the adoption of any protectionist attitude aimed at restricting the flow of consumption from Hong Kong to the Mainland; rather, it should enhance its attraction to tourists and further facilitate the entry of mainland tourists, so as to induce more consumption from the Mainland.

In recent years, the policy of reform and opening in the Mainland has created much wealth for the people and society; Hong Kong is a Special Administrative Region, and having enjoyed comparative affluence for so long, it must guard against any protectionist tendency when faced with new difficulties and challenges. The success of Hong Kong in the past hinged most importantly on an environment which was open to both capitals and human resources from all over the world. Today, if Hong Kong is to maintain its prosperity and ascend to the status of a metropolis, it must maintain its open and proactive policy of attracting capitals and human resources, and it should even make further improvements.

Madam President, I so submit.

MISS CYD HO (in Cantonese): Madam President, it has been the policy of the SAR Government over the past few years to induce talents from different places, including those from the Mainland, to invest and work in Hong Kong. But whether in the case of the introduction of professionals or talents, its sole emphasis is always placed on the contribution that mainland nationals can make to Hong Kong. In principle, we fully support the fostering of exchanges

between the two places, including the interflow of capitals and talents. If the motion is viewed purely from an economic perspective, I do not see any problem with it at all.

But the point is that Hong Kong is now already part of China. So, I cannot accept any continued attempt to assess the worth of mainland people solely in terms of foreign exchange earnings and the amounts they spend during their stay in Hong Kong. I do not think that we should just keep our door wide open economically, but at the same time try to shut out everything else or even adopt an isolation policy. This is much too materialistic and short-sighted, and will not enable our society to become really harmonious and integrated, let alone achieve any people-oriented objective. In fact, quality social development must be founded on a solid cultural foundation and rich humane values, or else all kinds of economic activities, however well developed, are only buildings constructed on quicksand — shaky and unable to withstand any adversities and challenges. Sometimes, after sustaining some blows, our society may become dispirited and find it difficult to restore confidence; this is precisely a manifestation of our lack of a solid foundation in terms of humane values, culture and identity.

In a way, Hong Kong has enjoyed a unique advantage, and in the past, we were really exposed to the Western and Eastern cultures, but when it comes to our cultural identity, we are still very much at a groping stage. If we still cling to an attitude of isolationism in the areas of culture and academic pursuits, and if we still refuse to have any interchanges with the Mainland, then we will certainly be hindered in our attempts to build up our own cultural identity. Actually, all the talks about turning Hong Kong into the New York or Manhattan of Asia, as mentioned by Members, are a good illustration of our very weak cultural identity, and thus the resultant need to highlight our own existence and satisfy our own ego by making reference to others' achievements. Why can we not make it our goal to tell others very concretely that we do attach importance to humane values and we are Hong Kong, an economy with admirable achievements in its own right?

Earlier on, the Central Policy Unit held a seminar on cross-boundary co-operation, and it was attended by experts from Europe, Finland and Sweden and academics from Singapore, Malaysia and Indonesia in South East Asia. These experts and academics all emphasized that cross-boundary co-operation should not be confined to economic activities, for exchanges in the areas of culture and

environmental protection and among non-government organizations are equally important. They were also of the view that the legal and judicial systems of different places must progress hand in hand before there could be real co-operation and integration. Therefore, Madam President, I very much support the amendment of Miss Margaret NG, and I hope that there can more cultural and academic exchanges between the Mainland and Hong Kong, so that the people on the two sides of the boundary can enhance their understanding and communication.

I very much support the creation of an additional channel at the practical technical level through which qualified mainland residents can come to live in Hong Kong. The merit of such a channel is that individual mainlanders who have the expertise and capitals required can come to live here without having to wait in the queue of the one-way permit system. But we must emphasize that the approval authority must rest with Hong Kong, because, at present, the approval authority, whether in the case of family reunion, one-way permits or other types of applications, is vested with the mainland authorities. We often hear of cases of graft and corruption, but we cannot do anything. So, if we simply put in place one more channel for mainlanders to apply for entry into Hong Kong but still give the approval authority to mainland authorities, we will be unable to exert any control, and in the end, there will just be one more chance of corruption.

Madam President, I hope that besides economic co-operation, there can be more exchanges among official authorities and non-government organizations over environmental, academic and cultural matters. I have repeatedly asked our government officials why the SAR Government has failed to play a more active leading role. I understand that the Central Government has been very sympathetic, and it does not wish to see other provinces and cities meddling with our affairs by putting forward any unreasonable requests. That is why the Central Government has chosen to play the role of the "villain" and put in place a mechanism under which people from the Mainland can come to live in Hong Kong only after overcoming numerous hurdles. I am very grateful to the central officials for this, but I do not think that we should be so worried. As long as SAR government officials respect the rule of law, have the courage to refuse unreasonable demands and report the same to the Central Authorities, and if the Central Authorities can deal with such requests according to the law, then I can see no reason for putting in place so many obstacles to hinder the communication and exchanges between the two places. Honestly speaking,

such obstacles will only enable those with the means to come to live in Hong Kong, while others without such means but who are sincere in communicating with and understanding the people of Hong Kong are barred from doing so. This is very unfortunate indeed.

Madam President, I support the amendment, and I hope that we can all open ourselves up and make all-out attempts to have exchanges with people in the Mainland, so as to bring forth the kind of positive interaction that can benefit the people of the two places at the same time.

MR AMBROSE LAU (in Cantonese): Madam President, in his 1999 policy address, the Chief Executive proposed a strategy on the "Joint Development of the Pearl River Delta Region", saying, "the 50 000 sq km region encompassing Guangzhou, Hong Kong, Macau, Shenzhen and Zhuhai will become a more integrated regional economy Under the concept of 'One Country, Two Systems', we will together explore ways to allow the free flow and pooling of manpower, goods, capital and other resources in response to economic forces." Unfortunately, what has actually happened is that the free flow and pooling of manpower and capitals have been confined to a one-direction flow from Hong Kong to the Pearl River Delta and other regions of the Mainland, and the flow from the Mainland to Hong Kong has been subjected to many restrictions. Because of the imbalance in the flow of manpower and capitals between the two places, Hong Kong has been faced with a deficit consumption balance in relation to the Mainland.

As revealed by the Economic Services Bureau in this Council in January this year, the people of Hong Kong made about 27.6 million private trips to the Mainland in 1999, spending about \$30 billion there. And, in the first three quarters of last year, nearly 25 million passengers trips were made to the Mainland, for purposes such as sight-seeing, visiting relatives and spending. This means that the number of passenger trips made by the people of Hong Kong to the Mainland last year and the amounts they spent there were markedly larger than those in 1999. However, at the same time, the number of passenger trips made by mainland visitors every year is just about 300 000, and the total spending is as little as \$2 billion. Such a huge negative balance has produced very negative impacts on the consumption market and related trades in Hong Kong. Although the amount of money spent by Hong Kong people in the Mainland represented merely about 4% of the private consumption in Hong Kong during the corresponding period, local consumption is bound to be eroded

as this percentage continues to rise with more and more Hong Kong people going to the Mainland for spending.

Madam President, the growing trend of Hong Kong people to go north for spending has also led to a continuous boosting of the mainland property market. According to statistics, the people of Hong Kong bought a total of 14 000 residential housing units in the Mainland last year, and for the 7 000 or so units bought by them in Shenzhen alone, the total market value is already as high as \$2.2 billion. In contrast, the property market of Hong Kong, in particular that of second-hand units, continues to remain sluggish.

This contrast shows that in order to achieve a balance in the free flow and pooling of manpower and capitals between the two places, the SAR Government really needs to step up its discussions with the relevant mainland authorities, so as to induce eligible mainland residents to invest and take up residence in Hong Kong, and also to facilitate their admission to Hong Kong for sight-seeing and consumption. That way, to a certain extent, we will be able to reduce the negative consumption balance faced by Hong Kong in relation to the Mainland, thereby reducing the imbalance in the free flow of manpower and capitals between the two places.

Madam President, there is a need to explore the introduction of a points system independent of the existing one-way permit quota system based mainly on family reunion, so that eligible persons on the Mainland can lodge applications for admission to Hong Kong for resettlement. The investment plans of applicants should be the main factor of consideration under such a points system.

Regarding the applicant's investment plan, the Hong Kong Progressive Alliance (HKPA) proposes that such plans should be divided into two major categories, one for Hong Kong properties, and the other for various businesses and industries. In the Mainland, after more than 20 years of reform and opening, huge numbers of people have become rich and there are also many high income-earners; these people are very interested in acquiring private property rights in a capitalist society, and they are prepared to invest in fixed assets overseas, such as in Hong Kong properties. If the Government can explore the possibility of offering residence right to high income-earners of the Mainland who invest in Hong Kong properties, the sluggish local property market will be boosted to a certain extent; besides, such a measure can also bring into Hong Kong immigrants with both creativity and consumption power; hence killing two

birds with one stone. For the category of investments in Hong Kong businesses and industries, the HKPA proposes that the SAR Government should base its consideration on sustainable development strategies and the relative strengths of the two places. Any investment plans of mainlanders which are of a considerable scale and which can contribute to the long-term development of Hong Kong should be considered for inclusion in the points system.

I so submit.

MRS SELINA CHOW (in Cantonese): Madam President, first of all, let me express my thanks to a number of Members, because this Council has reached a consensus, indicating that Members are all very supportive of the tourism industry. As we are all aware, the tourism industry is very important to the economy of Hong Kong. Many mainland tourists have come to Hong Kong because on the one hand, visiting Hong Kong is their wish, and it is very convenient for them to do so on the other. In any case, they have contributed quite a lot to the economy of Hong Kong. Many Members have given some very accurate statistics, which indicate that there is a huge negative balance for Hong Kong when the consumption of the Hong Kong people in the Mainland is compared with that of mainland residents in Hong Kong. I do not wish to repeat all these statistics here. Actually, the statistics we have in this respect may not necessarily be very accurate, and this is particularly the case with those about the spending made by Hong Kong people in the Mainland. For example, last year, some 30 million Hong Kong people went to the Mainland by land, and another 10 million or so did so either by air or ship. This means that there was actually a total of 50 million passenger trips. However, it will be more difficult to estimate the average spending per head of these Hong Kong people than to estimate the amounts spent by mainlanders in Hong Kong. Some say that the negative balance for Hong Kong is close to \$30 billion, but some others say the figure should be much larger. That is why it is difficult for us to work out an accurate figure. However, no matter what the case may be, we are certain that the negative balance should be very big, as evidenced by the number of passengers trips made to the Mainland. Many Hong Kong people operating small businesses have actually told me that whenever there are long holidays in Hong Kong, the local consumption market will become very dull. The merchants operating their businesses along the railway lines are the worst-hit. In view of this, we must really do something.

Hong Kong is a free society, and we cannot possibly stop people from visiting other places. However, we can still do something to induce more tourists, especially mainland tourists, to come to Hong Kong. Hong Kong is actually capable of further simplifying its entry formalities and service arrangements. For example, there is the one-year permit we have mentioned, which allows the holder to visit Hong Kong once only during the validity period. Restrictions of this kind are really much too rigid. Besides, in the Mainland now, different types of visitors to Hong Kong are handled by different units or authorities. This means that ordinary tourists will have to go through one set of formalities; business visitors will have to go through another set; and government officials will have to go through still another set of formalities. As a result, because of permit restrictions, some visitors from the Mainland, such as those in Hong Kong on business, will be barred from leisure and shopping. This has led to losses on our part.

Therefore, we very much wish to improve the situation, so that all types of visitors from the Mainland can come to Hong Kong smoothly. For the question of quota, as mentioned by Mr CHAN Kam-lam, only some 60% of the existing quota is utilized. The reason for this is perhaps that since mainland residents wishing to come to Hong Kong must first apply to a travel agency and then to the public security authorities for a permit, the expenses incurred for their Hong Kong trips are higher than those for trips elsewhere. As mentioned by the Honourable SIN Chung-kai, mainland residents need only to spend some \$2,000 for a trip to Thailand, but a trip to Hong Kong will cost them some \$4,000. I have recently heard that during their holidays in May, mainland tourists needed only to spend \$3,000 for a trip to Phuket, but \$4,600 for one to Hong Kong. Why? Because in the Mainland, the formalities for Hong Kong trips are more complicated. We naturally very much hope that travel agencies can improve the situation, but we will need to observe very closely to find out whether they can really do so. If they cannot do so, then perhaps we will need to do something more. At present, Hong Kong travel agencies are not permitted to operate in the Mainland. But we will need to find out more about the situation before deciding whether we should do something more in this respect.

Some Members have made some points about inducing more high-income earners to come to Hong Kong. Frankly speaking, from the economic perspective, when we seek to induce more people to come, we should naturally aim at the high-income earners or people with high consumption power. Many tourists from neighbouring places are not first-time visitors to Hong Kong. So,

the places they wish to visit are not the Peak or other famous scenic spots. They wish to come to Hong Kong again because, first, they wish do shopping here and, second, they wish to experience the dynamism of Hong Kong and enjoy the variegated enjoyments we can offer, such as horse racing, a dessert buffet at a six-star hotel, red wines and abalone and shark's fins at nightclubs and operas like *Miss Saigon*. Only these activities can give them a real taste of the Hong Kong style of life. And these are precisely the main reasons for their return to Hong Kong.

I do not have any comment on the amendment moved by Miss Margaret NG generally. But Members must notice what is clearly stated right at the beginning of Mr James TIEN's motion: "That, in order to further promote Hong Kong's economic development" If this premise is changed, there will naturally be different views. Thank you, Madam President.

MR MICHAEL MAK (in Cantonese): Madam President, in the wake of the economic restructuring plus the bleak performance of other economies, the unemployment rate continues to stand high in Hong Kong. The motion of Mr James TIEN this time may well provide the Government with another option in revitalizing the local economy.

Every year, tourists from the Mainland bring about enormous proceeds to the Hong Kong economy. Last year, around 3.8 million passenger trips were made by mainland tourists, registering a total spending of \$182 million. It accounts for 5% of the GDP in Hong Kong, which has exceeded the \$114 million spending made by Taiwanese tourists. It is estimated that in the next several years, the Mainland economy will grow steadily, the quality of the people's life will be continuously improved and the need for outbound tours will also rise, we therefore should not ignore the potential of this market of high consumption. The Hong Kong Tourism Board should hold more promotional programmes in major cities in the Mainland, such as Shanghai, Beijing, Tianjin and the Pearl River Delta Region, with a view to publicize the diversity and the distinctiveness of spending in Hong Kong and Hong Kong's status as an international metropolis.

As to the proposal of attracting people from the Mainland to invest and take up residence in Hong Kong, I support it in principle. In the '90s, Canada, New Zealand and the United Kingdom introduced Business Migration

Programmes, which had attracted a large number of Hong Kong migrants who had considerable deposit in their bank accounts, and they had brought funds and employment opportunities along with them to their foreign destinations. Seeing that the Chinese Government is campaigning for the development of the western region and the vigorous development of high-tech industry, copious business opportunities have emerged in the mainland markets, and capitals in the Mainland are not short of outlets. If Hong Kong can grant mainland businessmen with considerable capitals residence in Hong Kong, we may be able to attract them to set up offices in Hong Kong, thus facilitating their development of overseas markets via the trade connections of Hong Kong. In addition to the increase in employment opportunities in Hong Kong, local companies may jointly explore the mainland markets by co-operating with these businessmen from the Mainland.

The SAR and the motherland come from same origin, so if we can attract persons with breadth of vision from various fields to come to Hong Kong for development, the competitiveness of Hong Kong will surely be enhanced, and the eminence of Hong Kong as the Pearl of the Orient can be sustained.

From my perspective as the representative of the health services sector in this Council, I anticipate the arrival of compatriots from the Mainland will surely increase the workload of the sector to which I belong. Nevertheless, I hope the Government will undertake to increase the resources suitably in order to cope with the demand.

With these remarks, Madam President, I support the original motion and the amendment.

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

(No Member responded)

PRESIDENT (in Cantonese): Mr James TIEN, you may now speak on the amendment moved by Miss Margaret NG. The time limit is five minutes.

MR JAMES TIEN (in Cantonese): Madam President, thank you for reminding me not to speak too much on Miss Margaret NG's amendment when I spoke earlier on.

Madam President, I have listened to the speeches of many Members, and also to Miss Margaret NG explaining why she proposed an amendment. I think the biggest difference between Miss NG's amendment and my motion is that my motion is focused, for it only suggests that under the current economic circumstances, there is a group of eligible persons who can leave China and come to Hong Kong invest and take up residence. Having listened to the speeches of Members, I think they seemed to have some misunderstanding, despite the Honourable Ms Audrey EU has lent me a hand in elaboration. Some colleagues seem to say that my motion only proposes to allow wealthy people to come to Hong Kong, whereas other people, say, those in the cultural and academic sectors, cannot come. When it comes to investment migrants, I believe there may also be rich people in the cultural or academic sector. I have not conducted any survey to ascertain if people in the cultural or academic fields are making investments in the United States or running schools or performing arts institutes there. Can these people not be regarded as investment migrants? On the contrary, if we make the proposal specific to the cultural and academic sectors, is it necessary to include all the other professionals such as lawyers, accountants, surveyors, doctors, and so on? I think so long as they have the means to invest and take up residence in other countries and obtained China's permission for their emigration, we should consider persuading them to come to Hong Kong first, irrespective of the trades or industries to which they belong — whether they are professionals, people in the cultural sector, manufacturers, people in the tourism industry or catering industry. I also agree with many colleagues who spoke earlier that many of these people do not wish to come to Hong Kong. So, our difficulty is to persuade them not to emigrate to Canada or Australia but consider coming to Hong Kong. We must convince them that it is better to take up residence and invest in Hong Kong than in foreign countries. Therefore, we may have to make extra efforts to persuade them and should not specify that only people from certain sectors can come to Hong Kong.

On the point concerning high-income earners coming to Hong Kong on tour, I have already said that I refer to high-income earners in the Pearl River Delta Region whose income ranges from over \$10,000 to \$20,000. I believe many of those with an income of some \$10,000 to \$20,000 in Shenzhen or the Pearl River Delta Region come from the cultural or academic sector, and they are not necessarily big bosses. So, there is no question of discrimination against people in the low-income group. Of course, I absolutely agree that the more in-bound tourists, the better. But I am also concerned that if there is no requirement of a high income and if multiple entry permits are issued

indiscriminately, the labour representatives in this Council might then worry about such problems as overstay and black market labour resulting from too many people being able to come to Hong Kong so easily. In that case, will there be another voice of opposition in the community?

Finally, I wish to respond to Ms Audrey EU's comments. While she is not the sponsor of the amendment, she did raise a point for Miss Margaret NG about the quota of 150 people for family reunion, an issue of concern to many people. I wish to reiterate that we absolutely have no objection against this quota of 150 for family reunion. Nor are we suggesting a reduction of that quota of 150 people. So, there is no question of discrimination against people who come to Hong Kong for family reunion, or people without capital or money, hence leading to a situation where those allowed to come to Hong Kong are just another group of wealthy people. Furthermore, as a number of Members have said earlier in the debate, our proposal is implemented in many overseas countries, such as the United States, Canada, New Zealand, and so on. While these countries accept immigrants on the ground of family reunion, who are in a large number, they also accept investment migrants. In view of this, why can we not have investment migrants other than immigrants settling in Hong Kong for family reunion? Thank you, Madam President.

SECRETARY FOR SECURITY (in Cantonese): Madam President, first of all, I should thank the Honourable James TIEN and the Honourable Miss Margaret NG for the motion and amendment moved by them today, which give us this opportunity to debate the interesting question of Hong Kong's immigration policy. While the question we are debating directly is Hong Kong's immigration policy for persons from the Mainland, we are in fact discussing indirectly the overall immigration policy of Hong Kong in the long run or even our population policy.

In my view, the motion and amendment moved by the two Honourable Members today are indeed far-sighted. Both of them have noticed that Hong Kong's immigration policy is different from that of other countries, in particular that of some newly emerged countries. Our immigration policy is comparatively more conservative and is therefore more akin to that of countries with a longer history, such as the United Kingdom, countries in Europe and Japan. With regard to the examples cited by many Members just now, including the points system and business migration programmes implemented by

the United States, Canada, Australia and New Zealand, they are in fact typical of the immigration policies of newly emerged countries. Being newly emerged, these countries all have a short history and population is their essential asset. Without the arrival of immigrants, these countries just could not exist. As such, it is an important national policy of these countries to actively and proactively attract immigrants. Among the countries mentioned by Members, including the United States, Canada, Australia, New Zealand, and so on, one common characteristic is that they all have a very small local population and must depend on immigrants for growth in population and social vitality.

The Honourable James TO is really hardworking. I note that he has also mentioned the United States and even the country's so-called visa lottery. The United States really has such a visa lottery programme. Whereas places like Taiwan and cities on the Mainland where many people are migrating to the United States through different channels every year, people from countries in South America and Africa just do not have the chance to apply for immigration. In order to enhance the diversity of the country's population, the United States therefore implements this programme annually for countries from which very few or even nil immigration applications have been received. So, this is one characteristic of the immigration policy of newly emerged countries.

In addition to the said characteristic, these newly emerged countries also have in place a quantified target setting out clearly the number of immigrants to be absorbed every year. I believe Honourable Members be aware that Canada and Australia will announce how many more or less immigrants they have to absorb in the year, and from which countries should those immigrants mainly come. These quantified targets are adjusted from time to time. Apart from that, these countries also implement different programmes for immigration applicants of different categories, such as business migrants, venture migrants and employment migrants referred by several Members earlier. Among these countries, the United States has a far greater variety of migration programmes, including such categories as outstanding scientists, artists, athletes and many others. Actually, it is the policy of the United States to absorb those talents whom the country needs most. I can recall a senior colleague from the Immigration Department once jokingly told me that people who wished to migrate to the United States promptly should first become monks or priests because there was an acute shortage of clergy in the United States, many churches were badly in need of priests. The applications submitted by people who were willing to be Buddhist temple ministers or Catholic priests would be

processed more expeditiously. From this, we can see that the immigration policies of those countries are different from ours in that they admit immigrants selectively on a "cherry picking" basis. The situation in Hong Kong is vastly different. Like that of the United Kingdom and other ancient countries, Hong Kong's immigration policy is far more conservative. With the exception of applicants from the Mainland, we do not have any quantified target or money-based criteria for consideration.

Despite the many suggestions put forward by Members, I noticed that one point has yet to be raised. Perhaps the question did occur to Members, only that they did not raise it in their speeches. Actually, this is a question we must address: Is our conservative immigration policy lagging behind the times? Should it be reviewed and revised? For my part, I think that while the policy may perhaps be obsolete, it is still open to question as to whether the policy is really lagging behind that times. Having said that, I do believe that the policy must be reviewed. If we are to conduct a comprehensive and meaningful review, it is imperative that we look carefully into our population policy. To begin with, how many people could our society accommodate? At which level does the local birth rate stand? How many professionals migrated overseas have returned to Hong Kong? How many professionals from the Mainland and overseas countries have been admitted to Hong Kong respectively? What quality are we looking for in our population? Could our society afford to maintain such a population? Secondly, when conducting the comprehensive review, we also need to consider carefully what sort of society do we need to have in Hong Kong. I believe the majority of Members would agree with me that a pluralistic society is what Hong Kong needs. Hence, in addition to people with means, we should also admit people who can make contribution to Hong Kong through their academic, cultural or other abilities when admitting eligible persons to Hong Kong.

From the speeches made by Members, I noticed that Members are also aware of the imbalanced arrangements under Hong Kong's immigration policy, as applications from the Mainland is handled differently from that from other places of the world: We implement tighter control over people from the Mainland. Why? Actually, the Basic Law also reflects this point. Article 22 para 4 stipulates that "For entry into the Hong Kong Special Administrative Region, people from other parts of China must apply for approval. Among them, the number of persons who enter the Region for the purpose of settlement shall be determined by the competent authorities of the Central People's

Government after consulting the government of the Region." This provision under the Basic Law has been further confirmed and supplemented by the interpretation made by the Standing Committee of the National People's Congress (NPCSC) on 26 June 1999. With regard to the Basic Law provision mentioned by me just now, the NPCSC pointed out that it should mean as follows: "People who wish to enter the Hong Kong Special Administrative Region for whatever reason, must apply to the relevant authorities of their residential districts for approval in accordance with the relevant national laws and administrative regulations, and must hold valid documents issued by the relevant authorities before they can enter the Hong Kong Special Administrative Region".

Why must we impose such stringent control over people from the Mainland? As already mentioned by a number of Members, it is easier for people from the Mainland to move to Singapore or the United States than Hong Kong. This is mainly because Hong Kong is a densely populated small city, and new arrivals from the Mainland have all along been adding substantially to our pressure over the past few decades. As such, we must formulate a very stringent system to ensure that Hong Kong will not admit an excessive number of immigrants that is beyond our acceptability. So, this is the background to our policy. Against such background, Hong Kong has all along implemented one single immigration policy for people from the Mainland over the years, and that is, the family reunion programme. As Members all know, 150 persons will be admitted to Hong Kong under this programme every day, amounting to a total admission of 54 750 persons in a year. Speaking of family reunion programmes, because of humanitarian reasons, the immigrants admitted on family reunion grounds to Hong Kong represent a far higher percentage of the local population compared to advanced countries like the United Kingdom, the United States, Canada, Australia, New Zealand, and so on. Hence, we have indeed been making our best efforts to help people reunite with their families. Since we have been admitting such a large number of immigrants on family reunion grounds, we must exercise extra care in processing other categories of migration applications from the Mainland. As a number of Members have noticed, adjustments have been made in this respect in recent years. Bearing in mind that Hong Kong needs professionals in different fields, we have been implementing the Admission of Talents Scheme since 1999. Besides, we will also implement the Admission of Mainland Professionals Scheme starting from next month, with a view to remedying the insufficiency of the local labour market with the selected talents and professionals admitted from the Mainland. I believe our objective is very clear, so in order to cope with the needs of the

local economy and the manpower market, we must continuously adjust the immigration policy implemented for persons from the Mainland. For this reason, I support in principle the motion and amendment moved by the two Honourable Members. For its part, the Government has adopted an open-minded attitude towards the proposals put forward by the two Honourable Members, and is willing to study these proposals.

Let me take the motion moved by Mr James TIEN as an example. Mr TIEN's motion is divided into parts (a) and (b), and I wish to point out that we can easily implement part (b) of his proposal, which is to issue multiple entry permits to high-income earners in the Pearl River Delta Region to facilitate their coming to Hong Kong to travel and spend money. In fact, through our continuous discussions with the relevant mainland authorities, we have opened up many new channels for admission to Hong Kong on top of the 150 daily quota for family reunion. Perhaps let me cite some examples. I wonder if Members know how many more persons from the Mainland are admitted to Hong Kong daily on top of the aforementioned 150 quota for family reunion. Taking last year as an example, on an average some 10 000 persons visited Hong Kong from the Mainland daily, including 4 000 holders of People's Republic of China Passport who landed in transit. As Members are aware, persons from the Mainland who are in transit to Singapore may enter Hong Kong visa-free for a period not exceeding seven days. Most of these transit passengers would make use of this seven-day period to spend money or to participate in activities such as visits, academic and cultural exchanges, and so on in Hong Kong. So long as they do not accept any paid jobs in Hong Kong, these passengers are free to participate in such activities. As pointed out earlier on by the Honourable CHAN Kam-lam, on top of these 4 000 transit passengers, the quota for business endorsement holders visiting Hong Kong has been increased to 2 000 persons daily. Through our discussions with the Ministry of Public Security over the past two years, the arrangements under the business endorsement scheme have become convenient: the endorsement on travel documents may remain valid for as long as half a year; business endorsement holders may be granted a stay of 14 days or longer on each visit; and the processing time taken by mainland authorities has reduced from 15 to 11 working days. Under this scheme, many people have obtained multiple Exit-entry Permits with a business endorsement valid for half a year to visit Hong Kong many times without limit. Further still, the quota for mainland visitors coming to Hong Kong on package tours have increased to 1 200 persons daily, whereas that for people coming to Hong Kong for visiting relatives has also been increased to close to 1 200 persons daily.

Thus, quite a number of channels for admission to Hong Kong are indeed available and will be relaxed continuously for the convenience of people from the Mainland.

While the Government agrees in principle to review the existing policy and to discuss with the relevant mainland authorities, I wish to point out that there are a number of factors the Government must consider. Firstly, because of the provisions under the Basic Law, we are required to discuss with the relevant mainland authorities over matters relating to persons visiting Hong Kong from the Mainland. Secondly, the discussion process would most probably be more complicated if the attraction of monetary capital to Hong Kong should be involved. This is because if persons from the Mainland are to invest in Hong Kong, it is an issue of money coming to Hong Kong from the Mainland rather than a question of persons visiting Hong Kong from the Mainland. In this connection, money coming to Hong Kong from the Mainland must be subject to and in compliance with the foreign exchange control in force in the Mainland. In other words, if we are to implement any investment migration programmes for persons from the Mainland, in addition to discussing with the Hong Kong and Macao Affairs Office and the Ministry of Public Security, we also need to consult the Ministry of Foreign Trade and Economic Co-operation and the State Administration of Foreign Exchange. What is more, so doing will also affect significantly the country's foreign exchange control efforts. Thirdly, I need to point out that it is inevitable that we must consider the security factor before relaxing any entry restrictions. I noticed the Honourable SIN Chung-kai mention earlier on that there would be no need for the Government to consider safety and security concerns, as this should just be an enforcement issue. I wonder if the Honourable Member was saying that we should close our eyes and allow people in so long as they can make contribution to Hong Kong, and then arrest them after they have committed any crimes after they have entered Hong Kong. However, no places in the world would make such an immigration policy.

Actually, the immigration policies of the majority of countries and regions in the world are very simple — any persons who are of benefit and not doing any harm to the country concerned are welcome. The so-called harm of course refers to any threats to the country's safety or security. Before relaxing the entry restrictions on persons from the Mainland, we must never overlook the possible impact they might have on Hong Kong's law and order. Let me cite an example. Perhaps Members may still remember the Telford Garden homicide

case that cost the lives of five persons and shocked Hong Kong two years ago. Can Members recall that a so-called "fung shui" specialist from the Mainland, LI Yuhui, came and cheated and eventually murdered several women in Hong Kong? Have Members ever wondered why this person from the Mainland could enter Hong Kong so easily for many times and won the trust of the women concerned? Actually, he came to Hong Kong with two-way permits for sightseeing, package tour visit and visiting relatives. From this, we can see that some persons from the Mainland can indeed visit Hong Kong very easily. It is unfortunate that some unruly elements may abuse the channels for visiting Hong Kong and cause irreparable harm to Hong Kong. For this reason, when relaxing entry restrictions, we must insist on formulating certain appropriate measures at the same time, so as to prevent unruly elements from making use of channels for visiting Hong Kong for sightseeing and other purposes to commit crimes here. Just now many Members mentioned the need to make every effort to promote tourism, and I agree with them very much in principle. Nevertheless, we must not overlook the impact caused by increases in quota for visiting Hong Kong, such as visitors coming here on "Hong Kong Tours", in recent years. In this connection, the percentage of mainland visitors on "Hong Kong Tours" overstaying in Hong Kong has increased. Although the rate of increase is not so alarming, we cannot deny that the percentage has indeed risen. Moreover, I believe Members are also aware that the prostitution problem of mainland women in Hong Kong has deteriorated. Apart from that, many women have entered Hong Kong to take up illegal employment through channels of sightseeing or visiting relatives. Hence, we must consider the security factors when relaxing entry restrictions.

I should like to raise one more point. I noticed the Honourable Ms Audrey EU mentioning earlier on that while we are debating the motion in this Chamber, the Court of Final Appeal not very far away from here is hearing the case of 5 000 persons fighting for their right of abode in Hong Kong. If we should relax entry restrictions on a massive scale and comprehensively to enable persons with means, the intention to spend money, or academic and cultural expertise to come to Hong Kong; if we should allow such persons to come to Hong Kong with their spouses and children under the age of 21, and be granted the right of abode after residing in Hong Kong for a period of seven years as suggested by certain Members just now; what impact would such measures have on the emotions of those people who are still fighting for their right of abode, and those people who consider that their relatives, children of their family members, the children they will give birth to in the future, their adopted children, the

children adopted from their siblings, and other relatives who have connections one way with Hong Kong should all be admitted? Would such measures cause them to file more right of abode appeals? Would the persons concerned be more unwilling to return to their hometown or become more discontented with the Government of the Special Administrative Region (SAR), so much so that they would resort to some irrational actions? All these are factors the SAR Government must consider. Having said that, I must stress again that the Government has no objection to the proposals put forward by the two Honourable Members in principle, particularly their plea to the Government to review and examine the exiting policies and even to engage in further discussions with the relevant mainland authorities. We will consult with the relevant government departments internally on the views raised by Members today and engage in discussions with the mainland authorities in due course having regard to our long-term population and immigration policies, with a view to relaxing the arrangements for mainland visitors regardless of whether they enter Hong Kong for short-term visit or investment purposes.

PRESIDENT (in Cantonese): Honourable Members, Mr LAU Ping-cheung pressed the button to indicate his wish to speak when the Secretary for Security was making her speech. I do not encourage Members to do that, but since I did give permission for other Members making the same request to speak in the past, I should also give Mr LAU my permission on this occasion. However, after Mr LAU has delivered his speech, I will still ask the Secretary for Security whether she wishes to reply.

MR LAU PING-CHEUNG (in Cantonese): Madam President, I am sorry that I am late, and thank you for allowing me to speak still.

Madam President, let me state at the outset that I am no legal expert and my expertise lies not in nationality. But in Hong Kong, when compared to other places, there is also the question of "permanent residents" apart from the question of "nationality" for historical reasons, making it more complicated for Hong Kong to attract talents from elsewhere.

Today, I wish to express my personal views on the motion moved by Mr James TIEN and the amendment proposed by Miss Margaret NG, without reference to nationality, provisions in the Basic Law, and so on. As a

professional, I welcome professionals from all over the world coming to work in and serve Hong Kong. As I have just said, the problem is left over by history. Before the reunification, the Hong Kong Government basically had no mechanism for selecting mainlanders coming to Hong Kong on a One Way Permit other than setting an upper limit for the number of arrivals. To foreigners from overseas countries, the Immigration Department (ImmD) also adopted a rather lax attitude. As long as they could successfully land a job, they would be granted an employment visa. The requirements were tightened up in view of the economic downturn over the past couple of years.

In fact, all places in the world will certainly welcome or even try every means to attract quality talents to come to work or take up residence, in order to enhance their own competitiveness. Members may recall that our neighbouring Singapore had gestured to attract our residents to emigrate to Singapore when a confidence crisis emerged in Hong Kong. They even offered to grant nationality to them without subjecting them to any residence requirement. From this we can see that new immigrants of high quality are pivotal to upgrading the competitiveness of a place.

As we all know, our country will soon join the World Trade Organization. The enormous market of our country is waiting to be developed. Being part of the Motherland, Hong Kong enjoys a small advantage over the rest of the world in respect of culture, language, and so on. But let me stress that we only have a small advantage over other places, not full assurance of success.

In fact, our country may develop in a number of ways. Firstly, major cities and enterprises in the Mainland may recruit professional talents from Hong Kong to upgrade their professionalism in various aspects, with a view to directly converging with the world. The best example is the employment of Mrs Laura CHA, former Deputy Chairman of the Securities and Futures Commission, by the China Securities Regulatory Commission. I also learned that during the recent visit to Shanghai by our coalition of professional bodies, the Shanghai municipal government stated that they planned to set up "windows" in Hong Kong in order to attract professional talents from Hong Kong or to exchange views with them. Secondly, Hong Kong may import talents from the Mainland to give full play to its role as the main gateway to China. Thirdly, foreign enterprises may recruit talents from the Mainland and develop the mainland market on their own. To put it simply, the first scenario means that the Mainland uses talents in Hong Kong as "a pointer" for gaining access to the

world. The second scenario means that Hong Kong uses mainland talents as "a pointer" for it to further open up the mainland market. The third scenario means that Hong Kong is thrown out of the game and the integration of the Motherland into the international market is a general trend. The question is: Which direction do we, being Hong Kong people, want the opening up of the Motherland to proceed?

Regarding the second part of the motion which deals with the development of the local tourism industry, it goes without saying that over the past few years when Hong Kong was hard hit by the financial turmoil, the revenue generated from mainland tourists was extremely important to Hong Kong. Take last year (the year 2000) as an example. The number of mainland visitors travelling to Hong Kong on permits was close to 900 000 (excluding arrivals who are holders of the People's Republic of China passports), and they generated a revenue of \$18.288 billion. This amount of spending, whether it was spent by local people or purely by mainlanders in Hong Kong, is tremendously beneficial to the weak economy of Hong Kong.

In fact, as the mainland economy continues to prosper in recent years, many mainlanders have the means to frequently travel to and spend money in Hong Kong or even Southeast Asian countries, evidenced by growth in the number of tourists. In 1998, about 600 000 mainland visitors came to Hong Kong, and the number increased to 715 000 in 1999. Last year, there were close to 900 000 mainland visitors, and this number did not include Chinese passport holders in transit. The existing one-off entry permit has gradually failed to meet the demand. As far as I know, the public security authorities in the Mainland do issue multiple permits for businessmen to travel to Hong Kong and Macao. I hope that the Government of the Hong Kong Special Administrative Region can negotiate with the relevant mainland authorities for an extension of such multiple permit to tourists in general, so that the tourism and retail industries in Hong Kong can benefit more from it.

I support in principle the amendment moved by Miss Margaret NG proposing to extend the relevant measures to benefit people with academic expertise, investors, and so on. But I have reservations about Miss NG's proposal to incorporate applicants' "connections with Hong Kong" into the points system. The reason is that the 150 mainlanders coming to Hong Kong on One Way Permits daily — 60 of them being children born to Hong Kong people

in the Mainland, 30 of them being spouses of Hong Kong people in the Mainland, and the rest coming to take care of their elderly parents, for inheritance of property, and so on — all have connections with Hong Kong of various degrees. So, I consider it unnecessary to include "connections with Hong Kong" in the points system, for this will be unfair to other applicants who have no connections with Hong Kong.

Moreover, I wish to express my views on the proposal to allow for "sufficient time to stay" in Miss NG's amendment. At present, the visit permit issued by the ImmD is generally for a period of 14 days, whereas visas issued for visiting relatives in Hong Kong are for three months; and there is convention that the length of stay must not exceed six months within one year. I hope that if multiple permits are issued by the mainland authorities in future, the ImmD will observe the principle of confining the length of stay to no more than six months within one year when handling these mainland residents who travel to Hong Kong frequently.

I so submit.

PRESIDENT (in Cantonese): Secretary for Security, do you wish to give a second reply?

(The Secretary for Security indicated that she did not wish to reply)

MR SIN CHUNG-KAI (in Cantonese): Madam President, I wish to make a clarification. In her speech earlier, the Secretary mentioned my name and the remarks made by me. I wish to clarify my views, for I think the Secretary has misunderstood my meaning.

PRESIDENT (in Cantonese): Mr SIN, you should request for leave to make clarification immediately after the Secretary for Security finished her speech.

MR SIN CHUNG-KAI (in Cantonese): Madam President, I did not wish to interrupt the Secretary in the course of her speech.

PRESIDENT (in Cantonese): Mr SIN, you should have sought to make clarification immediately after the Secretary finished her speech. I am sorry that I cannot grant you leave to make clarification now. It is because if Members make similar requests in future, our debates will never end.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the amendment, moved by Miss Margaret NG to Mr James TIEN's motion, 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)

Mr James TIEN rose to claim a division.

PRESIDENT (in Cantonese): Mr James TIEN 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:

Dr Raymond HO, Dr LUI Ming-wah, Miss Margaret NG, Mr CHEUNG Man-kwong, Mr Bernard CHAN, Mr SIN Chung-kai, Mr Timothy FOK, Mr LAW Chi-kwong, Miss LI Fung-ying, Mr Henry WU, Mr Michael MAK, Dr LO Wing-lok and Mr LAU Ping-cheung voted for the amendment.

Mr Kenneth TING, Mr James TIEN, Mrs Selina CHOW, Mr HUI Cheung-ching, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr Howard YOUNG, Mr LAU Wong-fat, Mrs Miriam LAU, Mr Tommy CHEUNG, Mr LEUNG Fu-wah and Mr IP Kwok-him abstained.

Geographical Constituencies and Election Committee:

Miss Cyd HO, Mr Albert HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mr James TO, Mr Andrew WONG, Dr YEUNG Sum, Miss Emily LAU, Mr Andrew CHENG, Mr SZETO Wah, Mr Albert CHAN, Mr WONG Sing-chi, Mr Frederick FUNG and Ms Audrey EU voted for the amendment.

Mr CHAN Kam-lam, Mr LAU Kong-wah, Miss CHOY So-yuk, Mr TAM Yiu-chung, Dr TANG Siu-tong, Mr YEUNG Yiu-chung and Mr Ambrose LAU abstained.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 26 were present, 13 were in favour of the amendment and 13 abstained; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 23 were present, 15 were in favour of the amendment and seven abstained. 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.

PRESIDENT (in Cantonese): Mr James TIEN, you may now reply and you have three minutes.

MR JAMES TIEN (in Cantonese): Madam President, I am very grateful to the many Members who have spoken on this motion today. From the speech of the Secretary, I note that she supports both the original motion and the amendment. But the Secretary is concerned about whether other applications from

professionals and from people in the cultural or academic sector for settlement in Hong Kong should also be handled under the category of investment migrants against the backdrop of a daily quota of 150 for family reunion at present. In fact, she has explicitly expressed her views in this regard.

Madam President, the Liberal Party decided in the end to abstain on the vote on the amendment, for we consider that the original motion is very focused and the Secretary also considers it easier for the Government to give effect to the proposals in the original motion in the short term, particularly the proposal to facilitate high-income earners to come to Hong Kong to travel as suggested in part (b) of the original motion. The Secretary also expressed concern over the problem of prostitution. I believe high-income earners are less likely to engage in this trade when they are in Hong Kong. While the Secretary did not say so directly, she pointed out indirectly that it might be possible to implement at an earlier date the scheme to facilitate high-income earners to come to Hong Kong to travel.

Certainly, I definitely agree that the proposal to allow eligible persons to come to invest and take up residence in Hong Kong will involve greater complications, and setting the amount of investment at \$5 million is merely my own suggestion. Whether it can be really implemented requires thorough discussion between the Government and the relevant mainland authorities. The amount proposed after their discussion may not be this amount. Besides, foreign exchange control may also be a problem. But while the relevant persons are eligible to become investment migrants to Canada, the United States, Australia or Singapore (a person is required to make investments totalling US\$1 million in order to be an investment migrant to the United States), how can they export the foreign currency required for their emigration to these countries? What I mean is that emigration of these mainlanders must first be permitted by the Mainland before we will appeal to them or persuade them to come to Hong Kong. If China does not permit their emigration, we can do nothing about it. Thank you, Madam President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Mr James TIEN 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)

Miss Margaret NG rose to claim a division.

PRESIDENT (in Cantonese): Miss Margaret NG 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, Mrs Selina CHOW, Mr CHEUNG Man-kwong, Mr HUI Cheung-ching, Mrs Sophie LEUNG, Mr SIN Chung-kai, Dr Philip WONG, Mr WONG Yung-kan, Mr Howard YOUNG, Mr LAU Wong-fat, Mrs Miriam LAU, Mr Timothy FOK, Mr LAW Chi-kwong, Miss LI Fung-ying, Mr Henry WU, Mr Tommy CHEUNG, Mr Michael MAK, Dr LO Wing-lok, Mr IP Kwok-him and Mr LAU Ping-cheung voted for the motion.

Miss Margaret NG voted against the motion.

Geographical Constituencies and Election Committee:

Mr Albert HO, Mr Martin LEE, Mr Fred LI, Mr James TO, Mr CHAN Kam-lam, Mr Jasper TSANG, Dr YEUNG Sum, Mr LAU Kong-wah, Miss Emily LAU, 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, Mr

Frederick FUNG, Mr NG Leung-sing, Mr YEUNG Yiu-chung and Mr Ambrose LAU voted for the motion.

Miss Cyd HO and Mr Andrew WONG voted against the motion.

Ms Audrey EU abstained.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 23 were present, 22 were in favour of the motion and one against it; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 24 were present, 20 were in favour of the motion, two against it and one abstained. Since the question was agreed by a majority of each of the two groups of Members present, she therefore declared that the motion was carried.

PRESIDENT (in Cantonese): Second motion: Assisting owners' corporations and mutual aid committees to operate.

ASSISTING OWNERS' CORPORATIONS AND MUTUAL AID COMMITTEES TO OPERATE

MR TAM YIU-CHUNG (in Cantonese): Madam President, I move that the motion, as printed on the Agenda, be passed.

Hong Kong is closely packed with buildings, and in this tiny place there are over 27 000 blocks of buildings. To step up inspection and regulation of buildings to ensure safety, the Government has made continuous efforts in recent years to promote building management and encourage owners to set up owners' corporations (OCs), so that owners can take up the management as well as repairs and maintenance work of their own buildings. As at the end of 2000, there are a total of 6 306 OCs and 3 553 mutual aid committees (MACs) in Hong

Kong. At the initial stage of their establishment, owners and tenants are very enthusiastic about managing their own buildings. But in the daily operation of OCs or MACs, many of them feel that the assistance provided by the Government is grossly inadequate. As a result, they often have nowhere to turn to for assistance when they encounter operational difficulties. Some members of OCs even said that the Government, having given birth to babies, now refuses to pay for the diapers and even the formula milk! Some said that the inception of an OC is the beginning of a nightmare. Given inadequate government support for building management, OCs are consequently made scapegoats in that they have to shoulder legal liabilities and face queries and criticisms from some owners. As a result, this has directly undermined the active participation of owners in OCs and MACs.

The Subcommittee on Review of Building Management Ordinance of the Legislative Council Panel on Home Affairs is conducting a comprehensive review of the Building Management Ordinance (Cap. 344). I have moved this motion today because I wish to complement this review of the Ordinance and urge the Government to strengthen the support services for OCs and MACs. Building management is a professional task which is at the same time onerous and complex. Members who have engaged in district work are certainly well-versed with the operational difficulties of OCs. The Democratic Alliance for Betterment of Hong Kong (DAB) wrote to OCs and MACs in various districts in Hong Kong, Kowloon and the New Territories earlier in order to understand the problems they face in operation, and we were given many valuable suggestions. Today, I will focus on four areas, namely, assisting OCs to operate, quality of support services, protection for members of OCs and transparency of the operation of OCs.

1. Assisting OCs to operate

The support services currently provided by District Offices for OCs or MACs mainly include attending the annual general meeting or special meetings of OCs and MACs at invitation, and providing advice and assistance to them in respect of meeting proceedings and the problems encountered.

Moreover, through the Building Management Resource Centres, the District Offices have also arranged for referrals of inquiries and complaints at the district level, organized workshops and seminars on building management, and provided information and advisory support to facilitate building management.

At present, the Home Affairs Department (HAD) runs two Building Management Resource Centres in Yau Ma Tei and Central, and the third Centre has just been set up in Tsuen Wan. With the assistance of professional bodies, the Resource Centres can provide free professional advisory services for the public. Members of these professional bodies will provide, by appointment, professional advice in law, accounting practices, repairs and maintenance, and property management for the public at the Resource Centres on a regular basis.

Are these support services adequate? The answer of OCs is obvious: Absolutely not! There are now some 10 000 OCs and MACs, and the buildings under their management are different from one another, whether in terms of the scale, number of households, and so on. Some buildings have hired professional property management companies to handle matters relating to their housing estates, but there are still many buildings relying on their respective OCs. Whether the buildings are managed by OCs or by management companies, OCs have to deal with a wide range of issues involving law, accounting, engineering, tenders, liaison with various public departments, and so on.

With regard to pencil buildings, particularly those in old districts, many of them do not even have a place to hold a general meeting. Given the small number of households, they do not have the means to hire management companies to manage their buildings and so members of OCs have to become jacks of all trades in managing their buildings. Faced with repairs and management problems, such as illegal building structures, unauthorized occupation of common areas, sewers, private streets, and so on, OCs are under heavy strain and experience unspeakable hardships in taking up tasks formerly undertaken by the Government. When faced with lawsuits or disputes with owners, the District Offices do not have adequate manpower to tender them advice, let alone helping them to resolve the problems.

The work of OCs of large housing estates is by no means easier. Management of these housing estates involves a host of problems and enormous workload. The problem most often encountered by them is that owners are dissatisfied with the performance of the management company and therefore want to convene a meeting through the OC to dismiss the management company. The position of the Government is that it will never interfere in this sort of problem. If OCs want to seek advice, the Government will simply tell them to hire their own legal advisers.

There is still another new problem. Housing estates under the Tenants Purchase Scheme of the Hong Kong Housing Authority have set up respective OCs one after another, subsequent to promotional efforts by the Housing Department. But after members of these OCs have assumed office, they discover that the complexity of the work far exceeds their expectation. They find it difficult to monitor and supervise the work of management companies, and the Housing Department refuses to have anything more to do with the problems. For all complaints from tenants ranging from a street lamp not working or water leakage in the toilet to requests for additional public facilities, the Housing Department invariably suggests the complainants to go to the OCs for solutions. How possibly can a volunteer OC member become an experienced Housing Manager overnight?

2. *Quality of support services*

Apart from being criticized for not providing adequate support services in the promotion of effective building management, the Government is also criticized for not sufficiently following up the work of OCs and MACs. Owners' participation in OCs is motivated by their enthusiasm to serve their buildings and is purely voluntary. They do not necessarily have sufficient skills and legal knowledge in respect of building management. Moreover, matters relating to repairs and maintenance of a building often give rise to disputes and conflicts of interest. So, the provision of in-depth professional support services for them is very much needed. However, officers sent by District Offices to help co-ordinate and resolve problems faced by owners are mostly Liaison Officers and Community Organizers. They have received different training, and their experience also varies from one to another. Therefore, they cannot assist owners to resolve problems effectively. Some small owners have complained to me that when they approached District Offices for assistance, the relevant personnel there only advised them to drop the matter so as to preserve a harmonious relationship. The small owners certainly did not find it convincing. They even considered that officers of the District Offices were unable to tell right from wrong and that all they wanted nothing thrown in their way.

In view of this, I think the Government should vigorously strengthen the support services for OCs and MACs. While the Government will soon set up District Building Management Liaison Teams under the 18 District Offices and form outreach teams which entail the creation of a total of 78 posts in the next two years, these figures are still far from adequate. OCs require more outreach support and more professional assistance.

The District Offices used to implement the building management improvement scheme through the Building Management Co-ordination Teams, members of which included experienced building management personnel, such as officers on secondment from the Housing Department. The District Offices should tap these experiences to step up training for front-line officers engaging in building management work, in order to upgrade their professional skills. In setting up District Building Management Liaison Teams, the Government should make it an objective to ensure that the relevant posts be filled by more full-time and trained liaison and building management personnel, thereby improving the overall quality of the support service teams. Moreover, the Government should expedite the setting up of Building Management Resource Centres in all districts, open on-line and telephone inquiries services, and provide on a permanent basis various professional advisory services at the Resource Centres.

On the other hand, to address the lack of building management knowledge on the part of owners, the Government must increase the provision of more in-depth training courses, including courses on statutory provisions relating to building management, requirements of building structure and fire safety, tender procedures, accounting or audit work, and so on. The HAD plans to organize 341 seminars, training courses or talks on building management in 2001, but only 30 of them are training courses specifically designed for owners. The Government should co-operate with professional bodies and training institutes to provide tailor-made training courses for members of OCs and MACs, in order to assist them to manage their buildings more effectively.

3. *Protection for members of OCs*

Another concern that deters owners from participating in the work of OCs is inadequate protection for members of OCs under the existing system. The problem boils down to two major aspects. First, it is the lack of protection for the personal safety of members of OCs in performing their duties. Second, members of OCs have to shoulder legal liabilities consequential to their discharge of duties.

The first problem mostly arises in buildings that have not hired property management companies. Members of OCs, being responsible, will normally examine in person any problem that occurs in their buildings, such as water leakage, short circuit, inspection of water tanks, and so on. But very often, the OCs have not taken out insurance for their members against accidents. So

members of OCs cannot obtain compensation in the event of any injuries sustained by them. In this connection, the Government should negotiate with the insurance industry for the introduction of relevant insurance products, and issue guidelines to OCs requiring them to take out insurance for their members in order to protect their lives and limbs.

To resolve the second problem, the Government should stipulate that when members of OCs enforce lawful decisions reached by the general meeting of owners or the management committee, all legal liabilities arising incidental to such shall be borne by the OC collectively. To address the situation where individual members of OCs are likely to face the charge of defamation, the Government can consider granting "qualified privilege" to OCs, management committees or members of management committees as a defence against defamation charges. This privilege can cover documents of OCs and management committees, and consideration can even be given to extending this privilege to cover owners' newsletters and various kinds of publicity materials. Certainly, statements made with ill intent cannot be covered by this protection.

4. *Transparency of the operation of OCs*

Greater transparency of the operation of OCs can reduce fraudulent practices by members of management committees and help promote owners' understanding of the operation of OCs, hence fostering a sense of mutual trust between them. In 1999, the Independent Commission Against Corruption received a total of 554 complaints relating to building management, and the number increased to 715 last year. These complaints involved the award of maintenance and repairs contracts, lack of transparency of OCs in their operation, failure of OCs to properly handle problems in relation to the buildings, and so on. As more and more OCs will be set up, more of such problems are bound to arise. So, the Government must draw up guidelines and at the same time impose proper control. It must vigorously promote the culture of clean management, foster communication between OCs and small owners, and make ongoing publicity efforts to encourage small owners to participate in and pay attention to building management.

Madam President, as said in an announcement of public interest by the District Offices, building management involves scores and scores of problems. Being front-line bodies that deal with these problems directly, OCs and MACs are very much in need of government assistance. Only in this way can they

improve the environment of their buildings and promote timely maintenance to protect the safety of owners and tenants. The Government is duty-bound to strengthen services in this area to enable the public to live and work in contentment.

I beg to move. Thank you, Madam President.

Mr TAM Yiu-chung moved the following motion: (Translation)

"That this Council urges the Government to strengthen the support services for owners' corporations (OCs) and mutual aid committees (MACs), provide more professional training to members of OCs and MACs, and examine the provision of more protection for such members, so as to enhance more active participation by residents in building management; furthermore, the Government must increase the overall manpower of the District Building Management Liaison Teams in various districts and upgrade their professional standard, so that the teams can actively participate in solving the problems faced by OCs and MACs, with a view to improving building management and enabling the public to live and work in contentment."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr TAM Yiu-chung be passed.

PRESIDENT (in Cantonese): Mr James TO will move an amendment to this motion, as printed on the Agenda. The motion and the amendment will now be debated together in a joint debate.

I now call upon Mr James TO to speak and move his amendment.

MR JAMES TO (in Cantonese): Madam President, I move that the Honourable TAM Yiu-chung's motion be amended, as printed on the Agenda.

First of all, the Democratic Party welcomes this motion moved by Mr TAM Yiu-chung. We very much agree that the support currently provided for OCs and MACs by the Government is grossly inadequate. I have been gravely

concerned about this problem since I joined the legislature in 1991, and I have been calling on the Government to strengthen the support for OCs. But it is only in recent years that the Government has provided legal advisory support for OCs, and it is only recently that the Government has provided assistance for OCs through a dozen teams of outreach social workers, instead of just providing them with assistance through Liaison Officers. Why am I so gravely concerned about this? It is because OCs are actually mini autonomous governments of housing estates. They are empowered to manage their buildings and are required to handle a myriad of issues in a wide range of areas involving many complications. They have to face all owners, tenants, visitors, management companies, developers, sub-contractors and government departments. Their performance will have significant consequences, for it will not only affect their buildings, but will also have huge impact on society. In fact, the Government can save lots of resources and resolve many problems through effective building management. But as members of OCs are mostly volunteers, thousands of these mini autonomous governments of buildings can only work in their own ways. As a result, the daily operation and procedures of some OCs are unsatisfactory, and this has indirectly led to disputes in OCs, thus wasting many resources of building management. In order to improve the present situation, the Government must strengthen its support services for OCs and step up training for members of OCs, so as to build up the confidence of OC members to manage their housing estates effectively.

The Democratic Party considers that apart from providing OC members with adequate training, the Government must also channel more resources to assist them. We, therefore, agree that the Government must increase the manpower of the management liaison teams in various districts to provide a more comprehensive range of services for OCs. Under these management liaison teams there should be teams of front-line workers to participate long term and actively in the operation of OCs, assisting OCs to resolve the many problems encountered in respect of law and meeting proceedings, and to identify suitable resources. A long-held argument of the Government is that matters relating to a building should be dealt with by owners of the building. But as we have said earlier, their performance, good or bad, will still affect the overall administration of the Government. Since good management by OCs will produce many external benefits, it is worthwhile to plough in more government resources to this effect, and it is also reasonable to do so.

Our amendment aims to point to an important and specific direction. The core of the amendment proposed by the Democratic Party is to seek legislative

amendments, for OCs and small owners can be genuinely protected only through statutory provisions. We propose to extend the ambit of the existing legislation to the effect that it will apply not only to multi-storey buildings made up of undivided shares, but also properties made up of divided shares, particularly house-type properties and large housing estates, so as to provide them with feasible means to set up OCs. Besides, the Government must plug the loopholes in the existing legislation to provide greater protection for members of OCs.

The existing legislation is applicable to OCs of multi-storey buildings only. The Government argues that such legislation was drawn up purely for multi-storey buildings at the outset. But in fact, we can see that the spirit of the legislation does apply to the management work of a definable area. So, distinction by divided and undivided shares is, to us, an outdated concept. Fairview Park in Yuen Long and Hong Lok Yuen in Tai Po are specific examples of housing developments for which the setting up of OCs is necessary. It is unreasonable by any standard if they cannot set up OCs purely for technical reasons, particularly as we will find that they are identical with housing estates made up of undivided shares in terms of nature and scale. I hope that the Government can listen to the views and answer the aspirations of a majority of Members and many members of the public.

On the basis of the freedom of contract, the Democratic Party agrees that utmost care is required in amending the provisions of deeds of mutual covenant (DMCs). But under the existing system, notwithstanding extremely unfair provisions in the DMCs, or however outdated the provisions are, or even if it is impossible to enforce the provisions, no amendment can possibly be made to the DMCs, despite agreement from an overwhelming majority of owners to amending the provisions therein. From practical experiences, it is impossible to obtain consent from all owners, that is, 100% of them. Therefore, we urge the Government to consider this clearly, and we hope the Government will appreciate the many grievances of the public in this regard. For example, in many DMCs made in the past, it is stated that owners of buildings or developers possess the shares of common areas. No management fees or other fees are payable in respect of these shares of common areas, but they are entitled to vote. While legislative amendments were made last year in respect of the dismissal of managers to the effect that owners of shares of common areas who are not liable to pay any fees are not entitled to vote, thus addressing part of the problem of inequity, it is still extremely unfair to small owners who pay management fees in

full. We propose that all the shares of common areas which are not liable to pay any fees are not entitled to vote.

At present, the right of management and the proportion of shares are extremely lopsided in some buildings. For example, the developer possesses a large proportion of shares but is not required to pay management fees for the areas he owns and yet, developers can assume assured control over the management of their housing estates. These provisions are utterly unfair to small owners. Therefore, the Democratic Party proposes that the Government should consider setting up an independent mechanism to delete and amend those extremely inequitable and unfair terms and conditions, which will involve the Court, with a view to providing greater protection for both sides.

Thirdly, we hope that the relevant legislation can be amended to render greater protection for members of OCs. As illustrated by the example cited by Mr TAM Yiu-chung earlier about defamation, we are particularly concerned that individual members of an OC are held responsible for collective decisions. Certainly, in a recent case the Court of Appeal had already been very cautious in invoking laws under which actions can be taken against individual members of OCs to pursue the responsibilities of OCs. But we consider that this is far less desirable than providing statutory protection for individual members of OCs. If members of OCs are involved in a collective decision and if that decision was made in good faith, I think it is absolutely reasonable to provide protection for individual members. If redress must be sought, it should be sought from the OC at the most, but not from individual members of the OC. Otherwise, if we allow this shadow to linger on, people who are interested to participate in the work of OCs will be deterred. On the contrary, people attempting to pursue private gains or having an axe to grind will not be so keen to take part in OCs in view of this responsibility, for they have ulterior purposes to serve. Therefore, I think it is necessary to provide protection for members of OCs who participate in the work of OCs purely on a voluntary basis and who are honest and sincere in their conduct.

The support currently provided by the Government for OCs is utterly inadequate. Many OCs do wish to improve their housing estates and they have been working very hard for this cause. But if they cannot obtain assistance from the Government in various aspects, they cannot be given protection for each and every decision they make. I hope the Government can seriously consider this, for I cannot see how inequities would be created for either party of

the proceedings if members of OCs are given protection. If an OC is ultimately made to bear collective liabilities, there should be more effective channels for all owners of the OC to share the costs. I think such co-ordinating efforts are warranted, for they can protect individual members of OCs on the one hand and strike a fair balance for both parties of the proceedings on the other.

With these remarks, I beg to move.

Mr James TO moved the following amendment: (Translation)

"To delete ", " after "mutual aid committees (MACs)" and substitute with "; extend the scope of the Building Management Ordinance to the effect that owners holding divided shares of buildings are provided with feasible means to set up OCs; establish a mechanism for amending those provisions in the deed of mutual covenant which are extremely unfair;"; and to delete ", and examine" after "professional training to members of OCs or MACs" and substitute with "; and amend the legislation for"."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr James TO to Mr TAM Yiu-chung's motion, be passed.

MR HOWARD YOUNG (in Cantonese): Madam President, some time ago there has been a spate of incidents involving buildings in many parts of the territory. Such incidents include collapsing canopies and spalling of concrete on the external walls and so on. They have aroused greater concern for the problems of ageing and lack of repairs and maintenance of buildings. Building management involves many fields of expertise, such as repairs and maintenance, accounting, insurance, law and many other professional domains. The Government must educate the public on the management of private buildings and to strengthen the support services for OCs and MACs, thereby improving the management of buildings.

When problems arise or when opinions are divided with regard to matters like the formation of an OC or the repair works to be done in a building, the owners will not merely want to hear different opinions, but that they would like to get material help. However, very often the representatives from the District

Offices would only say that they are not in a position to intervene because this is a matter of the opinions of the owners. When the OCs run conflicts with the estate management companies, the liaison officers in the Building Management Liaison Teams may be lacking in experience and thus are unable to play the role of a middleman or a mediator and are unable to resolve the disputes between the owners, OCs and property management companies. Although the two Building Management Resource Centres will refer inquiries and complaints to authorities on a district level, the staff there are not sufficient for this purpose.

In addition, although loan funds with a total of \$700 million are set up to assist owners, the number of applicants is very few. To date the amount of loans made out is only some \$10 million, showing that small owners do not know very much about support services for repairs and maintenance of buildings. The authorities must step up publicity efforts and provide support services to enable more owners to take up the repairs and maintenance responsibility of their own buildings.

We know that in order to improve support for building management, the Home Affairs Department plans to set up a new division this year to co-ordinate building management affairs and to provide public inquiry services. However, this is only a plan and we hope that this plan will become a reality very soon so that it can provide support services to owners and OCs and to answer inquiries and mediate in disputes.

The amendment moved by Mr James TO seeks to expand the scope of application of the Building Management Ordinance (BMO) to enable owners of residential units of house developments to form OCs. In fact, the existing BMO has covered an overwhelming majority of buildings in Hong Kong. As for some house developments on individual land lots, their nature of ownership is different from that of multi-storey buildings and estates. Therefore, there is a distinction between the management of land and buildings. According to the authorities, some management companies of house developments plan to set up management advisory committees to ensure that the views of owners are conveyed to the management companies. So, for other house developments which do not belong to the "undivided shares" kind of ownership, this approach to management can be taken.

Madam President, as to whether or not the deeds of mutual covenants (DMCs) are extremely unfair or not, that is a very subjective question. DMCs are private agreements entered into between developers and owners, stipulating

the ownership and liabilities of both parties. Thus based on the contractual spirit, such private agreements must be complied with. Moreover, since the Government is not a party to the contract, it has no power to interfere with its provisions. Otherwise, then the parties to the contract will have even less protection. The BMO was amended in 1993 when mandatory provisions were incorporated into the Ordinance and other provisions were added to ensure that the rights of owners with respect to all aspects of property management are protected. That is to say, the Ordinance has provided the mechanism whereby OCs can terminate the appointment of a building management agent.

As to how the interests of owners can be further protected, we know that the collective liability of an OC should not and cannot be transferred to any individual member of the OC. However, if an individual member of an OC commits an offence of his own will, then should he not be held responsible for his own action? We therefore think that it is not appropriate to exempt all members of an OC from legal liabilities on an across-the-board basis. The Government must study this exemption clause carefully and strike a careful balance of all factors concerned. For if not, the provision will easily backfire and protection will not be given to other parties.

The Legislative Council Subcommittee on Review of the Building Management Ordinance is presently discussing with the Administration on a comprehensive review of the Ordinance. The proposal made by Mr TO is meritorious in certain aspects, but we think it should be studied in detail only after the review is complete.

Madam President, on behalf of the Liberal Party I so submit to support the original motion and oppose the amendment.

MR JAMES TO (in Cantonese): Madam President, my speech may have been misunderstood.

PRESIDENT (in Cantonese): Mr James TO, you may only clarify the part of your speech which you think has been misunderstood.

MR JAMES TO (in Cantonese): Madam President, although the Honourable Howard YOUNG did not mention my name, since only a few Members have spoken, so I suspect Mr YOUNG has misunderstood what I have said.

Mr YOUNG thought that I had suggested individual members of an OC should enjoy immunity for the offences they have committed and this exemption should be applied in all circumstances. However, I have explained earlier that if the decision is made in good faith and collectively, then in the case of the entire OC having to bear civil liabilities, individual owners should not be held liable. I was referring to this particular situation. I hope Honourable Members will not misunderstand my point.

MR LAU PING-CHEUNG (in Cantonese): Madam President, first of all, I would like to declare my interest. I am the representative of the Architectural, Surveying and Planning Functional Constituency in this Council. I am a surveyor by profession. The Hong Kong Institute of Surveyors and the Hong Kong Institute of Architects, of which I am a member, take part in the Building Management Resource Centres set up by the Home Affairs Department to offer free advisory services to the public.

Members may well be aware that building maintenance is part of the work of professional surveyors and architects. The Hong Kong Institute of Surveyors and the Hong Kong Institute of Architects and I have been vigorously promoting the regular repairs and maintenance of buildings. This is not simply an attempt to foster the interest of the relevant professions. It is also because a well-maintained building will not only fetch a stable market price but also ensure the safety of the residents and the public. In recent years the Government is concerned about the issue of building safety. It has been actively making law enforcement efforts against unauthorized building structures and has set up a \$700 million loan fund to make out loans to owners of unauthorized building structures to demolish the unauthorized building structures concerned. The scheme is making good progress.

It is sad to see that for various reasons some buildings are unable to set up OCs or other incorporations. Some buildings are unable to appoint professional management companies for financial reasons, thus resulting in poor building management. In these cases, the Government has either intervened or provided assistance. Government assistance to OCs or MACs is effected mainly through the Building Management Resource Centres and the Building Management Co-ordination Teams under the Home Affairs Department. There are presently only three such resource centres in operation, and the third one has only been recently opened in Tsuen Wan. These centres are responsible for the collection

of various kinds of information, liaison with the relevant professional bodies and offering advisory service to the public by appointment. The advisory service is provided on a district basis. Staff are seconded from the Housing Department. They form a co-ordination team for each of the 15 districts in the territory. The staff would visit certain target buildings. As far as I know, the Government has plans to increase manpower and expand the number of these co-ordination teams to 18. The number of liaison officers will also be increased to make the teams operate more efficiently.

Government assistance to OCs or MACs is a right approach to take. However, we should know that properties are private possessions and their management and maintenance should be the owners' responsibility. Though the Government may have put in a lot of resources in property management and maintenance, the final responsibility should rest with the owners themselves.

We also need to be aware of the fact that there are many pencil buildings in Hong Kong and the owners of these developments may not be financially capable of appointing professional management companies. For example, for a 25-storey building with two flats on each floor, if two watchmen are hired on top of various items of expenditure like cleansing, maintenance, insurance, utilities bills, and so on, the monthly expenses shared by each flat will be more than \$1,000, even if no professional management company is appointed. Building management also involves various fields of professional knowledge such as law, accounting, building maintenance and fire safety. An ordinary member of the public will not be able to undertake such work efficiently even if he is willing to spend time on it. Therefore, the Government should make good use of public resources to invite professional bodies to provide free advisory services to the public. Take the Hong Kong Institute of Surveyors to which I belong as an example, we are willing to arrange for more of our members to provide such free advisory services to the public upon the request of the Government. It remains of course that I will fully support the initiative if the Government can set aside more resources to increase the number of building management co-ordination teams and the related staff.

As regards the amendment moved by Mr James TO, at first I thought that he had suggested expanding the ambit of the BMO to cover those properties with divided shares, such as those in Kowloon Tong and nearby areas. The land there was leased under Conditions of Grant on which independent house developments were later built and then divided into separate lots. Later I

clarified this point with Mr TO and realized that he is addressing those house developments like Fairview Park in Yuen Long which have individual deeds but are also governed by the DMC for the estate. Fairview Park is a unique example. I have looked up the records of meetings of the Legislative Council and found that such property developments with individual deeds but are at the same time subject to the regulation of the DMC are not subject to regulation of the BMO. My position on this is that for multi-storey properties and houses on a land lot, given the existence of common areas, there should be legislation to permit owners to form OCs to undertake the repairs and maintenance of the common areas. I hope the Government can intervene in this by enacting legislation or through other means to help such kind of small owners to form OCs.

Another key issue raised in the amendment proposed by Mr James TO is to "establish a mechanism for amending those provisions in the deed of mutual covenant which are extremely unfair". This is an attempt to provide for such a mechanism in the BMO or make new legislation to address the case of estates like the Fairview Park. In my opinion, section 34(J) of the BMO provides such a regulation to the provisions of DMCs and so there is no need to set up a mechanism to amend the DMCs. It is because a DMC is a contract where any owner upon purchasing a share of the title of the unit concerned is also undertaking to be bound by the DMC. If such an amendment mechanism is established, the first thing we need to do is to define what "extremely unfair" provisions are and the percentage of owners required to reach a decision to amend the DMC. These are no easy problems to overcome.

With these remarks, Madam President, I urge the Government to strengthen the support services for OCs and to improve building management and hence the living conditions of the public.

DR TANG SIU-TONG (in Cantonese): Madam President, owing to the great size of population and the scarcity of land in Hong Kong, coupled with the great demand for housing, the construction of multi-storey buildings is an inevitable solution. Blocks after blocks of high-rise buildings have become a unique feature of the territory. The problem is that among this sea of buildings, there are more than 11 400 private buildings aged between 20 to 40 years. Most of these old buildings are unable to meet the safety standards and they do not have any reasonable management system. Thus problems like dilapidated structure,

unauthorized building structures, illegal suspending objects and outdated fire safety facilities, and so on have surfaced. Most of the more than 800 000 unauthorized building structures in buildings in Hong Kong, such as suspending cages, added canopies, sealed exits, dilapidated signboards and rooftop structures, and so on, are found in aged buildings. In addition, those buildings which are more recently constructed may conform more with the safety standards design-wise, but that does not mean that they are free from the problems of lack of repairs or poor management. The Hong Kong Progressive Alliance thinks that many of the buildings in Hong Kong, irrespective of their age, are fraught with danger. The cause for this is because the owners have not set up their own OCs or MACs at their own initiative to deal with the problems of building maintenance or safety. Another cause is that the Government has not given enough support to the management of private buildings.

As a matter of fact, the Legislative Council has long been urging the Government to amend the relevant legislation to encourage owners to set up OCs, such as by relaxing to a certain extent the statutory requirement on the percentage of owners required to pass a resolution to form a corporation. Notwithstanding this, the efforts made to encourage owners to form OCs have not been very successful. This is because many owners have found it time-consuming to take part in the work of an OC. Often their efforts will not be paid, because apart from the need to handle problems in building construction and law, they are also required to be persons responsible for the OC. If the OC is involved in any legal dispute with other legal persons, the chairman of the OC may become involved in a legal dispute. It is therefore not surprising that many owners are not interested in such kind of unrewarding work, given also their lack of training and support. If the Government wants to encourage more owners to form OCs and take part in such work, the first thing it should do is to put in more efforts to dispel the worries of owners.

Madam President, even if an OC has been formed, the management work is no easy task indeed. The reason is the Buildings Department and the District Offices which are responsible for providing assistance and support services are unable to offer sufficient and practical help to the owners. Take the Liaison Officers of the District Offices as an example, they are usually officers of the executive grade and they lack professional competence to help the owners. When there is a meeting of an OC, they will be there only in attendance and will not take part in the discussions. They are also unable to offer any professional advice to help the owners deal with problems of law or building construction. It

is learned that when some OCs lodge a complaint with the District Office on problems in building management, they are often told to take care of the problems themselves. This shows the public officers' mentality of shirking the responsibilities. Besides, when OCs make complaints to the Buildings Department, the answer they often get is that there is no immediate danger and so the Department refuses to take action against owners with suspected unauthorized building structures. As for the Building Management Resource Centres, since their functions are purely advisory, they are only passively waiting for owners to come to seek advice and they cannot offer any practical help to owners at their own initiative.

The Home Affairs Department (HAD) has recently announced plans to set up outreach teams in various districts composed of full-time liaison officers and professionals in building management. The HAD will also provide support in building maintenance and legal advice service for owners and OCs. This is a right step to take. However, these outreach teams are only provided with some centralized support in building maintenance and law from the HAD. Leaving aside the question of whether the services provided by these outreach teams are sufficient or not, one wonders whether the teams can provide prompt services at the district level or the centralized arrangement is too remote to provide immediate assistance. Will there be any marked improvement to the professionalism of the services to be provided by these outreach teams as opposed to the way in which Liaison Officers presently handle problems encountered by OCs? We need to wait and see the results.

Madam President, we often hear that in aged buildings there are serious fires, spalling concrete from external walls, rooftop structures, unauthorized building structures, and signboards falling off and hurting people on the street. Whether these tragic events will happen again depends on whether the Government will strengthen the support given to OCs to improve building management. In the current year, thanks to the earnest co-operation between the Planning and Lands Bureau and the Home Affairs Bureau, the Government is putting a lot of efforts in promoting timely maintenance of buildings to ensure safety in the buildings so that residents can live and work in contentment. That is what the public would expect. I hope this policy will not be one which sounds impressive but will not produce any concrete results.

With these remarks, Madam President, I support the original motion.

MISS LI FUNG-YING (in Cantonese): Madam President, with the continuous development and progress of society, it is only understandable that the people of Hong Kong have become increasingly demanding in respect of the hygiene standards, safety and management of their living places. As early as the 1970s, the Government already started to implement district administration, and owners of buildings were then assisted in forming MACs and OCs as a means of fostering the spirit of mutual help among neighbours. But why, after 30 years of efforts, are there still so many problems? Why the management of buildings is still as poor as before? In some old districts, the problems with building management are especially serious and numerous. Since OCs and MACs are the brainchild of the Government, some have criticized the Government for being an irresponsible parent who has not done anything to bring up its child properly. I am going to discuss briefly the existing operational problems with OCs on the basis of the opinions reflected to me by members of the public.

First, although very clear guidelines on the formation of OCs are set out in the Building Management Ordinance, many OCs are still not formed in strict accordance with proper procedures, and the procedures adopted are indeed multifarious, because very often owners do not know too much about the law. Most members of OCs do not receive any allowance, and they simply do the job "for free". Some are retired elderly people whose understanding of the functions of OCs and their responsibilities as OC members are at best half-baked. So, we cannot expect too much from them. Second, there is a shortage of Liaison Officers in District Offices. Communication with the Building Management Resource Centre is far from adequate, resulting in a lack of co-ordination and insufficient assistance and guidance for OCs.

When the time for a general election of an OC comes, very often, the incumbent members of the OC would be invited to a second term, and people would visit owners from door to door to obtain their proxies. So, owners do not have any actual participation in the whole process, and there is no transparency for such elections; all is done in a haphazard fashion, giving people the feeling of secretive operation. An OC so formed will, first, lack any credibility; second, because many OC members do not have any professional training and enough knowledge about the relevant ordinances, they simply cannot deal with the problems encountered. Very often, they have to turn to the Liaison Officers of District Offices for help. But a District Office will usually assign only a community organizer to attend the general meetings of owners and related meetings. And, because community organizers do not have enough

knowledge about the Building Management Ordinance, nor do they have sufficient experience, when they are asked by owners to clarify some points in the Ordinance, they would advise the OCs concerned to seek advice from duty-lawyers at the Building Management Resource Centres. But the waiting time there is usually very long, and so, the work of the OCs concerned will inevitably be delayed, resulting in a huge backlog of outstanding problems. For example, under the existing requirements, an OC must put up a statement of accounts on a notice board every month, so as to inform owners of the financial situation of the OC. However, since many OCs do not have any professional auditors, and they also have difficulties in employing a qualified professional auditor, they are unable to meet this requirement of the law. Besides, following the recent amendment of the relevant Ordinance, the Government is now poised to enforce mandatory building management. Moreover, the rulings passed by the Court on some cases involving OCs have scared many OC members, and they all fear that they may have to be held legally liable for their work. All this has further discouraged owners from participating in OC work.

I would like to make the following recommendations here: (1) The Government should widen the scope of responsibilities of the Home Affairs Department (HAD) and increase its manpower. In case of disputes among the owners of a building, the HAD can then step in and refer the disputes to the relevant organizations for arbitration; (2) Ways should be worked out to increase the professional knowledge of Liaison Officers. They should be given enhanced professional training, so that they can offer timely advice and participate more actively in helping OCs to solve their problems; (3) People with dedication and commitment should be encouraged to stand in the election of OC members. The conduct of an election should be such that individual owners are led to participate in accordance with the provisions of the Building Management Ordinance (Cap. 344), so as to increase the transparency of OCs. It is only when an OC can command the majority support of owners that it can function with credibility and authority; and (4) Professional training for OC members should be enhanced, and studies should be conducted to enhance the protection of OC members.

I hope that the relevant departments can get in touch with the grass-roots people, seek to understand their problems, administer the proper remedies and allocate more resources for the purpose. They should also assist people in tackling their actual building management problems, so as to motivate people to take part in building management. That way, with concerted efforts, the aims

of improving building management and giving people happy homes can be achieved.

I so submit. Thank you, Madam President.

MR IP KWOK-HIM (in Cantonese): Madam President, over the years, building management and maintenance have posed a headache to owners. Maintenance costs and management fees are of course a headache to owners, and even if they are determined to work for a comfortable living environment, and even if they are willing to work for the formation of an OC and to serve their neighbours, things will not be easy for them. I have, for many years, served in the Central and Western District, where numerous residential buildings are found, and I have come across many different cases, which show that owners are actually faced with many practical problems almost every day. Even if I were to discuss just a few of them in detail, it will still take a very long time.

For example, once an owner has purchased a flat, he will have to comply with the deed of mutual covenant (DMC), and this is precisely one of the headaches. An owner who has purchased a first-hand unit has practically spent all his savings over the years, and he is willing to purchase the unit at an exorbitant price of several thousand dollars per square foot just because he wishes to have a shelter. But as soon as he moves into his unit, his initial delight will be dispelled by the various unequal provisions of the DMC: no OC within a certain number of years after occupation, the term of the first management company, and so on. So, in this way, the management company run by the developer can make money continuously in the absence of any monitoring.

Even after the establishment of an OC and the expiry of the term of the first management company, the developer of a building can still exert total control over management matters. One usual tactic is to make use of its status as the major owner of the building. As such, it is the nominal owner of the shares pertaining to the communal facilities of the building, although the construction costs of these facilities and the related land prices have already been borne by individual owners. Thus the management company run by the developer can override the decisions of the OC; it does not have to pay any management fee, but still enjoys the biggest say in all management matters, and it can also do whatever it likes. Worse still, some financially strong developers

may even abuse legal proceedings and instruct their solicitors to send letters to individual owners, with the aim of paralyzing the work of OCs and dragging owners willing to work for their OCs for free into lawsuits involving the execution of their normal duties. The recent incident involving the Rhine Garden has sounded the alarm for legislation on building management and the related mechanisms. The existing practice of some developers to treat individual owners as a "soft touch" must be corrected, or else OC involvement will only become "a fool's" work.

There are numerous problems with the management of new buildings, but that of old buildings and tenement buildings is not any better. Under the existing Building Management Ordinance, the legal basis for the formation of an OC comes from the shares held by the owners of the same lot. So, if a building is built on two or more lots, then the Land Registry will act according to the law and ask the owners concerned to set up more than one OC. That way, there may be two OCs even in a building with only two units on each floor. And, if two separate buildings happen to be situated on the same lot, then they can only set up one OC. So, I am afraid that individual owners will have a very hard time arguing for their case if they wish to set up an OC according to good sense.

A more widespread problem is that the existing legislation does not give sufficient power to OCs to claim individual owners who default on management and maintenance fees. An OC can lodge a civil claim under the existing ordinance, but if an individual owner still continues to default on payment, the only thing the OC can do is to create an encumbrance on the property. However, as long as the owner is prepared to live in the unit for the rest of his life, the recovery action of the OC will become something like "a war of patience". The Government is now taking very active steps to promote timely building maintenance and fire safety. The government officials concerned are certainly very sincere in their purpose, and they have come up with all sorts of feasible measures to make it easier for individual owners to improve the conditions of their buildings, one example being mortgage loans for owners in difficulties, to be repaid only at the time of resale of property. But building maintenance is after all the responsibility of OCs, so giving them the legal support required should be the only way to ensure that the efforts of the government officials will not be wasted.

Many individual owners have responded to the appeal of the Government on the setting up of OCs to assume responsibility for building management.

Unfortunately, whether in terms of concrete assistance and legislative support, the Government has done extremely little to help individual owners, and this has made the job of OCs a very difficult one. To be fair, the Home Affairs Department (HAD) has made a lot of efforts in recent years, and it has also given OCs enormous assistance. For example, following the motion on "improving building management" moved by me in early 1997, the HAD set up the Building Management Resource Centre, to provide one-stop professional services to individual owners, helping them to solve many problems. But with the implementation of legislation on timely maintenance and fire safety, the workload of OCs will only increase drastically, and so will the assistance they need. The Democratic Alliance for Betterment of Hong Kong would therefore like to urge the Government to enhance the training for OC members and the protection for them. The professional building management liaison teams in various districts should also be given more manpower. All these measures are essential to the day-to-day management of old and new buildings and to the maintenance of large housing estates. With them, people can then live and work in contentment.

With these remarks, Madam President, I support the original motion and the amendment.

MR ALBERT HO (in Cantonese): Madam President, the subject of the motion today is to urge the Government to strengthen the support services for the OCs of many buildings in Hong Kong and it is pointed out that there are still a lot of deficiencies although the work of the District Offices has improved. I believe Members will not dispute this.

However, I think a more important issue lies in how we can more suitably amend the law so that the law will suit the current development and needs. As we all know, the law can provide a very important framework to assist OCs in specifying the rights and responsibilities as well as the interests and the relative obligations of the management committees and owners. Since we must look squarely at the amendments to the law, the Democratic Party has proposed some amendments today.

The Democratic Party has proposed the amendments through Mr James TO today but I actually proposed these amendments last year when the amendment to the Building Management Ordinance passed the Council.

However, as the President considered that the amendments had gone beyond the scope of the Ordinance, she did not grant me leave to propose the amendments. I certainly respected the decision of the President but I thought that the Government ought to face the questions raised by me and expeditiously conduct a review to examine whether they are suitable in view of their urgency. As the Government has so far failed to conduct a review, the Council has worked out a schedule on its own and formed an ad hoc group to explore the relevant issues.

Firstly, concerning the problems of "independent houses". The developers organized these independent houses into housing estates or "clusters" for management. As a lot of such houses are built on independent lots, the shares are divided. But as the ambit of the relevant law does not cover divided shares, OCs cannot be formed according to the ordinance. The situation really needs to be improved. As we can see, besides Fairview Park, there are many similar clusters of houses that share a lot of facilities such as roads, sewers, electricity and water supply as well as recreational and community facilities. The owners jointly bear the expenses on the maintenance of public areas and they have to pay management fees. It will be extremely unfair to the owners if they do not have the right to participate in the management by setting up OCs and be reasonably protected under the law. In fact, these clusters of houses are similar to buildings only that they spread out horizontally. Therefore, we think that the law should be amended as soon as possible to grant nominal rights to vote to the owners of these houses of divided shares so that they can participate in setting up OCs and the management work. The Lands Department should step up monitoring the deeds of mutual covenant and specify certain percentages of shares of ownership or voting right such that the owners will be protected under the Building Management Ordinance and they can set up OCs.

Secondly, I gave a lot of examples of unfair provisions at our previous motion debate. As mentioned by many colleagues earlier, though many of them have undivided shares, they have the right to vote and determine the amount of the management fee without paying management fees. Hence, their rights and obligations are not equitable. A lot of deeds of mutual covenant still ridiculously specify that management agents are appointed on a permanent basis and the consent of 50% of the title owners is required for their dismissal. The Democratic Party thinks that it is time to consider how these extremely unfair provisions can be amended. Yet, it is very often unrealistically specified in the law that the consent of 100% of the title owners is required.

Mr Howard YOUNG said earlier that these contracts are executed freely. It seems that he holds the conventional belief that free contracts are sacrosanct, but I think this kind of thinking is already out of keeping with the times. In fact, a lot of laws allow the intervention of the Courts in these unconscionable contract provisions or by way of legislation. For instance, some overriding provisions of the Building Management Ordinance intervene in and target at some unconscionable contract provisions in a limited and very explicit manner. Therefore, it is actually unfeasible to uphold the principle that free contracts are sacrosanct.

We should consider whether we could formulate some overriding provisions to address certain unfair provisions such as the provision that grants some owners the right to vote but not the reciprocal obligation to pay management fees. As proposed by us on the last occasion, unless they pay management fees, their rights to vote should be abolished. This is not only applicable to the dismissal of management agents but also to situations in which voting is required.

Another proposal is that if the Government does not formulate clear and pinpointing provisions, it can authorize the Courts to intervene. The mechanism we propose is that if there are extremely unfair and unconscionable contract provisions, a certain percentage, say 30%, of the owners can file an application with and seek the consent of the Home Affairs Bureau and then apply to the Courts for approval. If the Home Affairs Bureau also agrees that the provisions are extremely unreasonable and the Courts have made the final judgment, amendments can then be made. Certainly, these details warrant in-depth study.

Moreover, we think that owners should be given better protection, thus, the limited exemption clause mentioned earlier in the debate is worth consideration. As regards professional management personnel, we should assist in monitoring these companies through a licensing system and a better statutory complaint channel. All this is also very important to the protection of owners.

With these remarks, I support the original motion and the amendment. Thank you, Madam President.

MISS CHOY SO-YUK (in Cantonese): Madam President, good building management is crucial to the efforts to improve the living environment of the

people and to safeguard the safety of the public. From time to time, we will hear about cases of injury or even death caused by buildings in disrepair or unauthorized building structures. Since 1999, altogether more than 140 serious accidents relating to building and fire safety have happened, causing 100 deaths and over 400 injuries. To improve the management of a building, the formation of an OC is an indispensable first step. However, despite the efforts it made over the years, so far the Government has only helped the incorporation of some 6 000 OCs for 50 000-odd buildings in Hong Kong. Such a small number is indeed disappointing. What is more disheartening is that the Government is just unable to provide any assistance for those old buildings which cannot set up OCs because of unclear distribution of ownership shares. Besides, even if OCs can be set up for such buildings, it does not necessarily imply that the problems with the management of the buildings concerned could be resolved right away.

One of the basic responsibilities of OCs is to do a good job in keeping the buildings in proper repairs and maintenance. But then, because of some irresponsible flat owners or owners who refuse to co-operate, more often than not OCs have found it impossible to discharge their responsibilities, particularly to collect funds for massive repair and maintenance works. This is one of the main reasons why the condition of old buildings is so deplorable. In this connection, the "Consolidated Strategy for Building Safety and Timely Repair Works" published by the Government in April this year suggested amending the relevant legislation to authorize OCs to apply for loans from the Building Safety Improvement Loan Fund. As for the Government, it would mark the shares of the irresponsible or disappeared owners and take those shares as security for the loans concerned. Certainly, this measure can only help to make it easier for OCs to discharge their duties in some ways; care must still be taken to deal with a number of issues relating to the specific implementation of the measure.

To begin with, while this proposed measure of the Government to provide assistance for OCs involves very complicated administrative as well as financial procedures and even the need for legal proceedings, OCs just may not have enough professional knowledge to deal with the issues concerned. In particular, to those OCs of buildings situated in old areas comprising mainly elderly flat owners, it is indeed very difficult for them to follow up such complicated issues. Moreover, given the voluntary nature of OCs, many flat owners would be unwilling to participate in the work of the OCs concerned because of their own heavy workload or for fear of being held legally responsible. If the Government cannot help the public to understand the importance of building

management, if the people's mentality of "minding only one's own business" remains unchanged, however good the laws and regulations may be, they just could hardly be implemented. Besides, should there be any need for legal proceedings, a huge sum of legal fees and other administrative expenses would be incurred. Compared to the cost for repair works, it may not be cost-effective to resort to legal proceedings. Even if compensation could be drawn from the charged flats concerned, the outstanding costs to be shared by other flat owners may still be a huge sum. All these considerations may serve to cause OCs to harbour the thought of "its better to do less than more", thereby making it impossible for the relevant measure to achieve its purpose.

On the other hand, given that OCs vary dramatically in their quality, there have also been views expressing concern that it might be unfair to small flat owners if OCs should be vested with such enormous powers. As such, in enhancing the powers of OCs, the Government should ensure that the relevant powers would not be abused. Indeed, the Government must understand clearly that it cannot rely solely on OCs to resolve building management problems. Instead of rigidly providing the so-called professional advisory service, the Government must assume a proactive role and even intervene in the work of OCs direct. For instance, in the event of OCs having disputes over the repairs and management of the buildings concerned, the Government should play the role of a mediator or arbitrator to resolve the dispute.

Madam President, another question to which the Government must pay attention is how protection for OCs and their members can be enhanced to encourage flat owners to set up OC and to more positively participate in OC activities. At present, in addition to repairs and maintenance, OCs have to take care of other property management matters like enforcement of the deed of mutual covenant, taking out insurance, signing and terminating contracts with property management companies, handling network installation works carried out by telecommunications companies, and so on. As their roles become increasingly complicated, there will be greater chance for OCs to involve in legal proceedings. In fact, we have heard from time to time cases of OCs having to resolve their disputes with property management companies over service contracts in court. In some cases, even individual members of OCs might be faced with civil charges. If the Government does not enhance the protection for OCs, flat owners fearing of involving in legal proceedings will be unwilling to participate in OCs. This is detrimental to the Government's objective to set up more OCs.

With these remarks, Madam President, I support the amendment and the original motion.

DR RAYMOND HO (in Cantonese): Madam President, the terms "OCs" and "MACs" are often heard in Hong Kong. Nevertheless, to the general public, these two terms are so familiar and yet so strange to them. Despite the fact that they have been existing in Hong Kong for quite some time, public participation in OCs and MACs is by no means active. One of the reasons is that while owners of flats in private housing estates rely on property management companies to take care of building management matters, public housing residents depend on the relevant estate management authorities to take care of such matters. But then, can we depend solely on these management agents to do a good job in building management? I am afraid not.

Property management companies hired by private sector housing estates are not non-profit-making firms. In other words, it is possible that property management companies may overlook or even sacrifice flat owners' interests for the sake of their own interests. For this reason, I believe it is a must to set up OCs. Apart from hiring management companies to oversee building management, OCs may also directly employ building management personnel to take care of the housing estates concerned. However, under the existing legislation, OCs can hardly be set up in many different situations. For my part, I was a member of the former Private Building Management Advisory Committee and have served on OCs and MACs for some 20 years.

In my view, another reason why residents and flat owners do not participate actively in the work of OCs is that they believe they do not have enough relevant professional expertise in such fields as accounting, engineering, law, and so on, and are therefore afraid that they are not competent to take up the role as OC members. Besides, they may also be concerned that since they do not have the said professional knowledge, the decisions they make might later on cause them to incur legal responsibility. I quite often come into contact with some OCs or flat owners who are experienced in building management, and they have all expressed grave concern over this issue. As regards the Government, in addition to planning to promote a timely repair works scheme for private residential buildings, it is also preparing to merge the \$500 million Building Safety Improvement Loan Fund with the \$200 million fire safety improvement loan fund and to lower the loan approval requirement on the advice of Members.

Actually, I believe that the Government should consider giving flat owners more encouragement and support through the provision of interest-free loans. On the other hand, since accounting and legal responsibilities are involved in loan applications, how could OC members feel at ease to apply for government loans on behalf of the residents concerned if they do not have any knowledge in such fields? As such, I hold that there is a need for the Government to enhance the professional training provided for OC members. In this connection, what legal procedures should OC members follow in applying for loans? Who should be held legally responsible if something goes wrong with the loans granted? To a certain extent, clear legal guidelines can provide OC members with some form of protection. Given protection, people can have peace of mind and will therefore be happy to participate in building management work.

In addition to professional training for OC members, I believe the Government should also step up its support for OCs at the district level, as the situations and needs of different districts vary. It is reported that the Home Affairs Department is planning to set up District Building Management Liaison Teams in the 18 districts across Hong Kong by phase. I hope that the Government will step up its publicity efforts in this respect, so that MACs and OCs can very easily obtain information on how to contact the relevant liaison teams and make full use of the services provided by them. Moreover, as District Council Members are mediators responsible for the matters and development of their respective districts, I suggest that members of MACs and OCs should come into more contact with District Council Members and reflect to them their views, for the development of a district will to a certain extent affect the living environment of the residential buildings there.

It is everybody's wish to have a cosy home, but such fortune will not be bestowed on us naturally. If the people of Hong Kong wish to have complete and comprehensive fire safety facilities installed in the buildings where they live, and if they wish to enjoy a clean living environment, quality security services, and so on, they must participate in the management of their housing estates. If residents should rely solely on the contracted property management companies to take charge of the management of their housing estates, the loss incurred might just outweigh the gain.

This is a very meaningful idea to set up OCs to effectively take charge of the management of housing estates. However, if it is true that about 80% of the buildings in Hong Kong have yet to set up OCs, I hope the Government can step

up its actions to help the people to set up OCs, with a view to handling building management matters in a more effective manner.

Madam President, I so submit. Thank you.

MR FREDERICK FUNG (in Cantonese): Madam President, I feel that both the original motion and the amendment have reflected the prevailing situation that OCs are put in a passive position. As already pointed out by many Honourable colleagues, the problem currently facing OCs is just like what the community has been talking about: the Government only cares about giving birth to babies but not bringing them up. In my view, even if we put into practice the proposals that Mr TAM Yiu-chung has put forward in his motion, we still cannot bring up the babies because it is indeed a tough task to make use of professional training to turn members of OCs and MACs into professionals capable of making professional decisions. I think we should abandon our old way of thinking and formulate a new idea instead. Before raising any new idea, I should like to describe to Members the difficulties and painful experience of members of OCs. If their painful experience should go on, would members of OCs be willing to endure such suffering? If the present situation should remain unchanged, people would be unwilling to serve on OCs. This is because the present situation only serves to tell people how painful it is to be members of OCs, so naturally people will be unwilling to become members of OCs. If no breakthrough can be found in this respect, the present situation will just remain unchanged.

The paradox at present is that on the one hand, the OCs are theirs and the management authority should also be theirs as residential buildings are private premises and properties (in my memory the Government has all along been holding fast to this principle); yet on the other hand, members of OCs are not building management professionals and lack the knowledge or time to handle such matters. How can we reconcile all these? The need to turn members of OCs into building management professionals is an issue; the said paradox will continue to exist so long as this issue remains unresolved.

The existing situation is that the majority of residential buildings have not formed OCs. Owners of flats in these buildings have not set up OCs, and they would rather take care of their own business and handle things in their own respective ways. Even for those buildings with OCs, disputes between different

factions will bound to arise if the problems of "unprofessional" OCs mentioned by Members just now should exist. In a recent court case, three different OCs have been set up for one single building, and the worst part of the case is that the Government has given its approval for the setting up of the OCs, as two of them were formally recognized as OCs of the building by the Government in writing. Since the case is now being handled by the Court, I should not talk about its details here. However, I can say that even government departments are not sure which can be recognized as OCs and which cannot. Further still, there may also be disputes over interests relating to maintenance and repair works.

Take the Sham Shui Po District I represent as an example, less than 800 of the 4 000-odd residential buildings in the district have set up OCs. Most of these buildings are old buildings built in the '50s, which means that they are over 40 years old already. How can we expect members of such OCs to be transformed overnight into professionals comparable to government officials before us today? This is just impossible.

Another issue is that as a result of our legislative efforts, flat owners are now required by law to repair and fix all the electrical installations and worn-out parts of their buildings every seven years, regardless of the legality of the structures concerned. Apart from that, there is the question of compliance with the various requirements provided for under the existing fire safety legislation. In this connection, neither the kaifong in general nor I can hardly figure out how many pieces of legislation OCs are required to ensure compliance. That being the case, how can those OCs take care of the management and administration work? How can we expect such OCs to take up responsibilities of this kind? All those requirements will only serve to cause members of such OCs to have headaches even before commencing work. If the OCs concerned are mainly composed of elderly persons in their sixties and seventies, I am afraid you had better have an ambulance on standby to take them to hospitals. Hence, I feel that we must get out of this situation; without any breakthrough, the problem will never be resolved.

Perhaps I am really too naive sometimes. Actually, the Association for Democracy and People's Livelihood has already discussed with government officials from the then Home Affairs Department and Buildings Department a proposal five years ago to combine the two aforementioned situations into one (the proposal was accepted by the Government then but has yet to be implemented to date). While we may require members of OCs to have basic

relevant knowledge (yet the possession of such basic knowledge does not mean they understand all the relevant legislation — which means they know what is permitted and what is not; if they have such knowledge, they should be lawyers rather than members of OCs — this is by no means possible), I hold that the professional aspects should be handled by professionals. The problem remains that it is just impossible for each of the buildings in the district to hire a management company. Our discussion then was not on requiring each and every building in the district to hire its own property management company. The buildings there are six-storey old tenement buildings with only two units on each storey; how could a total of 12 households afford to hire a property management company? What we proposed then was to consider allowing all the buildings in one street to hire one property management company. While this may perhaps be a feasible arrangement, another problem might arise if all the buildings in the same street were to be taken as a single unit. This is because the law stipulates that each building should set up its own OC. Then, could the problem be resolved by administrative means? Could the Government consider allowing all the buildings in the same street to jointly hire a professional management company to take care of the building management matters?

In other words, I still believe that OCs should not be required to handle all the professional matters. Professional issues should be handled by professionals, and the job of OCs should be to hire property management companies to take care of such matters basing on their respective interests, views and objectives (that is, the way in which they wish their buildings are to be managed). Certainly, the management companies concerned may put forward a number of possible proposals for the OCs to choose. For instance, each household would need to pay \$1,000 for plan A, and \$100 and \$10 for plans B and C respectively. In that case, members of OCs will only have to choose among the plans rather than considering whether a certain task is legal or illegal, or whether a certain structure should be removed. Their role is to consider the proposals and choose the one which is affordable to the households in the buildings.

But since this is not possible in the meantime, the work of OCs is a painful experience. That being the case, how could we ask households to participate in the work of OCs? If we could make people feel that it is a happy, delightful, glorious and meaningful experience to be members of OCs, households would then compete for the seats on their OCs. On the other hand, if the present

situation remains unchanged, we can never change people's view. Hence, I consider it would be the best if we could identify some property management companies that are guaranteed to meet the minimum standards set down by the Government (I hope this can be done without any legislative efforts as far as possible, as too many laws and regulations just may not be a good thing), and then convince OCs and even buildings without any OCs to hire such competent professional management companies to help them manage the buildings or even the entire street concerned. As regards the representatives elected by households, they should be responsible for making decisions only, just like the role played by committee members of the District Councils (they do not need to have knowledge in each and every aspect, as this is by no means possible; I must remind Members that this is just impossible). We must link the two situations together before we can find the way out.

Today, I will not vote against the original motion moved by Mr TAM Yiu-chung or the amendment by Mr James TO. I support their ideas because they are only asking the Government to put in a little more efforts. While I do not oppose their views, I hold that we should consider the entire matter from a new perspective, rather than putting too many responsibilities on the members of OCs.

PRESIDENT (in Cantonese): Mr FUNG, please face the President when delivering your speech.

MR FREDERICK FUNG (in Cantonese): I beg your pardon. *(Laughter)* Madam President, I believe members of OCs would consider their election a painful experience if everything should rest on their shoulders. In the end, they would decide not to stand for election anymore. I hope my speech today can express my feelings about the miseries of members of OCs. Thank you, Madam President.

MR ALBERT CHAN (in Cantonese): Madam President, buying property and living and working in contentment is everybody's dream, but many owners encounter various problems and are haunted by them after they have taken occupation of their property. Their nightmares start with the organization of OCs to improve building management, and also those of the OC members. The

nightmares are indeed created by Government and the property developers jointly. Thanks to the many unfair deeds of mutual covenant and the Building Management Ordinance which has a lot of grey areas, tens of thousands of owners in Hong Kong have been subjected to unfair and unreasonable treatment for many years.

The Lands Department and the developers jointly produced the unfair deeds of mutual covenant. Putting it in a rather unkind way, they were the products of collaboration and alliance of officials and businessmen. Owners in Hong Kong were the victims of these products. Owing to these unfair deeds of mutual covenant and the very much grey ordinance, owners cannot argue strongly over questions related to their interests. As the status of owners as opposed to that of developers or building management companies is inequitable, owners are often bullied and oppressed when handling a lot of matters.

I found that quite a few problems related to building management in the districts in the past had originated from the unfair treatment of owners. Simply speaking, when owners took occupation of their property, the management companies should in principle inspect the buildings on their behalf, especially the public areas and facilities to ensure that they met the needs and requirements. Yet, as these management companies were more often than not the subsidiaries of large developers, they would invariably withhold some facts or engage in cheating, thus sacrificing the rights of the owners.

I also found that the management fee accounts of the management companies of many newly completed buildings were a shambles. Owners discovered many problems when they checked the accounts after problems were found. For instance, in the expenditures of the management fee accounts of a certain estate in Tsuen Wan, there were bills of an estate in Yuen Long and even those of an estate in Kwun Tong. It was also found upon checking that there was a difference of over \$700,000 and the developer concerned was finally forced to return the amounts to the estate. This happened only after the owners had checked the accounts. How many owners of newly completed housing developments would be so perseverant as to form several teams to check each and every bill slowly? Evidently, owners were often bullied or deceived in respect of building management and their rights were exploited.

Moreover, another building management problem was that the expenditures incurred by shopping arcades on electricity or other fees would be

counted as expenditures on public areas. It was not surprising at all and we might find the same problems in whichever estate chosen at random. These amounts would be met with the management fees paid by the owners, thus, the shopping arcades profited at the expense of owners.

Another ridiculous example was that most vehicle parking spaces of the car parks of some housing estates were sold and the developers had reserved only a small number of the parking spaces for hourly parking, yet, the developers could designate the public areas as monthly parking spaces and allocate the income accrued to their accounts. After the owners had set up OCs, they wrote to the developer to pursue responsibilities but the developer simply ignored them. Finally, the OCs wrote an imploring letter to the chairmen of the developer, it was then that the developer "leniently" replied that this part of the income would not be collected after a certain date, without accounting for the tens of thousands of dollars that had been collected in previous months.

Although the situation has improved in recent years, quite a few management companies contracted out the cleansing and maintenance services to subsidiaries or sister companies associated with the management companies. With such interests not having been declared generally, there were obviously problems in monitoring the contracts.

Madam President, I have cited so many examples to indicate that the building management problems originated from unfair deeds of mutual covenant. Management companies are basically appointed on a permanent basis, unless new legislation is enacted or the relevant ordinance amended to stipulate that management companies could be dismissed with the consent of 50% of the owners. Madam President, I wish to point out that it is very difficult to obtain the consent of 50% of the owners and it is simply impossible in many housing estates. The most ridiculous point is that the Housing Society is an organization set up by the Government according to law but almost all courts under the Housing Society have not set up OCs. Even if there are OCs, it will be very difficult to obtain the consent of 50% of the owners to dismiss the management companies appointed by the Housing Society because it has a certain percentage of ownership. Therefore, the owners of certain courts would permanently be oppressed under the unfair deeds of mutual covenant.

Furthermore, the remuneration of the management agents as stated in the management contracts under the deeds of mutual covenant is relatively high. I

think the Government is very clear about the fact that the amount specified under the open tender contracts of the Housing Authority is very low. If we calculate on the basis of a certain proportion of the management fee, it may be 3% to 5% per household on average but the lowest rate as specified in the deeds of mutual covenant is generally 10%. In other words, the annual net profit of a management company is over \$1 million. This is the privilege granted by the deeds of mutual covenant to the management companies and they can make profits without doing anything. Thanks to the petticoat influence, they can have an income of over \$1 million per year. How can such ridiculous things happen?

For all these reasons, we have to amend the law to protect the rights of owners and we also hope that an additional mechanism can be put in place to give the owners more power so that they can appoint management companies on their own, so that they will no longer be oppressed under the unfair deeds of mutual covenant.

Madam President, I wish to make another point. The MACs have encountered a lot of problems. I have recently handled a case in which the MAC was not very sure about the maintenance problems of the building but as an OC had not been set up yet, the chairman or members of the MAC executed contracts with the contractors. Having executed the contracts, the chairman or members of the MAC had to bear responsibilities personally. Though they did this out of goodwill, should disputes arise in the future, they will have to bear the responsibilities themselves and their situation would be miserable. Therefore, I really hope that the Government can provide people facing these problems with assistance. If the Government fails to give them assistance, their difficulties will persist and they will continue to have nightmares every night.

Lastly, I hope that the Government will really review the problems in order to improve building management and better protect the rights of owners. Thank you, Madam President.

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

(No Member responded)

PRESIDENT (in Cantonese): Mr TAM Yiu-chung, you may now speak on the amendment moved by Mr James TO. Your time limit is five minutes.

MR TAM YIU-CHUNG (in Cantonese): Madam President, I have moved this motion today out of the hope that this Council can give its support to urging the Government to attach greater importance and give more assistance to OCs and MACs.

The amendment moved by Mr James TO seeks to expand the scope of my motion to amending the relevant legislation to the effect that owners holding divided shares of buildings are provided with feasible means to set up OCs and to establishing a mechanism for amending those provisions in the deed of mutual covenant (DMC) which are extremely unfair. However, I think these two proposals would lead to a lot of divided opinions and even controversies. I hope the Subcommittee on Review of the Building Management Ordinance set up by the Legislative Council Panel on Home Affairs recently will work out some feasible recommendations.

Madam President, house developments which are held in divided shares have not been able to form OCs under the BMO. The Government is of the view that the management of this kind of property is similar in nature to the management of land. Therefore, by their very nature they do not come under the scope of regulation of the BMO. At present, owners of some large-scale housing estates like Fairview Park, Hong Lok Yuen, Palm Springs and estates of small houses would like to take part in the management of their estates and supervise the work of the management companies. However, the existing legislation does not facilitate their relevant efforts.

Over the past few years, the Democratic Alliance for Betterment of Hong Kong (DAB) has been helping the owners of Fairview Park to form their own OC. Recently, we note that there have been some encouraging results in that the management company has agreed to form an owners' committee. The forming of an owners' committee is only a compromise compared to an OC. In January this year, when the Court of First Instance was dealing with the application for judicial review made by the owners of Chun Fat Garden, Yuen Long, the High Court Judge considered that the BMO did not impose any restrictions on owners of divided shares to set up their corporation. Therefore, the owners of the 18 houses in Chun Fat Garden may form their corporation to manage the affairs of their estate. The DAB is of the view that the Government should take reference of this case and make expedient efforts to amend the legislation so that owners of this kind of estates may form their corporations.

On the amendment of unfair DMCs, the DAB proposed a Committee stage amendment during the deliberations on the Building Management (Amendment) Bill last year. We suggested reducing the percentage of shares required for making amendments to DMCs, so that owners holding a total of 75% of the shares may pass special resolutions to amend the DMC. In addition, a mechanism should be put in place to allow owners to voice their objection to the newly amended DMC provisions in order to protect the interest of all parties concerned.

The direction taken by Mr James TO's amendment is broadly in line with that of the DAB in the deliberations on the Building Management (Amendment) Bill last year. Therefore, the DAB will not object to the amendment.

I so submit. Thank you, Madam President.

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, first of all, I would like to thank Mr TAM Yiu-chung for moving this motion so that we can have a chance to brief this Council on our work in providing support to OCs and MACs. I have listened to many Honourable Members putting forth suggestions on improving work in this respect and I would like to thank them for the valuable advice they have given.

Many Honourable Members have quoted some of the popular views on this issue, including the so-called "child-birth theory", to describe the position of the Government on OCs, that we are not taking good care of our brainchild. However, by the same analogy, the "parents" of the OCs are in fact the owners and the "children" their properties. An honest comparison will figure the Government as the midwife who also provides maternal care and parenting education after birth. But in the final analysis, the children are those of the owners. So I hope Members can have a clear understanding of responsibilities and the ultimate beneficiaries.

OCs and MACs are residents' organizations. They have a long history. OCs first appeared in the 1970s, formed in pursuance of the Multi-storey Buildings (Owners' Corporations) Ordinance. The Ordinance was renamed as the Building Management Ordinance (BMO) in 1993. The object of the BMO is to facilitate the formation of corporations by owners so that they can manage the buildings in which they are living in a more effective manner. These corporations are legal entities with clearly-defined legal liabilities.

At present, there are more than 6 400 OCs and about 3 500 MACs in Hong Kong. The work of the Home Affairs Department (HAD) is to continue to help owners form OCs in pursuance of the object mentioned above. Our target for the current year is to help owners form a total of 260 OCs.

On the services we are presently providing to OCs, I have heard many views on this from Honourable Members earlier. In general, Honourable Members think that many efforts have been put by the HAD on this, but these may not be sufficient and there is still room for improvement. Before I go on to explain our work in helping OCs and providing services, I would like to state categorically that I differ from the idea raised by the Honourable Miss CHOY So-yuk earlier that the Government should intervene in the work of OCs direct. An OC is a legal entity and it has an unshirkable responsibility for building management. Our work in this respect is confined to providing assistance, for in law, we cannot subrogate owners of their responsibility to manage their buildings, nor can we intervene in the management direct. We are aware that at times the owners, especially at the initial stages of the formation of an OC, would really need to seek advice and help. Therefore, we will strengthen our support to OCs in the following three aspects: first, providing a legal framework conducive to the formation and operation of OCs; second, providing professional advice and convenient services to OCs; and third, providing adequate training to members of OCs.

As regards the legal framework, after a substantial amendment to the BMO in 1993, the Government amended the BMO again in 2000. The Building Management (Amendment) Ordinance enacted in June last year seeks to facilitate owners in forming OCs. The Ordinance provides for a reduced percentage of undivided shares needed by owners to form an OC. Since the enactment of the Ordinance, I have in some cases exercised the powers conferred on me by the Ordinance to give my approval to the formation of OCs with a percentage of shares held by owners lower than required. Since the Ordinance has come into force, its effects have become more noticeable. We have also set up an inter-departmental steering committee tasked with the monitoring and assessment of the implementation of the Amendment Ordinance. The steering committee will also make recommendations as appropriate on how the BMO can be further improved. In addition, the Legislative Council Panel on Home Affairs has also formed a Subcommittee to review the BMO. We are keeping close contact with the Subcommittee.

We note that some OCs are of the opinion that the support given by the Government has not been adequate. This has something to do with the resource constraints. The HAD has been allocated an additional provision of \$22.5 million this year. The annual expenditure will be increased with effect from the next financial year to \$43.9 million. The funds will be used to provide more comprehensive and professional services to owners and OCs. The HAD will expand the staff establishment of its Head Office and in the district level by creating about 90 posts in phases, and the officers holding these posts will be responsible for the provision of resources in building management matters.

A building management division under the HAD is expected to be set up this June and the number of staff in that division will be gradually increased. This division will be supported by professionals in law, surveying and building management. We hope that with the establishment of this new division, the services provided by the HAD can be further strengthened.

On the district level, Building Management Liaison Teams will be set up in all the 18 districts in the territory, replacing the existing Building Management Co-ordination Teams in 15 districts. Regarding work at the district level, Dr TANG Siu-tong has expressed earlier his concern that our work may be overly centralized at HAD headquarters and hence too remote to look after the district level. However, I would like to stress that our work focuses at the district level and we hope that with the newly created posts and the additional professional staff deployed, we can adopt measures in a more positive and proactive manner to provide professional service and support to OCs.

We are also aware that, as pointed out by Miss LI Fung-ying and Dr TANG Siu-tong, the training of staff in the HAD is also very important, apart from manpower support. In year 2000 we organized a total of 19 training initiatives for our staff and the number of officers from relevant grades receiving training exceeded 1 000. These initiatives included training courses, workshops and briefing sessions, the contents of which were related to the BMO and matters of building management. The officers who have undergone training have been sent to liaise with OCs direct, attend their meetings and give advice on related procedures and building management matters. Recently, we have added some new components to our training programmes, including training on information technology co-organized with the City University of Hong Kong. Such training programmes are meant to enhance the training of HAD staff.

Apart from keeping regular contact with OCs through the district liaison teams, we plan to set up more Building Management Resource Centres gradually. Many Honourable Members have mentioned the services provided by these resource centres earlier. In this regard, we are very grateful to the professional bodies in the fields of law, accounting, surveying and so on, which provide their services in these resource centres free of charge. The Honourable LAU Ping-cheung has undertaken earlier that members of his profession will continue to offer their services in the future free of charge. I would like to take this opportunity to thank Mr LAU and the professional body to which he belongs. The HAD is planning to set up a third resource centre in Tsuen Wan and it is expected to be inaugurated in the near future. When resources permit, we will set up more such resource centres in future.

A few Honourable Members, including the Honourable Mr IP Kwok-him and Dr the Honourable Raymond HO, have pointed out that members of MACs and OCs should also receive training. We also think that this is necessary. Last year, the HAD organized 280 training initiatives for MACs and OCs. These included seminars, training courses, talks, visits, exhibitions and fire drills, and so on. The number of participants from OCs and MACs was more than 65 000. We plan to take these further forward by organizing a total of more than 340 such training initiatives this year.

On the other hand, we are planning to keep the most up-date and accurate information on buildings in order to facilitate the effective management of buildings. The HAD will set up a centralized database on private residential buildings in the territory to provide comprehensive information on each building. The database will include the type of building, the number of flats and the building management organization formed. The basic information stored in the database will be made accessible to OCs and the general public.

As to Mr TAM Yiu-chung's suggestion that we can improve our on-line services, we will take this into consideration and discuss with the HAD on how to provide more training to members of OCs and MACs on the Internet.

Some members of OCs and MACs are worried that since OCs and MACs need to bear collective legal liabilities, there may be times when these liabilities are transferred onto individual members. Some Honourable Members, including Mr TAM Yiu-chung, Mr James TO and Dr Raymond HO, have expressed such concerns earlier. We think that it depends on the facts of each

case, but under normal circumstances, the legal liabilities borne by an OC or a MAC collectively should not and cannot be transferred onto individual members. In general, if members of an OC or a MAC take part in the work of the OC or MAC and act in good faith, then they should not harbour any undue worries. However, if a member commits a criminal offence, then of course he is to be liable. If members of OCs or MACs meet any difficulties or unclear situations in the discharge of their duties, they should seek assistance from the staff at District Offices or from voluntary professionals in the resource centres. We will make arrangements as appropriate to help the members, having regard for the urgency of the matter in question.

The amendment proposed by Mr James TO includes amending the relevant legislation to provide greater protection to OCs. I would like to state that the BMO has provided for the rights and responsibilities of OCs and their members. Any general provisions that seek to exempt members of OCs from legal liabilities may give members immunity against all legal consequences. So we must be very cautious if any amendment is to be made in this respect. We must address the problem and take appropriate measures. The scope of application of the legislation should also be narrowed and the specific liability to be exempted clearly stipulated. I think Honourable Members will understand that this is a very complicated and sensitive issue that warrants extensive consultation with all relevant parties. We will be glad to hear from Honourable Members their views in this regard.

Other issues raised by Mr James TO in his amendment include the suggestion to extend the ambit of the BMO to the effect that owners holding divided shares of buildings, such as owners of house developments, may also form OCs under the BMO.

First of all, we need to understand the object of the BMO. The BMO seeks to assist owners of flats in a building to form their OCs and to provide for the management of these buildings. The BMO used to be called the Multi-storey Buildings (Owners' Corporations) Ordinance before 1993. It can be inferred from the name of this ordinance that it was enacted for multi-storey buildings. One of the features of multi-storey buildings is their common parts, and these include elevators, corridors, rooftop, staircases and external walls, and so on. These common parts are owned by all owners collectively and it is because of this reason that they have also the responsibility of managing the common parts of a building. Therefore, the decision-making procedures as

specified in the Ordinance are laid down on the basis of the undivided shares of ownership held by the owners.

Mr James TO suggested extending the application of the BMO to include house developments. The feature of house developments is that the owners hold divided shares or an independent lot of their own, which is completely different from the undivided shares of ownership as stated in the BMO. As houses are independent buildings, they do not have the feature of common parts as found in buildings with storeys as mentioned by me earlier. Therefore, in terms of nature and ownership structure, multi-storey buildings and houses have fundamental differences. With regard to management philosophy and specific measures, the management of houses resembles the management of land. As house developments do not have common parts, it would be difficult both conceptually and technically to extend the management style for multi-storey buildings to houses. Therefore, it is a very complicated legal and technical issue to extend the application of the BMO to cover houses with divided shares in ownership. We must be very careful in studying the policies involved, as well as the related legal and technical problems. We need to avoid jumping to hasty conclusions. The Subcommittee on the Review of the Building Management Ordinance under the Legislative Council Panel on Home Affairs will look into this issue and invite the related groups and members of the public to present their views. The Government will be happy to take part in the discussions of this Subcommittee and give serious thoughts to suggestions presented by members of the Subcommittee.

As to whether or not a mechanism should be set up to amend and abolish those provisions in the deed of mutual covenant (DMC) which are extremely unfair, Honourable Members have had considerable discussion on this point in the debate. From the views expressed, it can be seen that there are fundamental differences existing among Honourable Members. Both Mr Howard YOUNG and Mr LAU Ping-cheung pointed out that DMCs are private contracts binding on all owners of the same building who have signed this contract, and the Government is no signatory to the DMCs. If the Government is asked to make a judgement on whether or not the terms in a DMC are equitable, that will create great problems both as a matter of principle and in law. Often times disputes about DMCs are not simply a question of equity, but about the conflict of interest among owners or between owners and developers. We should all the more be cautious if the legislation is to be amended in haste and the Government is to be given powers to interfere with the terms of a private contract.

The Honourable Albert CHAN even stated that the unfair terms in DMCs are the results of collaboration between the Government and the business sector. This is only Mr CHAN's personal opinion. Honourable Members have pointed out in the discussion that in many cases the owners are greatly distressed by the management of multi-storey buildings. That is the opinion expressed by the Honourable Frederick FUNG. These owners feel distressed because they consider that they do not have the professional knowledge in this field and they are unable to commit themselves to building management work on a full-time basis. I appreciate the feelings of these owners as pointed out by Mr FUNG. I also agree with him that building management should be a professional undertaking. However, it is difficult for us to expect owners to undertake professional management work by themselves. For such kind of professional work should ideally be undertaken by professional management companies. The responsibility of owners should be forming an effective organization by themselves, that is, an OC, to monitor the work of the professional management company. If this is done effectively, then in many of the cases we have, building management will not be so incompetent as Mr Albert CHAN put it, or a painful experience as described by Mr Frederick FUNG.

I live in a multi-storey building and for some reasons an OC cannot be formed in the building. But as the owners have set up an effective owners' organization to monitor the management company and to engage in an effective dialogue with it, the management of the building in which I live has been raised to a satisfactory level. That is what I think from the perspective of an owner. It can be seen from this example that things are not in such an extreme. If only the owners can unite and form an effective monitoring organization, then the monitoring work can still be carried out effectively, even in the absence of an OC.

Mr James TO and Mr Albert HO have also pointed out that in some cases, the developers still own the common parts of a building, and that they do not pay any management fees though they have the right to vote. That is unfair. We understand the concern of Honourable Members and we are open on this. Pending the recommendations made by the Subcommittee on the Review of the Building Management Ordinance, we will give further thoughts to that issue.

To conclude, we in the Government attach great importance to building management because work in this aspect, especially that of multi-storey buildings, is related to the concern of the great majority in Hong Kong for law and order, their personal safety and their living conditions, as well as the

maintenance of the buildings in which they live. In the long term, this has also a bearing on the personal interests of owners and the value of their property. That is why a well-maintained building will not only benefit the owners and enable them to live and work in contentment, but also benefit the territory in general. That explains why throughout these years, we have helped owners and residents to form OCs, MACs or other building management organizations through the HAD and by constantly increasing the amount of resources put into such work. In terms of legislative work, we have amended the BMO gradually to facilitate our effective work and that of owners. We have to admit that work in this aspect is a long process and collective wisdom must be sought. We need to be sensitive to changes in society and listen to the owners on the problems confronting them, before we can make adjustments in policy and legislation. Having said that, building management remains a complicated issue and it touches on many professional aspects. In any step we take, we have to strike a balance among the interests of all parties concerned. Therefore, we hope that the Legislative Council, the OCs and the District Councils will give us more suggestions, so that we can make further improvements in respect of building management.

Thank you.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the amendment moved by Mr James TO to Mr TAM Yiu-chung's motion 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 TAM Yiu-chung rose to claim a division.

PRESIDENT (in Cantonese): Mr TAM Yiu-chung 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.

MISS CHOY SO-YUK (in Cantonese): Madam President, I have pressed the wrong button.

PRESIDENT (in Cantonese): Miss CHOY, you may press the button again or cast your vote again. *(Pause)* There is no response in your button. Could you let me know your vote?

MISS CHOY SO-YUK (in Cantonese): Madam President, I had meant to vote in favour of the motion, but I pressed the abstention button.

PRESIDENT (in Cantonese): Miss CHOY, now I know that you voted in favour of the motion. We will check the voting records later.

PRESIDENT (in Cantonese): If there are no queries, voting shall now stop and the result will be displayed.

PRESIDENT (in Cantonese): Of the Members returned by functional constituencies, 21 were present, seven were in favour of the amendment, 12 against it and two abstained, the amendment was not carried in this group. Among the Members returned by geographical constituencies through direct elections and by the Election Committee, 22 were present, 15 were in favour of the amendment, four against it and two abstained.

Miss CHOY, could you let me know what was indicated on your voting machine, whether it indicated that you were against the amendment or you had abstained?

MISS CHOY SO-YUK (in Cantonese): Madam President, it indicated "abstained".

PRESIDENT (in Cantonese): Miss CHOY, since you have stated your voting intention, but it has not been correctly shown on the voting machine, so I will declare the results of the voting again.

Functional Constituencies:

Miss Margaret NG, Mr CHEUNG Man-kwong, Mr SIN Chung-kai, Mr WONG Yung-kan, Mr LAW Chi-kwong, Mr Michael MAK and Mr IP Kwok-him voted for the amendment.

Mr Kenneth TING, Mr James TIEN, DR Raymond HO, Mrs Selina CHOW, Mr HUI Cheung-ching, Mr Bernard CHAN, Mrs Sophie LEUNG, Mr Howard YOUNG, Mrs Miriam LAU, Mr Henry WU, Mr Tommy CHEUNG and Dr LO Wing-lok voted against the amendment.

Miss LI Fung-ying and Mr LAU Ping-cheung abstained.

Geographical Constituencies and Election Committee:

Mr Albert HO, Mr Martin LEE, Mr Fred LI, Mr James TO, Mr CHAN Kam-lam, 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.

Dr TANG Siu-tong, Mr David CHU, Mr NG Leung-sing and Mr Ambrose LAU voted against the amendment.

Prof NG Ching-fai abstained.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 21 were present, seven were in favour of the amendment, 12 against it and two abstained; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 22 were present, 16 were in favour of the amendment, four against it and one abstained. 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.

PRESIDENT (in Cantonese): Mr TAM Yiu-chung, you may now reply. You still have one minute seven seconds.

MR TAM YIU-CHUNG (in Cantonese): Madam President, let me first express my gratitude to Members, and let me also do some lobbying here. I hope that Members can support the original motion.

The OC members or owners I have contact with all think very highly of the HAD, and they even compare the relevant government officials to their parents. But the Secretary said that he could at most be a midwife, and the Government can only serve as a nursery. I hope that the HAD can act as a permanent nanny, helping OCs and MACs to grow healthily, so that they can command people's support and manage their respective buildings with both competence and commitment. The Secretary for Home Affairs has taken pains to respond to each of the points raised by Members. If the original motion can be passed, I hope that the Secretary for Home Affairs can take concrete steps to implement the motion proposals, so as to effect changes in the very near future. That way, every member of OCs and MACs will be very delighted; everyone will then be very happy and live and work in contentment. *(Laughter)*

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Mr TAM Yiu-chung 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.

NEXT MEETING

PRESIDENT (in Cantonese): I now adjourn the Council until 2.30 pm on Wednesday, 6 June 2001.

Adjourned accordingly at nineteen minutes to Nine o'clock.

Annex I**WRITTEN ANSWER****Written answer by the Secretary for Health and Welfare to Mr WONG Sing-chi's supplementary question to Question 1**

To encourage the use of and enhance the accessibility to information and communication technology, the Government provides free access to computer facilities and the Internet at convenient locations around the territory, including community centres, public libraries, social service agencies, and so on. In addition, to enable people with a disability, including the blind and other visually impaired, to access these facilities, special supporting equipment is installed on some of the computers.

Community Cyber Points

Under the Community Cyber Point Project, 200 public computers have been installed at 71 locations including community centres, District Offices and non-governmental organizations for free public access to the Internet. In addition, another 28 computers with special supporting equipment have been installed at eight locations for users with a visual impairment.

During March to May 2001, the average hit rate of such facilities (that is, the number of accesses made to webpages) was 14 172 000 per month.

Public Libraries

With the provision of 771 additional computers in 2001, the number of computers available in public libraries for public use will reach 1 535, amongst which 30 are equipped with special supporting equipment for users with visual impairment. During March to May 2001, the average utilization rate of computer facilities in public libraries (that is, the level of usage during opening hours) reached 82%.

WRITTEN ANSWER — *Continued**Social Service Agencies*

The Lotteries Fund approved a grant of \$13 million in 1999 to finance the provision of 1 111 computers in service units run by non-governmental organizations. Of these, 427 were for use in service units for the disabled. As these facilities are used by service recipients in non-governmental organizations, the Social Welfare Department does not have the utilization records.

In addition, the Lotteries Fund has recently approved grants of \$40.7 million for the installation of another 824 computers with Internet facilities in rehabilitation centres and multi-service and social centres for the elderly. The grants were approved in May 2001 and installation works are proceeding.

Annex II**WRITTEN ANSWER****Written answer by the Secretary for the Environment and Food to Miss CHOY So-yuk's supplementary question to Question 4**

We now attach the supplementary information required.

Joint-Study of Pearl River Delta Air Quality Study
Air Sampling Locations

The consultant used the air quality data collected from 11 general air monitoring stations in Hong Kong and 21 stations on the mainland side of the Pearl River Delta Region. To obtain further air quality data, the consultant has collected samples at two locations in Hong Kong and another 17 locations in the Mainland. These locations were spread out in urban areas, rural areas, mixed industrial and residential areas, and areas with major air pollution sources. In Hong Kong, the locations where air samples were collected were at Tsing Yi and Tai Po. Of the 17 air sample collection points in the Mainland, 12 were located in Guangzhou and the rest in Shenzhen, Dongguan, Jiangmen and Zhuhai.

WRITTEN ANSWER**Written answer by the Secretary for the Environment and Food to Dr Raymond HO's supplementary question to Question 6**

According to information provided by the Environmental Protection Department (EPD), it carried out the following numbers of enforcement and prosecution actions under the Water Pollution Control Ordinance and the Waste Disposal Ordinance between 1998 and 2000 to prevent pollution of streams and their nearby environment:

	<i>No. of Inspection</i>	<i>Cases of Prosecution</i>	<i>Cases of Successful Prosecution</i>
Water Pollution Control Ordinance	11 085	323	320
Waste Disposal Ordinance	25 253	357	348

Between April 1998 when the Environmental Impact Assessment Ordinance came into operation and up to end 2000, the EPD carried out 1 227 inspections to ensure that during implementation of designated projects, the requirements set out in the relevant environmental permits were observed to avoid damage to the nearby environment (including streams). During that period, the Department made no prosecution.