

# OFFICIAL RECORD OF PROCEEDINGS

**Wednesday, 17 April 2002**

**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, G.B.S., J.P.

DR THE HONOURABLE DAVID CHU YU-LIN, J.P.

THE HONOURABLE CYD HO SAU-LAN

THE HONOURABLE ALBERT HO CHUN-YAN

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

THE HONOURABLE LEE CHEUK-YAN

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

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

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

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

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

THE HONOURABLE NG LEUNG-SING, J.P.

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, J.P.

THE HONOURABLE CHAN KWOK-KEUNG

THE HONOURABLE CHAN YUEN-HAN, J.P.

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 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, B.B.S.

THE HONOURABLE LAU CHIN-SHEK, J.P.

THE HONOURABLE LAU KONG-WAH

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

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

THE HONOURABLE AMBROSE LAU HON-CHUEN, G.B.S., 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.

THE HONOURABLE MA FUNG-KWOK

**MEMBERS ABSENT:**

THE HONOURABLE SIN CHUNG-KAI

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

MR MICHAEL SUEN MING-YEUNG, G.B.S., J.P.  
SECRETARY FOR CONSTITUTIONAL AFFAIRS

MR CHAU TAK-HAY, J.P.  
SECRETARY FOR COMMERCE AND INDUSTRY

MR JOSEPH WONG WING-PING, G.B.S., J.P.  
SECRETARY FOR THE CIVIL SERVICE

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

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

MR STEPHEN IP SHU-KWAN, G.B.S., J.P.  
SECRETARY FOR FINANCIAL SERVICES

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

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

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

MS SANDRA LEE SUK-YEE, J.P.  
SECRETARY FOR ECONOMIC SERVICES

MR JOHN TSANG CHUN-WAH, J.P.  
SECRETARY FOR PLANNING AND LANDS

MS ELAINE CHUNG LAI-KWOK, J.P.  
SECRETARY FOR HOUSING

MR PAUL TANG KWOK-WAI, J.P.  
SECRETARY FOR TRANSPORT

MR PATRICK LAU LAI-CHIU, J.P.  
ACTING HEAD, CENTRAL POLICY UNIT

**CLERK IN ATTENDANCE:**

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

PURSUANT TO RULE 8 OF THE RULES OF PROCEDURE, THE CHIEF EXECUTIVE, THE HONOURABLE TUNG CHEE-HWA, ATTENDED TO ADDRESS THE COUNCIL AND TO RECEIVE QUESTIONS.

**PRESIDENT** (in Cantonese): Members will please remain standing for the Chief Executive.

**PRESIDENT** (in Cantonese): The Chief Executive will address the Council on the accountability of principal officials.

### **ADDRESS BY THE CHIEF EXECUTIVE**

**CHIEF EXECUTIVE** (in Cantonese): Madam President and Honourable Members, in the 2000 policy address, I proposed that we should examine the possibility of introducing a new Principal Officials Accountability System. In my 2001 policy address, I set out in greater detail the framework of the Accountability System being considered. In the last two years, we have listened closely to the views of the community through various channels. This includes attending a series of meetings in the Legislative Council and listening to the views of Honourable Members. We are heartened that the community has generally identified with the concept of introducing the Accountability System.

I have decided to come in person to the Legislative Council to introduce to Honourable Members the plans of the Government of the Hong Kong Special Administrative Region (SAR) for introducing the Accountability System on 1 July 2002, and to seek Members' support for the associated expenditure and the resolution for the relevant legislation to be amended, so as to transfer relevant statutory powers and functions to the respective Directors of Bureaux under the Accountability System. Our hope is that the Accountability System can be implemented on schedule.

In the last two policy addresses, I have emphasized that the purpose of introducing the Accountability System is to enable Principal Officials of the SAR Government to assume responsibility for their policy portfolios, to share a common agenda and to have clear directions. We need to feel the pulse of the community, to understand community sentiments, and to strengthen liaison and communication with the Legislative Council, different sectors of the community and the general public. We need to improve the prioritizing of the Government's agenda and to improve overall policy co-ordination, so that we would be in a position to provide better services to the community and the general public.

Now, let me set out the principal elements of the Accountability System.

Firstly, the upper echelon of the Government, including the Chief Secretary for Administration, Financial Secretary, Secretary for Justice and all Directors of Bureaux, will be covered by the Accountability System. These officials will no longer be civil servants, but will be appointed on contract terms as Principal Officials under the Accountability System. They may serve for a term of five years, but not exceeding that of the Chief Executive who nominates them. They will cover the respective portfolios assigned to them by the Chief Executive, oversee the work of associated departments, formulate policies, explain policy decisions, market policy proposals and gain the support of the Legislative Council and the public. They will be accountable to the Chief Executive for the success or failure of their policy initiatives. Under the leadership of the Chief Executive, they will be accountable to the community. Where necessary, the Chief Executive may terminate their contracts.

Secondly, all Principal Officials under the Accountability System will be appointed to the Executive Council. This will strengthen the work of the Executive Council. The Principal Officials will participate directly in the Government's policy decision-making, in prioritizing the policy agenda, and in harmonizing the work which straddles across different departments. In overall terms, governance will be improved; decision-making will be quickened; responses to the demands of the community and the needs of the public will be more direct. In accordance with the provisions of the Basic Law, the Executive Council may continue to include other community leaders and Members of the Legislative Council.

Thirdly, the remuneration of Principal Officials under the Accountability System is comparable to the packages currently applicable.

Fourthly, various Policy Bureaux will be combined to facilitate better deployment of resources and closer co-ordination of policy portfolios. Through this reorganization, the original 16 Policy Bureaux will be revised to 11. Including the three Secretaries of Departments, following the restructuring, there will be 14 Principal Officials covered by the Accountability System. These are the Chief Secretary for Administration, Financial Secretary, Secretary for Justice, Secretary for Home Affairs, Secretary for Constitutional Affairs, Secretary for Housing, Planning and Lands, Secretary for Education, Secretary for the Environment, Health and Welfare, Secretary for Transport and Works,

Secretary for Economic Development, Secretary for Commerce, Industry and Manpower, Secretary for Financial Affairs and the Treasury, Secretary for Security and Secretary for the Civil Service.

Fifthly, the terms and conditions of service of civil servants who presently fill the positions of Directors of Bureaux will remain unchanged. These positions will be re-titled Permanent Secretaries. Under the Accountability System, they will act as the interface between Directors of Bureaux and the Civil Service. Under the direction of the Directors of Bureaux, the Permanent Secretaries will be responsible to the accountability officials, assisting in formulating and implementing policies, listening to the views of the public and the Legislative Council, explaining policies to these respective groups, responding to questions raised and gaining support from different quarters for government policies.

In the process of formulating our proposals for the Accountability System, we realize that various concerns have been raised among certain quarters of the community — namely, that under the Accountability System power might be concentrated in the Chief Executive; that as there are Principal Officials and Permanent Secretaries under the Accountability System, this will result in unnecessary duplication; that the Accountability System will affect the stability, permanence, professionalism, political neutrality and the uncorrupt nature of the Civil Service. Let me take the opportunity to address these concerns.

Firstly, in implementing the Accountability System, will power be concentrated in the hands of the Chief Executive? We all know that the Basic Law has clear provisions governing the powers of the Chief Executive. The Basic Law provides that the Chief Executive is the head of the SAR Government. He leads the Government and the Civil Service. According to the Basic Law, the powers of the officials of the SAR Government originate from the Chief Executive. It is for the Chief Executive to determine how he should delegate his authority according to his policy agenda. As the Basic Law has already conferred all necessary powers on the Chief Executive, there is no need for these powers to be strengthened by the new system; nor should such a question arise. In fact, in implementing the Accountability System, the Chief Executive will be devolving further his authority, not only to the three Secretaries of Departments, but also to the 11 Directors of Bureaux, so that in assuming responsibility for their respective portfolios, they will have the necessary authority to formulate, co-ordinate and implement policies.

In implementing the system, changes have to be made for each official under the Accountability System to be responsible for his policy portfolio. According to the design of the Accountability System, Directors of Bureaux are ultimately responsible to the Chief Executive. However, the Chief Executive will continue to rely on the Chief Secretary for Administration and Financial Secretary to oversee and co-ordinate the work of the respective Policy Bureaux and to co-ordinate work which straddles different Policy Bureaux. The two Secretaries of Departments will also co-ordinate the work in respect of important policy agendas and priorities determined by the Chief Executive and Executive Council. For example, in the last year or so, the Chief Secretary for Administration has covered Guangdong/Hong Kong co-operation and major infrastructure co-ordination. The Financial Secretary has covered discussions with the Mainland concerning the "Closer Economic Partnership Arrangement". These *modus operandi* will not be changed following the introduction of the Accountability System.

Furthermore, the role of the Executive Council will be enhanced. The Chief Secretary for Administration will chair various Executive Council Subcommittees. These Executive Council Subcommittees will replace the policy groups under the Chief Secretary for Administration's Committee. Likewise, the Financial Secretary will chair relevant Executive Council Subcommittees.

As for the inter-relationship between the respective Policy Bureaux, this concerns primarily better use of resources and closer co-ordination between related policy portfolios. Some of the Policy Bureaux will be combined. For example, Housing, Planning and Lands will be amalgamated; Transport and Works will be placed under one roof. In putting forth this re-organization, we have reflected carefully on what would constitute the optimum organization. We cannot have, and do not have, a pre-set number of Policy Bureaux. We have to base our assessment on practical need and our cumulative experience in running the Government. The proposals we have put forth represent the most appropriate package.

To complement the introduction of the Accountability System, and to facilitate strengthening of the co-ordination role of the Executive Council in the decision-making process, the Executive Council Secretariat will be transferred to the Chief Executive's Office. The position of Information Co-ordinator will be

re-titled as Director of the Chief Executive's Office. The Director will oversee the running of the Executive Council Secretariat and continue to perform the duties of the Information Co-ordinator. In future, the Central Policy Unit will strengthen its capabilities in respect of conducting surveys on public opinion and long-term policy researches. This will ensure that in determining long-term policies, the SAR Government will have a broad base of support in the community.

All of these adjustments are directed to one single purpose, that is, to enable Principal Officials under the Accountability System to have a clear understanding of their respective responsibility, to strengthen solidarity, to enhance internal working relationship and to smoothen co-operation. The team will be able to set, co-ordinate and implement policies more effectively to meet the needs of the community and our expectations. They will also be able to meet proactively the challenges facing Hong Kong.

I would also like to emphasize that the checks and balances designed for the SAR, including those in respect of the Chief Executive and the executive authorities, will not be diminished following the introduction of the Accountability System. The Legislative Council will continue to play the same important role in holding the Government accountable.

In introducing the Accountability System, one of the fundamental aims is to enable Principal Officials to be responsive to the calls of the community in assuming personal responsibility for the success or failure of their policies. This is to be done on the basis of maintaining the stability and continuity of the Civil Service. There are increasing calls for senior civil servants to be held accountable for policy failures, including calls for some of them to step down. However, due to the permanence of the current system and established appointment and removal systems, the current civil service system is not compatible with these demands. Furthermore, following the return of Hong Kong to the Motherland, and with the elected Chief Executive, a fully elected legislature, the increasingly progressive and aggressive media, government operation and policy formulation are subject to increasing public scrutiny and pressure. In addition to expectation for Principal Officials to undertake their statutory duties, they have to cover political work within the community. However, the traditional roles which civil servants are expected to play under the current system run into conflict with the demands of the times.

If we adopt an approach of introducing the Accountability System within the civil service structure, we may achieve the ends of "accountability". But in the process, we may lose the permanent, professional and politically neutral Civil Service which has been established through years of experience and efforts. Thus, in these circumstances, it is appropriate for us to establish on top of the current civil service system a new Principal Officials Accountability System complemented by a suitable set of terms of employment.

Officials under the new Accountability System will not be civil servants. They will no longer be constrained by the civil service structure, and will be motivated by common perspectives, shared policy goals and a collective mission. The Accountability System will provide them with the environment to strengthen the communication and liaison with the public in implementing policies. They will have more latitude in strengthening their relationship with the Legislative Council and the media, so that they will be able to gain broader public support and assistance for their initiatives.

As I mentioned just now, in introducing the Accountability System, we must ensure the continuity and the stability of the civil service structure. Not only do we have to achieve this, but through the introduction of the Accountability System, we must preserve and enhance the distinctive qualities of the civil service system, that is, permanence, professionalism, political neutrality, and an uncorrupt administration. These are the qualities which I, and the Principal Officials under the Accountability System in future, would wish to preserve. I also believe that the community takes the same view. We wish to preserve these qualities, because they are essential to the good governance of the SAR. With the Accountability System, it will be possible for civil servants to focus on their important role of implementing policies and putting forth proposals, in the face of increasing political pressures and the need to be involved in more political work.

Furthermore, we have emphasized the importance of retaining the D8 rank of Permanent Secretary as part of the civil service system. We have taken this view in order to preserve the integrity of the civil service system, to guarantee that we will continue to attract the best and the brightest to the civil service career, and to ensure that our community will benefit from having such talent to provide public service of the highest quality. In order to highlight the importance which we place on the Civil Service, we have determined that the

Secretary for the Civil Service should be selected from among senior civil servants. This will guarantee that this Principal Official will have a full understanding and appreciation of the civil service structure and system. As the Secretary for the Civil Service will be a member of the Executive Council, he will be able to represent the expectations and interests of the Civil Service in the process of policy-making at the highest level of the Government. At the same time, he can also convey the considerations taken into account in respect of major decisions to civil service colleagues. This will facilitate full and effective implementation of policies adopted.

There has been quite a lot of attention on the financial implications of introducing the Accountability System. The SAR Government intends to make the introduction of the Accountability System cost-neutral within one year through internal redeployment of savings. Furthermore, the remuneration of the Second Term Chief Executive will remain basically at the present level, and will be adjusted necessarily according to the current mechanism. It will not be increased due to the introduction of Accountability System. I suggest that the remuneration package for the Third Term Chief Executive should be considered by an independent committee.

I believe that by introducing the Accountability System in responding to public demands, the SAR Government will bring about a new style of governance. There will be two prominent changes. Firstly, because officials under the Accountability System will have to assume responsibility, they will place importance on public opinion; they will make further efforts to gauge public sentiments; they will be proactive in facing the public, and in gaining the trust and support from the public through delivering results. By so doing, the SAR Government will become more open, will be more prepared to listen to the voices of people, will be more ready and able to respond to public demands in a timely fashion, and will build a government which has stronger public support.

Secondly, through the establishment of the top echelon of the SAR Government under the Accountability System, our objectives will be more clearly defined and our directions more firmly set. In pushing forward our policy initiatives, we will be deploying our resources more effectively; we will be more sensitive in setting priorities; the working relationship between the executive and the legislature will be strengthened. Accordingly, we will all be able to serve the public more efficiently and more responsibly.

I am now ready to answer some questions from Honourable Members about the Accountability System. As the Chief Secretary for Administration and the Secretary for Constitutional Affairs will be answering your questions in detail over the next few days, I will only answer some of your questions now. Thank you very much.

**PRESIDENT** (in Cantonese): The Chief Executive will now answer questions raised by Members. Each Member called upon should ask one question only and the question should not include statements. Owing to the time constraint and in order to allow more Members to ask questions, I have decided not to allow follow-up questions.

**MR MARTIN LEE** (in Cantonese): *Mr TUNG, under the Principal Officials Accountability System outlined by you just now, the Principal Officials will be required to answer to you alone. However, you do not have to answer to this Council and the public. Do you agree that this so-called Accountability System, which is lacking not only a democratic base, but also accountability to the public, fails to live up to its name and will mislead the public?*

**CHIEF EXECUTIVE** (in Cantonese): Mr LEE, I was elected as the Chief Executive in accordance with the Basic Law. I believe the public accept this election because they accept the Basic Law too. This is the first point.

Secondly, the Principal Officials Accountability System formulated has two major goals. First, it is hoped that the upper echelon of the Government can better respond to the aspirations of the people and provide better services to them, as responsibility comes with power. Second, in the course of introducing the new system, we have to ensure the integrity and permanence of the civil service structure. For this reason, Mr LEE, I find it essential to hold more discussions on relevant matters, instead of talking about other unrelated issues.

**MR IP KWOK-HIM** (in Cantonese): *Mr TUNG, when you spoke a moment ago, you said that the Principal Officials Accountability System would be put in place*

*in July this year. Why have you chosen 1 July as the date of implementation? If the preparatory procedures cannot be completed as scheduled, do you have any contingency measures in hand?*

**CHIEF EXECUTIVE** (in Cantonese): Mr IP, when I announced the policy address, I said that the Principal Officials Accountability System would be a matter for the Chief Executive in the second term. The reason is that I hope that when the second term of the Chief Executive commences on 1 July, the Accountability System can be launched at the same time.

On our part as the Government, we very much hope that the Accountability System can be launched on 1 July. I also know that the schedule is rather tight, but I still hope that my colleagues in the executive authorities and Members of the Legislative Council can co-operate and co-ordinate as much as possible, so as to make it possible for the Accountability System to take effect on 1 July.

**MR JAMES TIEN** (in Cantonese): *Mr TUNG, the Liberal Party very much supports the fact that under the Accountability System, there will be both powers and accountability for Principal Officials. The Civil Service of Hong Kong is of course excellent, but it is understandably not the only place where people of high calibre can be identified. May I ask the Government whether the employment terms and conditions it is devising will be so designed as to facilitate the recruitment of non-civil servants to work under this Accountability System? And, will it be easy for them to return to their original posts after they have completed their term of office?*

**CHIEF EXECUTIVE** (in Cantonese): Mr TIEN, we have actually considered many different requirements during the design process. What then should be the most important requirement? I think that under all circumstances, when we try to recruit suitable non-civil service talents to work in the Government under the Accountability System, there must always be a basic requirement — the person must be of the highest integrity and calibre. We will definitely stick firmly to the requirement on integrity and will never make any compromise to suit the convenience of recruitment. Any compromise is not proper in my view.

I used to be a businessman myself, and like Mr TIEN, I also have many friends in the business sector. I am sure that it will be very easy to find people who can meet our integrity requirement. After completing their five-year term of office, the officials concerned may of course return to the business career. I am sure that the scheme designed by us will be able to deal with the problem mentioned by Mr TIEN. I mean, on the one hand, it will be able to meet our requirement, that is, the requirement on no conflict of interests, and, on the other, it will be endowed with sufficient flexibility to enable the officials concerned to give full play to their expertise and abilities. I am sure that once Mr TIEN learns of the details, he will agree with me.

**MR LAU CHIN-SHEK** (in Cantonese): *Madam President, when I was travelling to Central this morning, a member of the public asked me whether I knew what the accountability system for senior government officials was all about. I replied, "I am not any better informed than you are." And, he said, "How can they be so secretive in their operation .....*

**PRESIDENT** (in Cantonese): Mr LAU, please state your question.

**MR LAU CHIN-SHEK** (in Cantonese): *Madam President, I come to it now.*

*As a trade unionist, I am very concerned about the internal consultation and communication of the Government, especially when the Principal Officials Accountability System devised by Mr TUNG will certainly affect the civil service system. May I ask Mr TUNG whether civil servants, especially those sitting on his right now, were ever consulted in any form during the process of drawing up the Accountability System. How exactly were they consulted? If they have any worries, are there any ways to deal with them?*

**CHIEF EXECUTIVE** (in Cantonese): Mr LAU, as I pointed out just now, throughout the whole process, we actually attached very great importance to maintaining the fine traditions of the Civil Service: its professionalism, neutrality, uncorrupt nature and integrity. This is the first thing.

Second, throughout the process, my colleagues on the right and I often spent long hours discussing the said issues, and it was only after all these discussions that the present conclusions and arrangements were made. Mr LAU can rest assured that civil servants were my main concern during the whole process.

**MR ERIC LI** (in Cantonese): *Mr TUNG, you said a moment ago that when necessary, the contract of a Director of Bureau could be terminated. Currently, there are very clear procedures within the Civil Service governing the appointment and resignation of Bureau Secretaries. Article 52 of the Basic Law even provides for the circumstances under which the Chief Executive may resign. As far as contract termination is concerned, may I ask Mr TUNG whether there are, or will be, any objective, open and transparent criteria for determining the retention or otherwise of a Director of Bureau under the Accountability System? In particular, where there is a vote of no confidence from the Legislative Council, how are you going to realize the objective you have just mentioned — the objective of making Principal Officials attentive to public opinions and enhancing communication with the Legislative Council?*

**CHIEF EXECUTIVE** (in Cantonese): Mr LI, I wish to answer the second part of your question, that is, the part on how what I shall do in case the Legislative Council passes a vote of no confidence in respect of a certain accountability official. To begin with, I will act in accordance with the Basic Law. What is the relevant requirement under the Basic Law? Under the Basic Law, the ultimate power of dismissal rests with the Central Government. That is why we must act in accordance with this requirement.

Regardless of what an accountability official has done, if the Legislative Council moves and passes a vote of no confidence in respect of him, my principle will be that I will first try to find out in detail why the Legislative Council has moved such a motion, and how it is passed. This will certainly be one of my considerations, but not the only consideration influencing my final decision.

**MISS EMILY LAU** (in Cantonese): *Madam President, the Chief Executive said a moment ago that under this new system, Principal Officials had to be*

*answerable to him. But he himself is not elected by the people of Hong Kong. May I therefore ask the Chief Executive how such a system can realize the accountability of the executive authorities to the legislature as well as the gradual and orderly democratization of our institutions as stipulated in the Basic Law? Or, can it be said that this is just a scheme enabling the Chief Executive to send away those competent officials he does not like and replace them by others who "sing the same tune" as his?*

**CHIEF EXECUTIVE** (in Cantonese): Miss LAU, the success of the accountability system, as I pointed out just now, will depend largely on how it is devised and set up. But more importantly, much will also depend on whether or not people of the highest calibre from both the Civil Service and the private sector can be attracted to work under this system. With good talents, the Accountability System will be a success. I am convinced that the appointee will be of very high calibre. Miss LAU, do you really think that the appointees will try to flatter and fawn on me in everything I do? Why do they agree to leave the private sector and work for the Government in the very first place? For money? Or, for power? I do not think so! The main reason for their joining the Government is their commitment to Hong Kong and their wish to contribute to the future of Hong Kong. That is why they are prepared to make personal sacrifices. Miss LAU, if you think that these people will listen only to me after joining the Government, I must say that you really think too lowly of them. I do not believe they will behave like this. And, if I really employ people like this, I will very much be a failure. I will never take on such officials.

**MR AMBROSE LAU** (in Cantonese): *Over the past few weeks, quite a number of local papers have given extensive coverage to various forecasts about the accountability system for principal officials. According to some forecasts, there may be eight accountability officials, and some others say there may be 11. It has now turned out that there will be 11.*

**PRESIDENT** (in Cantonese): Mr LAU, please state your question.

**MR AMBROSE LAU** (in Cantonese): *May I ask the Chief Executive (laughter) what made him determine during the process that the Principal Officials*

*Accountability System could be most effectively implemented with 11 accountability officials?*

**CHIEF EXECUTIVE** (in Cantonese): Mr LAU, to begin with, I wish to take this opportunity to make one point clear. We too are very surprised and concerned that there should have been such a wide circulation of guesses. *(Laughter)* Yes, I really mean it *(laughter)* because this has added many difficulties to government operation. Why did people guess that there might be eight instead of 11? I really have no idea because we never really tried to fix the number, whether it was going to be eight or nine. It only so happened that at the end we decided that there should be 11. But then, why 11? Mr LAU, as I said at the beginning, our prime concern was the allocation of resources, how certain bureaux could be merged to yield the maximum effectiveness and efficiency. On the basis of our long years of administrative experience, we thus made the decision now being put forward. I am convinced that under the existing circumstances, this decision is correct. But this does not mean that several years later, this decision may still be correct; at that time, adjustments may be required. In any case, under the existing circumstances, I think this decision is correct. For instance, we will merge housing and land planning under one single bureau. I am sure that even you will agree that this is a correct decision. We also considered the possibility of merging transport and public works under a larger Policy Bureau. However, following an analysis, we found that this would not be feasible, because the new Policy Bureau would become much too large. Our final decision was made on the basis of all these considerations.

**MR LAU PING-CHEUNG** (in Cantonese): *Madam President, the Chief Executive said just now that the reorganization concerning Bureau Secretaries and Policy Bureaux was based on practical needs and experience. I now wish to ask a question on the environment. In the past, many problems were caused by the conflicts between environmental concerns and infrastructure construction. This time around, the Chief Executive has decided to merge transport and works affairs, and he has also decided to merge housing and planning affairs. But for the environment — that of course includes environmental hygiene, it is to be merged with health and welfare. Can the Chief Executive please explain the thinking behind this merger?*

**CHIEF EXECUTIVE** (in Cantonese): Frankly speaking, no arrangement can be perfect. One possibility is to have a separate bureau on environmental policies. But since environmental hygiene involves a lot of manpower resources as well as the policy areas of medical care and health, so all these policy areas should be grouped together. We also have to consider whether environmental affairs should be grouped together with other policy areas such as transport, lands and even planning. If we are to have a separate bureau on environmental affairs, you will probably ask me now why we should have as many as 12 Policy Bureaux. If we are to have separate bureaux for separate policy areas, then there may have to be 12, or even 13 Policy Bureaux, and that will be too many indeed. There are no scientific criteria for matters like this, but we do think our decision is acceptable.

**DR YEUNG SUM** (in Cantonese): *Mr TUNG, since you are not elected by the people, you do not have to be answerable to the people of Hong Kong, and you will not actually do that either. But the Legislative Council is after all an institution with at least some representativeness, and under the Basic Law, the executive must be accountable to the legislature .....*

**PRESIDENT** (in Cantonese): Dr YEUNG, please come to your question direct.

**DR YEUNG SUM** (in Cantonese): *Therefore, in case the Legislative Council passes a vote of no confidence in respect of a certain Bureau Director, will you be broad-minded enough to accept the Council's consensus? When you answered a Member's question just now, you said that you would consider this, but would you be prepared to establish a kind of basis or even convention in Hong Kong, one under which you would accept such a consensus and report to the Central People's Government for the dismissal of the Bureau Director concerned? I think what you said just now was very repulsive, because when you talked about people of high calibre, you mentioned the business sector only .....*

**PRESIDENT** (in Cantonese): Dr LEUNG, I am sorry, but please respect everybody and refrain from giving your personal views. I think you have already stated your question.

**CHIEF EXECUTIVE** (in Cantonese): Dr YUENG, that is fine. I may perhaps answer your incomplete question first. *(Laughter)* Honestly, I am not thinking only about the business sector; what I have been thinking about is the wider community — the different kinds of talents from the wider community. Second, I wish to tell you that I really feel that I have been returned by an election — an election held by the highly representative, 800-member Election Committee. That is why I would say that there is actually a solid basis for my office as the Chief Executive under the Basic Law. Third, I have already touched upon the point you raised. We must act in accordance with the Basic Law, and the power of dismissal rests with the Central Authorities. Under this broad principle, and as I told the Honourable Eric LI just now, if you pass a vote of no confidence, I will first try to understand all the details, and I suppose this is what I should do first. I will certainly consider the various views of the Legislative Council before making a decision.

**MISS CHAN YUEN-HAN** (in Cantonese): *Mr TUNG, the latest unemployment statistics will be released later this week, and I guess the unemployment rate this time will certainly rise. I think Mr TUNG will take this rate very seriously, and unemployment will be a problem to be considered. But I find the announcement on the Bureau Director posts very interesting. The Secretary for Industry, Commerce and Manpower .....*

**PRESIDENT** (in Cantonese): Miss CHAN, please come to your question direct.

**MISS CHAN YUEN-HAN** (in Cantonese): *Madam President, I shall now state my question. Will this Secretary focus on solving the unemployment problem, or will he or she simply sit with both buttocks on the side of the industrial and commercial sector? (Laughter)*

**CHIEF EXECUTIVE** (in Cantonese): ..... Miss CHAN, I too very much like to speak like you, but I had better not. *(Laughter)* Miss CHAN, as far as manpower resources are concerned, particularly in the immediate future, the unemployment problem will still be serious. I am sure that this is the gravest concern of you, my colleagues and I. In fact, under the new structure, we will pay special, very special attention to manpower resources and unemployment,

and we will exert all efforts to formulate better policies and measures to create more job opportunities, and to provide fresh training opportunities to and make better arrangements for the currently unemployed. I can assure you that we do take this as a very important task.

**MR HOWARD YOUNG** (in Cantonese): *Madam President, may I ask the Chief Executive whether he has started to persuade and identify non-civil service candidates to fill the Principal Officials posts under the Accountability System? What has been the initial response? Is the Chief Executive worried that in case just very few non-civil servant people are willing to work as Bureau Directors under the new system, the historical composition of the Executive Council may have to be changed, from one dominated by non-servant members and supplemented by civil servants to one dominated by members with civil service background?*

**CHIEF EXECUTIVE** (in Cantonese): My main work recently has been focused on the set-up of the Accountability System. Under our schedule, I will soon approach non-civil service candidates and colleagues in the Government to see if they are willing to work as accountability officials. That is why the work in this respect has not started. Mr YOUNG asked me whether I was worried that no non-civil service candidates could be recruited to work as accountability officials. I think it will be no easy task to recruit non-civil servants who are both acceptable to me and willing to work as accountability officials. However, I am still very confident that we will be able to recruit quality people with a sense of commitment to Hong Kong to assist the Government.

As for whether I am worried about the possibility of a civil servant-dominated Executive Council and administration in case no non-servants can be recruited, I do not think that Members should have such a worry. There are also many people of very high calibre in the Civil Service. If these people accept appointment as accountability officials, they too will be motivated by a sense of commitment to the long-term well-being of Hong Kong. In that sense, they must also be very quality people. I am very confident that suitable people can be recruited from outside the Civil Service. Madam President, as I told Mr YOUNG just now, the successful implementation of the Accountability System will depend, to the extent of 50% or even more, on what kinds of people are recruited. This is going to be the next challenge. I hope that I can bring Mr YOUNG good news.

**MR LEE CHEUK-YAN** (in Cantonese): *Madam President, having followed what the Chief Executive has been saying so far, I must say that by no stretch of imagination can I picture how the Principal Officials Accountability System can be associated in any way with accountability to the people. The Chief Executive has been saying that the Principal Officials will be accountable to him, but he is only accountable to the 800 people who elected him. That is why I really fail to see how such a system can be linked with the people. I think this is the weakest segment of the whole Accountability System, for there is simply no accountability to the people at all. May I ask the Chief Executive to explain to us how this system can be linked with the people? Apart from slogans like "With the people's aspirations in mind" and "A firm grasp of public opinions", are there any structural links?*

**CHIEF EXECUTIVE** (in Cantonese): Madam President, Mr LEE should know the answer very well, only that he just wishes to give me one more question. *(Laughter)*

Madam President, as Mr LEE knows, since an accountability official is given both powers and accountability in respect of the co-ordination, formulation and promotion of policies, he must be accountable to the people. If he makes any mistake, he will have to be answerable to the people, answerable to me. Although he is accountable to me, he is in fact accountable to the people. Given this, he will certainly try harder to understand the people's aspirations, to note their opinions. When he considers more of these factors during the process of policy formulation, the outcomes will definitely be more in line with the people's opinions.

One of the reasons why the community supports the implementation of the Accountability System is that we can all see that after its implementation, the whole Government will have to face the masses, face all the 6.8 million people in Hong Kong directly. I am elected by an Election Committee in accordance with the procedures laid down in the Basic Law. But as I have repeatedly mentioned, I am always on the people's side. I often tell my colleagues that we must share the people's aspirations and their sense of urgency, and that we must all the time think about how to better our work.

Therefore, coming back to what I said just now, I am sure that the implementation of the Accountability System will usher in a new era for Hong Kong. I am sure that the people will all welcome this.

**PRESIDENT** (in Cantonese): Honourable Members, the Chief Executive has answered questions from you. We are very grateful to the Chief Executive for coming to the Legislative Council of his own volition, and for answering questions from 12 Members.

Mr Chief Executive, we welcome you to attend Legislative Council meetings more often in the future.

**PRESIDENT** (in Cantonese): The Chief Executive will now leave the Chamber. Will Members please stand.

**PRESIDENT** (in Cantonese): Will Members please sit.

### **TABLING OF PAPERS**

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

Subsidiary Legislation/Instrument	<i>L.N. No.</i>
Hong Kong Airport (Control of Obstructions) (Exemption) (Amendment) Order 2002 .....	49/2002

### **Other Papers**

- |        |   |                                                                                                                     |
|--------|---|---------------------------------------------------------------------------------------------------------------------|
| No. 70 | — | Summaries and Revenue Analysis by Head<br>General Revenue Account<br>Estimates for the year ending 31 March 2003    |
| No. 71 | — | Approved Estimates of Income and Expenditure for the<br>financial year 2002-03<br>Securities and Futures Commission |

**WRITTEN ANSWERS TO QUESTIONS****Planning Brief for South East Kowloon Development**

1. **MR TIMOTHY FOK** (in Chinese): *Madam President, it has been reported that the Planning Department (PD) drew up the planning brief for the South East Kowloon Development (SEKD) about three years ago. However, the planning brief had to be revised because certain proposals therein were opposed by the trade. In June last year, the PD conducted a public consultation exercise on the revised planning brief and recently it received a research report on the revised brief from The Chinese University of Hong Kong. The PD subsequently decided that a consultant should be commissioned to study the recommendations in the report and the study would last for one year. As a result, the implementation of the SEKD has been further delayed. In this connection, will the Government inform this Council:*

- (a) when the planning brief for the SEKD is expected to be finalized and how this schedule compares to the original schedule;*
- (b) whether it has made a cost comparison between the original and the latest planning briefs; and*
- (c) whether it will conduct another public consultation exercise after finalizing the planning brief; if so, of the details and timetable; if not, the reasons for that?*

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

- (a) In August last year, the Planning Department gazetted the revised planning brief for the SEKD (specified as Kai Tak (South) and Kai Tak (North) Outline Zoning Plans). During the gazettal period, the Town Planning Board (the Board) received new comments on the South East Kowloon Development plan. After careful consideration, the Board recommended further amendments to the Kai Tak (South) Outline Zoning Plan to provide more flexibility for future developments. The revised Kai Tak (South) and Kai Tak (North) Outline Zoning Plans will be submitted to the Executive Council for deliberation and decision in June this year as scheduled.

- (b) To tie in with the construction of public housing estates and facilities such as the stadium in the area, the Territory Development Department has entered into a consultancy contract for the detailed design of the infrastructures for the development and reclamation works at the North Apron area and Kai Tak Nullah. Good progress has been made so far. As the reclamation is substantially scaled down, the capital works expenditures of the present proposal cost about \$6 billion less than that of the SEKD scheme announced in 1998.
- (c) The Government has conducted extensive public consultation on the SEKD in the past few years and the present development scheme is generally acceptable to the community. Therefore we will not conduct another public consultation exercise after finalizing the development scheme. However, in response to public views and to improve the urban design of the SEKD, the Planning Department will commission a 12-month consultancy study to provide detailed urban design guidelines for the development and works projects concerned. The study is expected to commence in the middle of the year. During the study, the Planning Department will consult the concerned professional bodies and other interested parties on the matter.

### **Improvement to Ratio of Display of Building Numbers**

2. **DR LUI MING-WAH** (in Chinese): *Madam President, a recent survey conducted by my office revealed that on the main streets throughout the territory, the percentages of shops and buildings displaying building numbers ranged between 25% and 81%. If calculated on the basis of the three regions, namely Hong Kong Island, Kowloon and the New Territories, the percentages ranged between 40% and 66%, which were lower than the results of the sample surveys carried out by the Administration in 1998 and in 2000, which stood at 77% to 91% and at 81% to 89% respectively. At the same time, it was found that there were no or not enough street name plates on many streets, or that the name plates were improperly located or were of inconsistent shapes. In this connection, will the Government inform this Council:*

- (a) *whether it will formulate a long-term and specific target for the ratio of shops and private buildings displaying building numbers; if it will,*

*whether it will calculate the ratio on the basis of streets; if not, of the reasons for that;*

- (b) whether it will appeal to users of shop premises, owners of private buildings or owners' corporations for the display of building numbers, and provide them with practical assistance;*
- (c) whether it will consider collaborating with District Councils to improve the ratio of display of building numbers on a district basis; and whether it will consider issuing instructions to impose a specified time limit on buildings for displaying building numbers, and prosecuting those who fail to comply with the instructions in accordance with the law; and*
- (d) of the concrete measures in place to improve the situation in which the street name plates in Hong Kong are insufficient, improperly located and of inconsistent shapes?*

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

(a) and (b)

The Buildings Ordinance (Cap. 123) empowers the Government to require building owners to display correct building numbers at prominent spots of their buildings. To ensure that building numbers are properly displayed at all new buildings, the Rating and Valuation Department (R&VD) will allocate building numbers to new buildings within one month after their completion. Moreover, the Government has issued guidelines to developers on the required size of building numbers to be displayed and suitable locations for their display. After notifying owners and developers of the relevant building numbers, the R&VD will monitor their compliance until the building numbers have been properly displayed. According to the records of the R&VD, virtually all new buildings have complied with this requirement. The few remaining cases of non-compliance have arisen primarily because the streets concerned have not yet been named.

As regards existing buildings, the R&VD launches a building numbering campaign once every two or three years to ensure the proper display of building numbers by owners. During the past three campaigns, the R&VD sent out letters to owners/occupiers of all ground floor units and owners' corporations to remind them of the need to display building numbers properly. Sample surveys were carried out afterwards. The results showed that about 85% of the buildings inspected had their building numbers properly displayed.

As regards non-compliance cases, follow-up actions have been taken by the R&VD, including, for example, the issue of warning letters to remind the owners/occupiers of the importance of proper display of building numbers. In the majority of these cases, the building numbers were removed or damaged during the course of renovation. In view of this, the R&VD, once becoming aware that a property has been re-let or undergoing renovation work, would issue a letter to the owner/occupier concerned to remind them to properly display their building number after the completion of such work. Appropriate follow-up action will also be taken by the R&VD.

Since the existing arrangements have generally fulfilled the Government's requirements, the R&VD considers that there is no need to set out any new specific target on the ratio of buildings displaying building numbers.

- (c) Although the Government is empowered to take prosecution action against offenders under the Buildings Ordinance, experience of the R&VD shows that owners/occupiers would follow the Department's direction on the proper display of building numbers, making prosecution action unnecessary under these circumstances.

We would also be happy to consider any practicable suggestions on the proper display of building numbers by owners/occupiers, including co-operation with District Councils and other organizations concerned.

- (d) As regards the installation of street name plates, the current practice of the Highways Department (HyD) is to install these name plates at

the beginning and end of a public road, and also at the corner of road junctions where feasible and where there are no obstructions.

The HyD is currently undertaking a consultancy study on standards for enhanced streetscape and street furniture. The study will particularly focus on the following aspects to come up with improvement measures:

- (i) the feasibility of inscribing building numbers on street name plates;
- (ii) the redesign of the sign face of street name plates; and
- (iii) the adoption of a more unified approach to deal with the locations and methods of mounting street name plates, for example, the use of multi-function poles to mount street name plates at street corners.

The study is expected to be completed by mid-2002. Once the proposals on street name plates are adopted, we will implement them in phases.

### **Early Enrolment of Top Secondary Six Students Scheme**

3. **MR AMBROSE LAU** (in Chinese): *Madam President, regarding the Early Enrolment of Top Secondary Six Students Scheme launched by a number of local universities for direct enrolment of students who obtained outstanding academic results in the Hong Kong Certificate of Education Examination, will the Government inform this Council whether:*

- (a) *it has studied the pros and cons of the scheme; if so, of the details; and*
- (b) *it knows if the universities concerned have conducted comprehensive consultations with secondary school principals and the education sector before launching the scheme; if so, of the outcome; if not, the reasons for that?*

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

- (a) In the Education Commission (EC)'s consultation document on the Review of Education System issued in May 2000, the idea of allowing universities to admit a small number of outstanding Secondary Six students was raised. During the consultation, some people have expressed concern about possible confusion and competition among universities for outstanding students. After weighing the pros and cons, the EC supports the introduction of greater flexibility into the education system (especially in the senior secondary and post-secondary stages) so that students can adjust their pace of learning according to their abilities and individual circumstances. If universities are only allowed to admit a small number of Secondary Six students, the impact on secondary schools should be minimal. In this connection, the University Grants Committee (UGC) has agreed with UGC-funded institutions that:
- (i) advance placement for Secondary Six students should be based on exceptional merit, and institutions have to absorb additional resources requirements for these students; and
  - (ii) the number of students admitted under this arrangement should not exceed 2% of an institution's first-year-first-degree places.

With the above mechanism in place, we believe that the scheme will introduce greater flexibility into the education system, without causing disruption to the secondary school sector.

Some UGC-funded institutions have announced plans to recruit outstanding Secondary Six students into their undergraduate programmes. The recruitment exercise has just begun and the earliest intakes under the scheme will only commence their undergraduate studies in the 2002-03 academic year. We shall monitor the scheme closely and consider whether the scheme should be continued and expanded in the light of its effects on the students and on teaching and learning in universities and at senior secondary level.

- (b) The recruitment of students is part of an institution's autonomy. In addition to the EC's consultation exercise referred to in (a) above, we understand that some institutions have consulted the secondary school sector through informal channels. One of the institutions has also consulted organizations, such as the Grant Schools Council and the Hong Kong Subsidized Secondary Schools Council, on the scheme.

In general, institutions concerned have received favourable responses from students and the secondary school sector.

### **Nuisances Caused by Bars to Residents Nearby**

4. **MR IP KWOK-HIM** (in Chinese): *Madam President, many bars in Hong Kong are situated in residential areas. Many are allowed to sell liquor until midnight and even until early morning during weekends and holidays. Their customers often get drunk late at night, yelling noisily and causing trouble in the streets, hence posing serious nuisances to residents nearby. In this connection, will the Government inform this Council:*

- (a) *of the criteria and justifications for imposing restrictions on bars by stipulating different liquor selling hours for different days; and*
- (b) *whether, in considering applications for the grant or renewal of liquor licences, the authorities will take the number of complaints lodged by residents nearby to the police about nuisances caused by bars and the details of such complaints as decisive factors in making decisions; if not, of the important factors contributing to its decisions to grant or renew liquor licences, thus allowing those bars likely to cause or having track records of causing nuisances to residents nearby to operate until midnight or even early morning?*

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

- (a) The Liquor Licensing Board (LLB) is an independent statutory body set up in accordance with the provisions of the Dutiable

Commodities (Liquor) Regulation (Cap. 109B). It has to act within the authority empowered by the Regulation. One issue that has to be considered by the LLB in licence applications is whether, after the granting of a liquor licence, nuisance would be created for the nearby residents or that public order would be detrimentally affected. The LLB will consider the individual circumstances for each application and decide whether a liquor licence would be granted to the premise, and whether the licence, if granted, should be subject to any other conditions or restriction on the liquor selling hours.

- (b) In deciding whether a liquor licence or renewal of liquor licence application should be approved, the LLB will, according to the requirements in the Regulation mentioned above, consider whether the applicant is a fit and proper person to hold the licence, whether the premises to which the application relates are suitable for selling or supplying liquor having regard to the location and structure of the premises and the fire safety and hygienic conditions in the premises, and whether it would be contrary to the public interest if the licence is granted.

For disputed applications, for example, where the police or residents have raised objection against the applications, an open hearing will be conducted by the LLB before making a decision. The applicant and objector(s) will be invited to attend the hearing and present their views. The LLB will also consider whether any complaints have been lodged by the nearby residents to the police about nuisances caused, and the number and details of such complaints. The LLB will then make a decision to grant or renew the licence according to the individual facts of the case. The LLB could also exercise its discretionary power to grant a licence of a shorter valid period in order to observe the operations of the licensed premise. As such, normal business of bars could be allowed to develop while appropriate conditions could be imposed on the licence to safeguard the interest of the nearby residents.

## Civil Service Pay Adjustments

5. **MR NG LEUNG-SING** (in Chinese): *Madam President, regarding civil service pay adjustments, will the Government inform this Council:*

- (a) *as Article 100 of the Basic Law provides that public servants serving in all Hong Kong government departments before the establishment of the Hong Kong Special Administrative Region (SAR) may all remain in employment with their pay, allowances, benefits and conditions of service (the remuneration package) no less favourable than before, whether it has studied if the remuneration package refers to its cash price at that time or its real value, in the context of the expression "no less favourable than before"; if so, of the findings of the study and the relevant arguments; and*
- (b) *whether the movement of the price index has all along been a major consideration in determining the size of civil service pay adjustment, and whether an alternative formula has been adopted in the light of the price index falling to a negative level; if so, of its rationale for that?*

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Chinese): Madam President, Article 100 of the Basic Law provides that public servants serving in all Hong Kong government departments before the establishment of the SAR may all remain in employment and retain their seniority with the remuneration package no less favourable than before.

There is great variety in the remuneration package of civil servants who served in the Hong Kong Government before the establishment of the SAR and who are still in the service. Some of these items are paid in cash and some others are provided in kind. For the purposes of determining compliance with the "no less favourable than before" provision in Article 100 of the Basic Law, we need to consider each case individually having regard to the particular features of the concerned item. Insofar as pay is concerned, it is arguable whether changes in the cost of living since 30 June 1997 should be taken into account. But at present, having regard to deflation since 30 June 1997, it would clearly be consistent with the Basic Law, if the pay levels are either at or above their level in cash terms at that date.

Under the existing civil service pay adjustment mechanism, the Government will take into account the results of the annual private sector Pay Trend Survey, changes in the cost of living, the state of the economy, budgetary considerations, the staff sides' pay claims and civil service morale before making a decision on the size of the annual civil service pay adjustment. Changes in the cost of living, whether positive or negative, is one of the factors that will be considered during the pay adjustment exercise. Each year's civil service pay adjustment is based on the overall consideration of all the aforementioned factors.

### **Ranking of Commandant of Immigration Service Training School**

6. **MS AUDREY EU** (in Chinese): *Madam President, it has been reported that the post of Commandant of the Immigration Service Training School in the Immigration Department (ImmD) was upgraded from the original rank of Assistant Principal Immigration Officer to the rank of Principal Immigration Officer in late January this year and, at the same time, 10 posts in more junior ranks were deleted. In this connection, will the Government inform this Council:*

- (a) of the additional expenditure to be incurred as a result of the upgrading of the post concerned and the savings to be achieved with the deletion of the 10 posts in more junior ranks in the fiscal year 2002-03;*
- (b) whether the deletion of the 10 posts in question has been necessitated by the need to make up for the additional expenditure incurred by upgrading the post concerned; and*
- (c) whether an assessment has been made of the impact of the deletion of these posts on the delivery of services by the ImmD; if so, of the details?*

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

- (a) The post of Commandant of the Immigration Service Training School in the ImmD was taken up by an Assistant Principal

Immigration Officer from June 1989 to January 2002. During the period, Immigration staff have been facing new challenges and an ever-increasing workload. The job nature has become more complex and sensitive. In order to deliver quality services, the ImmD has to keep pace with the times by broadening the scope and enhancing the quality of its training courses. Moreover, with the implementation of the plan to build a new permanent Immigration Service Training School in Tuen Mun, the Commandant has to shoulder higher duties and heavier workload. In the circumstances, the ImmD upgraded the post of Commandant of the Immigration Service Training School from the rank of Assistant Principal Immigration Officer to the rank of Principal Immigration Officer in January 2002. The additional salary cost incurred as a result of the upgrading of the post is \$123,900 for the financial year 2002-03 (the annual salary cost of a Principal Immigration Officer is \$1,122,660, while that of an Assistant Principal Immigration Officer is \$998,760).

It is believed that the report on the deletion of the 10 posts in fact refers to the deletion of 11 civilian posts in January this year. The full-year savings in the total salary cost achieved by the deletion of these posts are \$1,821,720.

- (b) The upgrading of the post of Commandant of the Immigration Service Training School was made possible with the existing resources of the ImmD. It has nothing to do with the deletion of the 11 civilian posts. Of these 11 civilian posts, two of them were deleted under the Enhanced Productivity Programme. The full-year savings in the total salary cost of \$1,490,220 achieved by the deletion of the remaining nine posts were used to create eight Senior Immigration Assistant posts at the Lo Wu Control Point in February this year to enhance immigration clearance services. The total annual salary cost of the eight Senior Immigration Assistants is \$2,090,400. The shortfall is met through redeployment of internal resources.
- (c) The deletion of the 11 civilian posts was a measure taken by the ImmD to achieve flexible redeployment of manpower resources so as to increase the number of front-line counter officers and enhance immigration clearance services.

The ImmD reviews its manpower requirements constantly with a view to coping with changes in work and enhancing productivity, operational efficiency and cost-effectiveness. Being committed to fulfilling its performance pledges, the ImmD will consider each and every deletion of posts carefully in order to ensure that service quality will not be affected.

### **Installation of High Intensity Vehicle Headlamps**

7. **MR JAMES TO** (in Chinese): *Madam President, some vehicle owners have converted the headlamps of their vehicles into high intensity ones emitting beams of blue light, and in case of improper installation, the dazzling light emitted by these high intensity headlamps will blur the vision of drivers and other road users and may cause traffic accidents. In this connection, will the Government inform this Council whether it will control the conversion of headlamps into high intensity ones emitting beams of blue light; if so, of the concrete plan for implementation and the timetable for public consultation; if not, the reasons for that?*

**SECRETARY FOR TRANSPORT** (in Chinese): Madam President, according to the Road Traffic (Construction and Maintenance of Vehicles) Regulations, the main or dipped beams emitted by vehicle headlamps should be beams of white or yellow light. Vehicle headlamps approved for use in Hong Kong all comply with the internationally accepted standards. The Road Traffic (Traffic Control) Regulations further specify that where a system of street lights is in operation or in the face of approaching traffic, vehicle headlamps should be dipped to an angle that is incapable of dazzling any other road users. Contravention of the provisions under the above Regulations will be liable to a maximum fine of \$10,000 and six months' imprisonment.

To ensure road safety, the Administration will continue to regulate vehicle headlamps through the annual inspection of vehicles and roadside enforcement. We will also step up publicity on the proper installation and use of headlamps.

**Application for Registration as Electrical Workers**

8. **MR LEUNG FU-WAH** (in Chinese): *Madam President, according to the Electricity Ordinance and the Electricity (Registration) Regulations (Cap. 406, sub. leg.), an applicant who applies for registration as an electrical worker for the first time, for changes to the grade of electrical work he is qualified to do, or for additional electrical work he is entitled to do, shall, in addition to the specified qualification requirements, submit certain certificates, including reference letters, certificates of services or certificates of employment for electrical wiring and installation work. In this connection, will the Government inform this Council of:*

- (a) *the numbers of applicants who applied for registration under the Ordinance, those who were registered, and those whose registration was refused, with a breakdown by the reasons for refusal, over the past three years;*
- (b) *the number of appeals by applicants whose registration was refused over the past three years; and*
- (c) *whether the Director of Electrical and Mechanical Services has discretion to approve such applications; if so, of the criteria adopted by the Director in exercising such discretion, and the number of cases in which such power was exercised and the reasons for using such power on each occasion, over the past three years?*

**SECRETARY FOR ECONOMIC SERVICES** (in Chinese): Madam President,

- (a) Over the past three years, the number of applicants who applied for new registration as electrical workers, change of grade of electrical work and additional permitted electrical work under the Electricity (Registration) Regulations (Cap. 406, sub. leg.) and the number of successful applicants are as follows:

<i>Year</i>	<i>No. of applicants</i>	<i>No. of successful applicants</i>
1999	2 149	2 113
2000	2 595	2 564
2001	3 361	3 335

The number of unsuccessful applicants, according to the principal reason for refusal, is as follows:

<i>Year</i>	<i>No. of unsuccessful applicants</i>	<i>Major Reason for Refusal</i>	
		<i>inadequate academic qualification</i>	<i>inadequate experience in electrical work</i>
1999	36	23	13
2000	31	17	14
2001	26	13	13

- (b) Over the past three years, the Electrical and Mechanical Services Department has not received any appeal from the unsuccessful applicants.
- (c) In approving applications for registration as electrical worker, the Director of Electrical and Mechanical Services makes decisions in accordance with the requirements for academic qualification and work experience as stipulated in the Electricity (Registration) Regulations. The Regulations do not confer discretionary power upon the Director.

### **SME Business Installations and Equipment Loan Guarantee Scheme**

9. **MR KENNETH TING** (in Chinese): *Madam President, under the SME Business Installations and Equipment Loan Guarantee Scheme (BIG) launched by the Government at the end of last year, the Government acts as the guarantor of individual small and medium enterprises (SMEs) to facilitate their securing loans from banks and financial institutions. The applications concerned must*

*be lodged with the Trade and Industry Department (TID) through relevant lending institutions. It has been reported that a plastics recovery and recycling company has complained of its failure to secure any loans six months after it had lodged its application with a lending institution, and the company was on the verge of closure. The TID has responded that it will study the feasibility of allowing SMEs to lodge their applications directly with the TID. In this connection, will the Government inform this Council of:*

- (a) the progress of the study on the feasibility of allowing SMEs to lodge their applications for loan guarantee directly with the TID; and*
- (b) the total number of applications so far received under the BIG from businesses related to environmental protection industries and, among these applications, the number of those which have secured loans from banks and financial institutions as well as the total amount of loans involved?*

**SECRETARY FOR COMMERCE AND INDUSTRY** (in Chinese): Madam President, the replies to the two questions raised by the Honourable Kenneth TING are as follows:

- (a) The funding proposal for the BIG was endorsed by the Finance Committee of the Legislative Council in last November. A key principle of the Scheme was that it should be market-driven and that the risks should be shared between the Government and the lending institutions. Under this principle, all individual loan applications must first be vetted by the participating lending institutions of BIG in accordance with their professional judgement. The Government would then decide whether guarantees should be provided for the SME loans that the lending institutions intend to accept under the scheme.

We have no plan to change the existing processing arrangements by asking the TID to handle the loan applications directly, as the applications must first be vetted by the lending institutions according to their professional judgement under the aforementioned principle and mechanism. Since the Government cannot and will not intervene in the decisions of the lending institutions, the application

process would only be prolonged were we to ask SMEs to submit their applications to the TID first. We consider such a change to be detrimental rather than conducive to the financing interests of SMEs.

As to the specific case mentioned in Mr Kenneth TING's question, the TID has taken the initiative to contact a number of participating lending institutions of BIG and invited them to consider providing loans for the company under the Scheme. However, the lending institutions indicated that they could not provide loans for the company having studied its case.

The Government will nevertheless continue to attach importance to the financing needs of SMEs. The Small and Medium Enterprises Committee (SMEC) has recently established a Roundtable for SME Financing. It comprises SMEC members, SMEs, representatives from the financial services, the Hong Kong Monetary Authority, as well as from the relevant government departments. The Roundtable will explore the best way to further meet the financing needs of SMEs and put forward practical recommendations in due course.

- (b) As at April 11 this year, there was one application in connection with the environmental protection industry under the BIG. The loan amount was \$400,000, of which 50%, that is, \$200,000, was guaranteed by the Government.

### **Enrolment of Nursing Students**

10. **MR MICHAEL MAK** (in Chinese): *Madam President, the Hospital Authority (HA) ceased enrolling nursing students in 1999. People who are interested in joining the nursing profession can take the higher diploma or degree courses in nursing offered by the University of Hong Kong, The Chinese University of Hong Kong or the Hong Kong Polytechnic University. It has been reported that the Administration has recently requested the Queen Elizabeth Hospital of the HA to organize higher diploma course on nursing this September and to enrol nursing students. In this connection, will the Government inform this Council:*

- (a) *whether it has assessed if such request contravenes the Government's policy on upgrading nurses to degree level; if it has, of the details; if not, the reasons for that;*
- (b) *of the details about the enrolment of nursing students on this occasion; and*
- (c) *whether the tuition of the course concerned is collected at cost from the nursing students or paid out of the public fund?*

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

- (a) The Government supports the upgrading of basic nursing education to degree level for enhancement of quality health care service. We started our first intake of 40 publicly-funded first-year-first-degree places in pre-registration nursing programme in 1990 and has since increased the places to 280 in 2001-02, which would further increase to 395 by the end of the 2001-02 to 2003-04 triennium. Pending a full-scale upgrading of basic nursing education to degree level, other nursing programmes such as higher diploma courses are offered as a bridging over arrangement. The number of higher diploma nursing places for the 2001-02 to 2003-04 triennium is 160 for 2001-02 and 230 each for the subsequent two years. The Government has recently assessed the demand for nursing manpower in the coming five years and has projected a shortfall in the supply of degree/higher diploma nurses in the market. We have therefore requested the HA to run a higher diploma-equivalent nursing programme to address the supply problem as an interim measure. In this connection, the entry requirements of students for this HA-run nursing programme are the same as those for Higher Diploma in Nursing Programmes run by tertiary institutions.
- (b) The Higher Diploma Nursing Programme will have 100 to 120 places. The HA will in May 2002 start recruiting students for the three-year nursing programme which will commence in September 2002. Entry requirements for the programme are as follows:

- (i) Hong Kong Advanced Level Examination (HKALE) (Advanced Level) with Grade E in one subject, or HKALE (Advanced Supplementary Level) with Grade E in two subjects; and
  - (ii) Hong Kong Certificate of Education Examination with Grade C in one subject, Grade D in English Language (Syllabus B) and Grade E in four other subjects, which must include Biology/Human Biology, and Chinese Language/Chinese Literature; and
  - (iii) Fluent in written English and Chinese, and in oral English and Cantonese.
- (c) Students enrolling in the programme are required to pay a tuition fee to cover the full costs for the components of the teaching by a tertiary education institution in seven subjects (namely, human biology, patho-physiology, applied microbiology, psychology, sociology, ethical and legal aspect of nursing, and theories of knowledge and human nature). The hospital component of the training and administration costs for running the programme will be absorbed by the HA within its existing available resources.

### **Operation of Unlicensed Residential Coach Services**

11. **DR DAVID CHU** (in Chinese): *Madam President, a traffic accident involving four residents' coaches (RCs) occurred at the Kwai Tsing Road section of Route 3 in Kwai Chung on 15 March this year and more than 100 people were injured. It is learnt that one of the RCs was suspected by the police of operating without a licence. Regarding the Government's measures to crack down on operators of unlicensed RCs, will the Government inform this Council of:*

- (a) *the number of prosecutions instituted by the police against operators of unlicensed RCs in the past two years;*
- (b) *the number of unlicensed RCs, as well as the routes usually serviced by these RCs; and*

- (c) *the effective measures in place to crack down on operators of unlicensed RCs so as to safeguard the safety of passengers, in addition to requiring the licensees to display the passengers service licence certificate on the windscreen and a copy of the Details of Approved Residents' Service on the nearside front window of the vehicle; whether prosecutions will be instituted against operators of unlicensed RCs on an ongoing basis?*

**SECRETARY FOR TRANSPORT** (in Chinese): Madam President, the police issued about 4 000 and 4 500 fixed penalty tickets on account of illegal operation of non-franchised buses (including unauthorized RC service) in 2000 and 2001 respectively. There are no separate figures showing the number of tickets issued to operators of illegal RC service.

Public buses are required to obtain a passenger service licence and approval from the Commissioner for Transport in order to operate RC service. Unauthorized RC services operate mostly in new development areas such as the northwest New Territories. Since the operation and number of unauthorized RC services fluctuate due to various reasons such as changes in passenger demand or service termination as a result of enforcement actions, the Administration has no exact figures on the number of unauthorized RCs.

The Administration attaches importance to the regulation of RC services. The Transport Department will strengthen co-operation with the police to take appropriate enforcement actions against the operation of unauthorized RC services. The Transport Department will continue to:

- (i) regulate the activities of RC services through traffic management measures such as setting up of restricted zones and designated bus stops;
- (ii) issue warning letters to offenders;
- (iii) issue fixed penalty tickets through the police;
- (iv) issue summons to offenders in joint efforts with the police;

- (v) conduct inquiry in accordance with the Road Traffic Ordinance having regard to the circumstances of individual cases. Based on the results of such inquiry, the Commissioner for Transport may suspend, cancel or vary the passenger service licence of the offenders.

### **Using Plot Ratio in Calculating Development Density of PRH Estates**

12. **DR TANG SIU-TONG** (in Chinese): *Madam President, regarding the planned development density adopted for the Housing Department's proposed Tsing Yi Area 10 Phases 4 and 5 public housing development project (that is, the redevelopment of the shopping arcade in Cheung Hang Estate and the construction of four additional public rental housing (PRH) blocks in the estate), and the Housing Authority's switch from using the "development ratio" to "plot ratio" in calculating the development density of PRH estates since the middle of 2000, will the Government inform this Council:*

- (a) *of the original basis adopted for calculating the planned development density of the development project mentioned above, and whether the Housing Department has subsequently made an application for changing the relevant calculation basis; if so, the progress in vetting the application;*
- (b) *of the permitted maximum plot ratio for the site at Tsing Yi Area 10 as prescribed in the latest outline zoning plan for the area;*
- (c) *whether the Planning Department, the Transport Department, the Environmental Protection Department or other government departments have expressed objection to or reservations over the Housing Department's proposed change to the development density of Cheung Hang Estate; if so, of the details;*
- (d) *of the differences in the gross building floor area, site area and plot ratio of Cheung Hang Estate before and after the completion of the development project mentioned above, calculated in terms of "plot ratio";*

- (e) *of the differences in the gross building floor area, net area and development ratio of Cheung Hang Estate before and after the completion of the development project mentioned above, calculated in terms of "development ratio"; and*
- (f) *of the reasons for the Housing Authority's switching to using the "plot ratio" in calculating the development density of PRH estates, and the mechanism adopted by the authorities concerned for vetting and approving applications for changing the calculation basis of development density?*

**SECRETARY FOR HOUSING** (in Chinese): Madam President,

- (a) Prior to mid-2000, the Housing Authority used Development Ratio (DR) [as opposed to Plot Ratio (PR)] to calculate the density of its PRH and Home Ownership Scheme (HOS) projects. The Planning Brief for Tsing Yi Area 10 Phases 4 and 5 involving the construction of four additional blocks at Cheung Hang Estate was approved in 1999. Since then, the Housing Authority has not changed the permissible DR and there is no intention to revise the basis of calculation of development density from DR to PR.
- (b) The Outline Zoning Plan S/TY/17 for Tsing Yi Area 10 does not have any plot ratio restriction for residential sites.
- (c) The Planning Department, the Transport Department, the Environmental Protection Department and other government departments have been consulted and they do not object to the Housing Department's proposals.
- (d) As explained under (a), "plot ratio" has never been used in the case of Cheung Hang Estate.
- (e) The difference in the gross building floor area, in estate area and the development ratio of Cheung Hang Estate before and after the completion of the redevelopment project calculated in terms of development ratio is shown at the Annex.

- (f) The Housing Authority changed the basis of calculating development density from DR to PR in mid-2000 in order to align with private sector practice. Irrespective of whether DR or PR is used, the approval procedure for the planning briefs of PRH projects is the same. The endorsement of the development parameters by the relevant District Planning Conference of the Planning Department must be obtained prior to commencement of work on site.

## Annex

## Cheung Hang Estate before and after redevelopment

	<i>Existing Cheung Hang Estate</i>	<i>After redevelopment</i>	<i>Remarks</i>
Net estate area	5.9 ha	5.9 ha	
Total gross floor area	256 652 sq m	353 243 sq m	
Development Ratio	4.4	6	The Development Ratio of 5 to 7 is normally allowed for in the planning of PRH and HOS projects.

### Advertisements Involving Unlawful Activities

13. **MISS CHOY SO-YUK** (in Chinese): *Madam President, recently, advertisements with the theme of "making fast money" have often been placed on newspapers, inviting men and women born in Hong Kong to respond, and those responding to the advertisements may be arranged to have nominal marriages with mainland residents, so that the latter can apply for settlement in Hong Kong in their capacity as spouses of Hong Kong residents. In this connection, will the Government inform this Council:*

- (a) *whether the police has deployed any officers to respond to such advertisements in the past three years, so as to collect evidence for prosecuting persons involved in the unlawful activities; if so, of the number of prosecutions instituted and the average penalty imposed by the Court on those convicted;*

- (b) *of the specific plans to block entry to Hong Kong by mainland residents through such means; and*
- (c) *whether any mechanism is in place for regulating such advertisements which may involve unlawful activities; if so, of the details; if not, the reasons for that?*

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

- (a) If any arrangement for marriages between Hong Kong residents and mainlanders is found to involve illegal activities, such as causing deception or other criminal offences, the police will investigate the crimes in accordance with their established procedures and lay charges against suspects if necessary. At present, the police do not maintain statistics for this particular type of criminal investigations. No information could therefore be provided in respect of the number of prosecutions instituted regarding such cases, or whether the police have deployed officers to respond to the recruitment advertisement in question.
- (b) If mainlanders who are married to Hong Kong residents want to settle in Hong Kong, they have to apply to the Public Security authorities for one-way permits to Hong Kong under the existing quota system. If any mainland residents are found to have obtained one-way permits through illegal means, the Immigration Department (ImmD) will conduct thorough investigation. The ImmD will also liaise with the relevant mainland authorities to verify whether the one-way permits are obtained through giving false information. If there is evidence to show that the persons involved breach any Hong Kong laws at the time of their entry into Hong Kong (for example, make false declaration to Immigration Officers), they will be prosecuted and repatriated to the Mainland.

The Public Security authorities in the Mainland adopt very stringent rules in issuing one-way permits to mainlanders for settlement in Hong Kong. The ImmD have not handled any cases involving mainlanders who obtained one-way permits by false claims of marriages with Hong Kong residents.

- (c) The police will investigate any advertisement relating to illegal activities and will take enforcement actions as appropriate depending on the nature of such illicit acts.

### **Ban on Chinese Foodstuffs Containing Prohibited Antibiotics**

14. **MR FRED LI** (in Chinese): *Madam President, it has been reported that the European Union (EU) alleged last month that some foodstuffs (such as chilled chickens, rabbits, prawns, crabs, honey, and so on) and pet feed exported from China contained prohibited antibiotics, and banned the import of such items. In this connection, will the Government inform this Council whether:*

- (a) it has approached the authorities of EU and China for information concerning the above situation; if so, of the details;*
- (b) Hong Kong has imported such items over the past three years; if so, of the quantity of each type of these items; and*
- (c) it has conducted regular sample tests on such items for antibiotic contents over the past three years; if so, of the test results and measures taken against those confirmed to have contained antibiotics?*

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

Madam President,

- (a) The Government has contacted the Hong Kong Office of the EU and the State General Administration for Quality Supervision and Inspection and Quarantine to understand the situation. According to the information released, the EU decided to temporarily suspend the import of all mainland China's products of animal origin intended for human consumption or for use in animal feed with effect from 30 January 2002. This decision was made in the light of an inspection report on the control of chemical residues in live animals and animal products in the Mainland compiled by the EU's

Food and Veterinary Office. The main products being suspended include honey, rabbit meat, poultry and crustacean food such as shrimps and prawns. The mainland authorities concerned considered the inspection report an inaccurate one exaggerating the seriousness of the issue. The Mainland suggested that the problem be solved through negotiation.

- (b) The total quantity of the aforesaid food and animal feed imported from the Mainland in the past three years is as follows:

Honey	49 000 tonnes
Frozen chicken meat	59 000 tonnes
Frozen rabbit meat	95 tonnes
Frozen shrimps	18 600 tonnes
Frozen crabs	0.9 tonnes
Animal feed	372 570 tonnes

- (c) Between 1999 and 2001, the Government took samples of the above foodstuffs from the Mainland regularly for tests. No antibiotics was detected in the samples tested. The departments concerned also conducted regular tests on imported and local food animals to monitor and control the feeding of animals with antibiotics.

On 31 December 2001, the Public Health (Animals and Birds) (Chemical Residues) Regulation and the Harmful Substances in Food (Amendment) Regulation 2001 came into effect. These two pieces of legislation regulate the use of seven prohibited chemicals (including chloramphenicol, EU's major concern in this incident) and 10 chemicals to be used with restriction (with maximum residue limit) in food, food animals and feed. The departments concerned adjusted their inspection schemes to tie in with the enforcement of the new legislation. Between January and March this year, no antibiotics were detected in the samples the department concerned took from the above foodstuffs imported from the Mainland for testing. As for food animals, the departments concerned took 100 samples for testing during the same period and found prohibited antibiotics in two of the samples.

To safeguard public health, once the Government detected prohibited chemicals or chemicals with excessive concentration in food, food animal or feed, we will dispose of these commodities properly in accordance with the powers provided for in the law. These include the powers provided under section 59 of the Public Health and Municipal Services Ordinance to seize, remove and destroy food unfit for human consumption, as well as the powers given under sections 9, 10, 14 or 15 of the Public Health (Animals and Birds) (Chemical Residues) Regulation to suspend the supply of, recall and destroy food animals or feed contaminated by chemicals.

Since the two pieces of legislation came into force, no antibiotics have been found in the food samples taken so far. Therefore, the department concerned has not exercised the aforesaid power to seize, remove or dispose of any food because of contamination by prohibited or excessive antibiotics. As for food animals, the department concerned has exercised the aforesaid power to destroy 40 live pigs suspected of containing prohibited antibiotics.

Subject to the availability of sufficient evidence, the Government will consider prosecuting any person suspected of committing offences. According to the Harmful Substances in Food Regulation, any person selling food containing prohibited chemicals or chemicals with a concentration in excess of the maximum limit is liable to a maximum fine at level 5 (that is, \$50,000) and an imprisonment of six months. The Public Health (Animals and Birds) (Chemical Residues) Regulation stipulates that any food animal farmer or trader who keeps or has in his possession any food animal or feed containing any prohibited chemicals or chemicals in excess of the maximum residue limit is liable to a maximum fine at level six (that is, \$100,000). Regarding the cases involving the presence of prohibited antibiotics in food animals, the department concerned is considering whether there is sufficient evidence to institute a prosecution.

In the light of the findings of risk assessments, the departments concerned will continue to review the scope of their surveillance programmes and the number of samples to be taken for testing.

**Land Use of Cheung Kong Center**

15. **MR ALBERT CHAN** (in Chinese): *Madam President, it has been reported that when the Cheung Kong (Holdings) Limited planned to demolish Hilton Hotel for the construction of a commercial building (now the Cheung Kong Center (the Center)), the company was granted the right to develop the government lot adjacent to the development site (that is, where the Beaconsfield House and a public car park were then located) through private negotiations with the Government. At the end of last year, advertisement signs of the company were displayed on the public footbridge adjacent to the Center. At the same time, areas originally planned as public sitting-out areas within the boundary of the Center were being used for illegal parking, which might cause inconvenience to the public and pose risks to pedestrians. In this connection, will the Government inform this Council:*

- (a) of the details related to the public areas, sitting-out areas and car parks in the overall development plan of the Center, including their exact locations, sizes and dates of completion;*
- (b) of the locations of pedestrian walkways in the development plan and their management rights; and*
- (c) whether any mechanism is in place to regulate the abovementioned display of advertisement signs and parking; if so, of the details?*

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

- (a) In accordance with the lease conditions, the lot owner of the Center has to complete construction of the following facilities by 3 November 2002:
  - (i) a public open space of not less than 5 200 sq m; and
  - (ii) a public car park with 800 parking spaces. Before the completion of the car park, the lot owner has to provide 500 temporary parking spaces for public use within the lot.

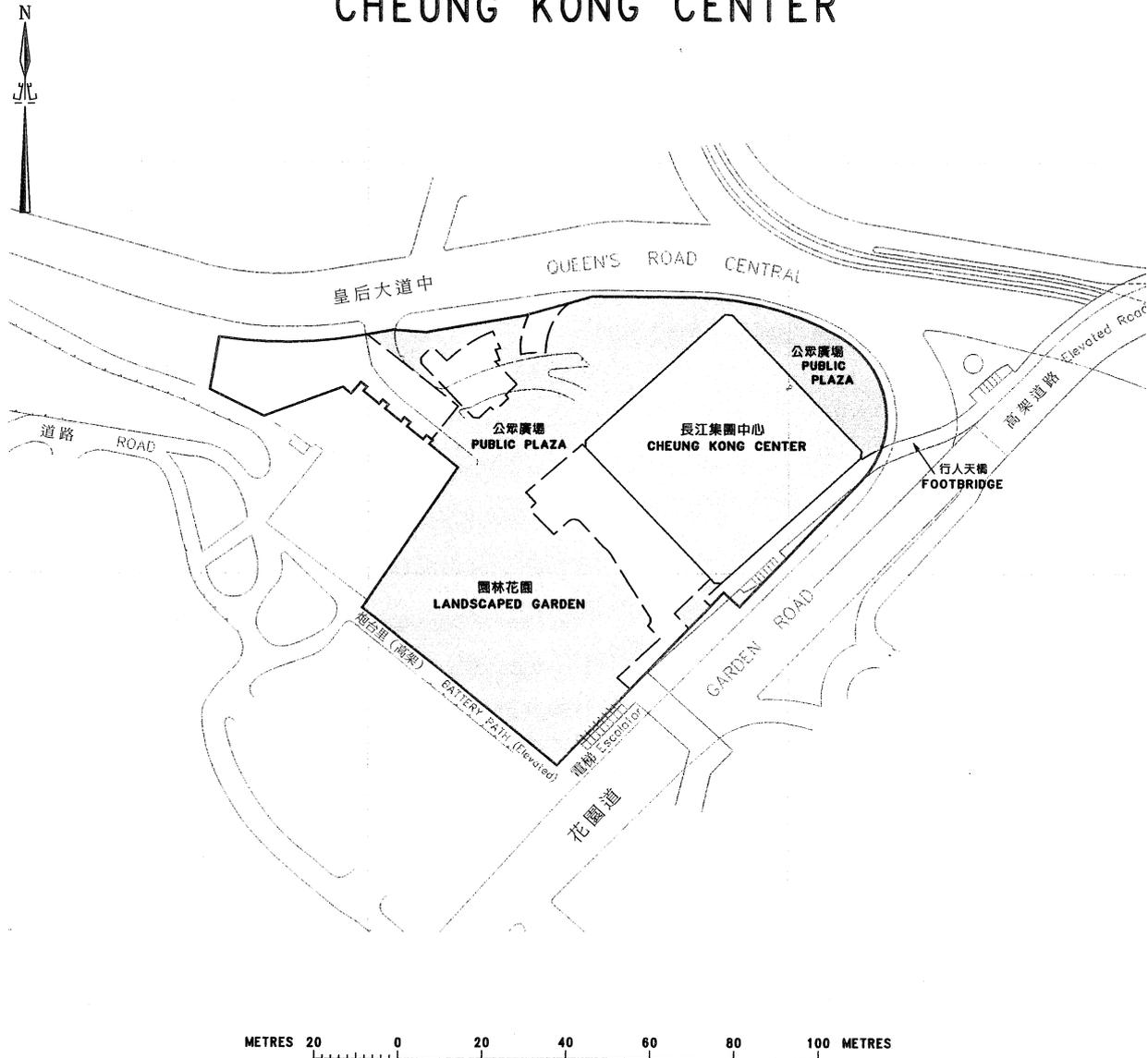
A plan showing the overall development of the lot is at Annex. The area marked green (some 5 444 sq m) is public open space comprising the public plaza at ground level facing Queen's Road Central and the landscaped garden above the ground adjacent to Battery Path. The existing 500 temporary parking spaces in use are located below the landscaped garden, as will be the future 800 public parking spaces.

- (b) The public can have free access to all the open space within the lot. The whole area within the lot, including the public open space and the public car park, is managed by the lot owner.
  
- (c) The use of the lot must comply with the lease conditions. Non-compliance with the lease conditions can lead to lease enforcement action by Government. The footbridge adjacent to the Center was constructed in accordance with the lease conditions. Part of the footbridge is located on government land. According to the lease conditions, the lot owner should upkeep and maintain the footbridge, including the part on government land. However, this does not give the lot owner the right to display advertisements at that part of the footbridge that is on government land. In this regard, the Lands Department had advised the lot owner to remove the advertisement display that was on government land. The lot owner had complied with the advice and removed the advertisement display.

As regards the problem of parking at the public open space, the Lands Department wrote to the lot owner upon receipt of complaint, requesting them to stop using the public open space for parking. The Lands Department will continue to monitor the situation and will take appropriate action if there is any further breach of the lease conditions.

長江集團中心  
CHEUNG KONG CENTER

附件  
Annex



圖例 LEGEND

- 公眾休憩用地  
PUBLIC OPEN SPACE
- 地段範圍  
LOT BOUNDARY

**Number Portability Services for Fixed Telecommunication Network Services**

16. **MR SIN CHUNG-KAI** (in Chinese): *Madam President, the Office of the Telecommunications Authority (OFTA) introduced number portability services for fixed telecommunications network services (FTNS) in 1997 so that consumers might freely switch between service providers without having to change their telephone numbers. Moreover, the OFTA has issued the Industry Code of Practice for the Interconnection of Broadband and Narrowband Local Access Links (Code of Practice), requiring Donor Network Operators (DNOs) to process the number portability requests (NPRs) of Recipient Network Operators (RNOs) within a specified time-frame. The OFTA ruled on March 13 this year that a DNO had breached the Code of Practice for its delay in processing 400-odd NPRs. In this connection, will the Government inform this Council:*

- (a) *whether it knows the total number of NPRs received by FTNS providers over the past two years; and the average time required for members of the public to successfully switch to other FTNS providers, as well as the longest and the shortest waiting time;*
- (b) *as for the time for RNOs to receive responses from DNOs regarding the above 400-odd NPRs, of the average and the longest time by which the actual response time had exceeded that stipulated in the Code of Practice; and*
- (c) *of the measures to be put in place to ensure that delays in processing of NPRs by DNOs will not recur?*

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

- (a) Between March 2000 and February 2002, the fixed network operators have successfully processed over 397 000 NPRs. Generally speaking, a DNO would give a reply within one to three days upon receipt of a NPR. It will then complete the porting procedures within the following four days. Hence, the shortest time for processing a NPR should be five days, while the longest time should be seven days.

- (b) The OFTA ruled on 13 March this year that a DNO had breached the relevant code for handling NPRs. In that case, applications were filed with the DNO concerned between 8 and 11 of October 2001. Shortly after discovering that the relevant DNO was not able to reply to all applications promptly, the OFTA called an emergency co-ordination meeting on 19 October. With the OFTA's co-ordination effort, all affected applications were processed in the week starting from 22 October.

According to the code on "Procedures for Handling Number Porting by Database Solution" (Serial Number: HKTA2102) issued by the OFTA in December 2000, the DNO is required to reply to the relevant RNO within one to three days upon receipt of a NPR. Since the DNO in question failed to give its reply within the required timeframe, the OFTA, having considered all relevant factors, sent a warning letter on 13 March to the operator. A copy of the letter was also posted on OFTA's website.

- (c) As set out in reply (b) above, the OFTA has issued the code on "Procedures for Handling Number Porting by Database Solution" requiring the DNO to reply to the relevant RNO within one to three days upon receipt of a NPR. Under the Telecommunications Ordinance and the related licence conditions, the OFTA may impose penalties on operators failing to comply with the code. The penalties may include issue of warning letters, payment of financial penalties (\$200,000 for the first occasion of the breach, \$500,000 for the second, and \$1,000,000 for any subsequent occasion. The maximum penalty may reach \$10,000,000, or 10% of the turnover, upon approval by the Court.), or even suspension, cancellation or revocation of the relevant licence.

In general, the network operators are able to process NPRs in accordance with the relevant requirements. If and when a suspected case of violation arises, the OFTA will immediately undertake any necessary follow up action. It will also impose appropriate penalty after taking all factors into account. The OFTA has followed the same practice for the case mentioned in reply (b) above. The OFTA will continue to ensure that all the requirements are complied with to ensure proper handling of NPRs.

## English Proficiency of University Graduates

17. **DR RAYMOND HO** (in Chinese): *Madam President, it has been reported that the Government has required all universities in Hong Kong to hold exit English examination for their graduates. Regarding the English proficiency of university graduates, will the Government inform this Council whether it knows:*

- (a) *the admission requirement in respect of English proficiency for BBA and LLB courses in all universities except the Open University of Hong Kong, in the past three years; the average grades which graduates during the same period had attained in Use of English in the Advanced Level Examination when they were admitted to these departments;*
- (b) *whether the universities have provided English courses for students of various departments to enhance their English proficiency over the past three years; if so, of the details;*
- (c) *the initial ideas of the universities on how the exit English examination should be conducted for their graduates; and*
- (d) *the scheduled time for implementing the exit English examination by the universities?*

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

- (a) Among the eight University Grants Committee (UGC)-funded institutions, only City University of Hong Kong (CityU) and the University of Hong Kong (HKU) offer LLB programmes. With the exception of the Hong Kong Institute of Education (HKIEd) and the Hong Kong Polytechnic University (PolyU), all other institutions offer BBA programmes. The great majority of the students admitted to these two programmes had taken Advanced Supplementary Level Use of English (ASLUE) test in the Hong Kong Advanced Level Examination. Other students had equivalent qualifications. A table illustrating the average grades attained in ASLUE are set out at Annex A.

- (b) Over the past three years, all the UGC-funded institutions have been providing a wide variety of courses to enhance the English proficiency of students. Such courses are designed generally to enhance the students' language skills, as well as to cater for the needs and characteristics of different disciplines and professions. Some institutions provide English enhancement courses specifically for first year students in order to equip them with the necessary English language skills for academic studies at the tertiary level. Details are set out at Annex B.
- (c) The UGC is in the process of identifying a suitable test to serve as a common English proficiency assessment for all graduating students of UGC-funded institutions. It aims to select a well-established test which is currently available in Hong Kong and has a high degree of international recognition. As an incentive for students to take the test voluntarily, they will be entitled to reimbursement of test fees once during their time in the institution, if they come forth with the results of the test for recording in their transcripts. The UGC is working out the details with the UGC-funded institutions and parties concerned.
- (d) The target of the UGC and the institutions is to implement the common English proficiency assessment in the 2002-03 academic year.

## Annex A

## Average grades attained by BBA and LLB graduates in ASLUE

<i>Institution and programme</i>		<i>Average grades of graduates in ASLUE</i>			<i>Minimum admission requirement in respect of English proficiency</i>
		<i>1998-99</i>	<i>1999-2000</i>	<i>2000-01</i>	
City U	BBA	D	D	D	Grade D in ASLUE
	LLB	D	D	D	
HKBU	BBA	D	D	D	Grade D in ASLUE
LU	BBA	E	E	E	Grade E in ASLUE
CUHK	BBA	C	C	C	Grade E in ASLUE
HKUST	BBA	C	D	C	Grade D in ASLUE
HKU	BBA	C	C	C	Grade D in ASLUE
	LLB	B	B	B	

Details of English courses provided by UGC-funded institutions  
in the past three years

*CityU*

- CityU offers a wide variety of English courses for all students of Higher Diploma, Associate Degree and Bachelor's Degree Programmes to enable them to interact proficiently in social and professional situations, and acquire the necessary knowledge of English grammar, usage and writing skills for academic purposes. English courses have been provided for students from about 20 disciplines/departments, including the Department of English and Communication, Department of Building and Construction, Department of Applied Social Studies, Department of Biology and Chemistry, and so on.

*HKBU*

- HKBU offers English courses for all first year students to help them acquire the English language skills required for tertiary studies. It also provides English courses to cater for the needs of individual disciplines, including Business Administration, Social Sciences, Translation and English Language and Literature.

*LU*

- LU offers English courses for all first year students (except for those majoring in English or Translation) to enable them to communicate effectively in English for academic and future employment purposes. It also provides English courses for senior level students from individual disciplines, such as Chinese, Social Sciences and Business Administration. There is also an elective course for all second and third year students focusing on developing effective communication skills in English and critical and creative thinking skills.

*CUHK*

- CUHK offers a course on English phonetics for all first year undergraduate students to strengthen their ability to consult dictionaries and pave the way for more advanced courses. In addition, a language enhancement programme comprising more than 10 courses is also provided to students of each faculty as part of the graduation requirement. There are also more than 30 elective courses and activities for all students providing training in different language skills.

*HKIEd*

- HKIEd offers more than 20 English courses for its students to develop their English skills in reading, writing, speaking and listening and to cater for their academic and professional needs. Such courses are provided for students from various disciplines/programmes, including Primary Education, Secondary Education, Early Childhood Education and Languages. Moreover, English language development is also integrated into courses for in-service teachers.

*PolyU*

- PolyU offers an English course for all first year students at both degree and sub-degree levels to help them pursue their university studies through the medium of English. It also provides a course on English in the workplace for all degree students to help them develop English language skills that are required for their professional careers. Several other courses are also provided to students from individual disciplines/departments, including School of Design, Mechanical Engineering, Accounting, and so on.

*HKUST*

- HKUST offers an English course for all first year students to equip them with basic English language skills required to study at tertiary level. There are also about 15 courses catering for the needs of individual disciplines, including Engineering, Business, and Science, and so on.

*HKU*

- HKU offers more than 30 English courses for students from a wide variety of disciplines, including Architecture, Arts, Business and Economics, Dentistry, Education, Engineering, Law, Medicine, Science and Social Sciences. Such courses aim to meet the needs and characteristics of respective academic areas and professions, as well as to equip students with the necessary English language skills for the workplace.

*Note:*

CityU	: City University of Hong Kong
HKBU	: Hong Kong Baptist University
LU	: Lingnan University
CUHK	: The Chinese University of Hong Kong
HKIEd	: The Hong Kong Institute of Education
PolyU	: The Hong Kong Polytechnic University
HKUST	: The Hong Kong University of Science and Technology
HKU	: The University of Hong Kong

**Requiring Bidding Companies in Land Auctions to Disclose Background**

18. **MISS EMILY LAU** (in Chinese): *Madam President, it is learnt that when the land auction for a commercial site located at Hung Hom Bay was held in August 2001, both Cheung Kong (Holdings) Limited (Cheung Kong) and Sino China Enterprises Limited (Sino China), which had only been established for several months, participated in the bidding. Sino China eventually won the bid at a price lower than that expected by the market. In October the same year, Cheung Kong also succeeded in bidding for an adjacent commercial site at a price lower than that expected by the market. It was only after these two land auctions that the market came to realize that Sino China was wholly owned by Cheung Kong. In this connection, will the executive authorities inform this Council whether:*

- (a) *they have assessed if Cheung Kong's failure to make public its relationship with Sino China at an early stage has caused unfairness to the outcome of the bidding at the two land auctions; and*

- (b) *they will consider revising the rules for bidding land by stipulating that bidding companies have to disclose their background in order to enhance transparency as well as ensure fairness and justice; if so, of the details; if not, the reasons for that?*

**SECRETARY FOR PLANNING AND LANDS** (in Chinese): Madam President, the Government's land auctions are conducted in a fair and transparent manner based entirely on the principle of open competition. Any registered company in Hong Kong may participate in the open bidding process. Companies may form consortia or set up subsidiary companies to participate in land auctions in the same way as they do in other business activities in Hong Kong. Disclosure of company information, including information about parent or subsidiary companies, is not required.

The price level at which a piece of land is sold at a government land auction is the highest bid received in an open and competitive bidding process. It represents the price at which developers are willing to pay for the site under prevailing market conditions. Sale prices forecast by different individuals prior to the land auction reflect individual expectations and assessments, and cannot be seen as authoritative and objective predictions of the market price for the site.

At the government land auction held on 13 August 2001, the opening price for a Hung Hom commercial site (KIL 11110) was \$900 million. The site attracted a total of 20 bids from three bidders and was sold to the highest bidder, Sino China, for \$1,090 million (about 21% higher than the opening price). Another Hung Hom commercial site (KIL 11103) was auctioned on 16 October 2001. The opening price was \$600 million. The site attracted a total of 12 bids from three bidders and was sold to the highest bidder, Bermington Investment Limited, for \$655 million (about 9% higher than the opening price).

The successful bidders in these two cases participated in the auctions in their own right as legitimate business entities. There was no evidence to indicate that non-disclosure of the successful bidders' company information had in any way caused unfairness in the bidding at these two land auctions or had resulted in unreasonable sale prices.

The Government's land auction procedures are well-publicized and well-supported by the property sector. We see no need to change the present

arrangement and require bidders to disclose their company information. We will, however, continue to keep our land auction procedures under regular review.

### **Laser Guns for Detecting Vehicular Speed**

19. **MR LAU KONG-WAH** (in Chinese): *Madam President, it has been reported that the police have recently found that there might be discrepancies in accuracy in nearly half of the laser guns used to detect vehicular speed, and have suspended the use of 17 such laser guns since 6 March. The police have estimated that thousands of drivers might have been prosecuted because the vehicles which they drove were caught speeding by these laser guns, and have indicated that it would take the initiative to contact the drivers concerned to refund the fines. In this connection, will the Government inform this Council:*

- (a) when the police will complete the review of all the cases concerned;*
- (b) whether the supplier of this batch of laser guns has offered quality assurance to the police; if so, whether the authority concerned will claim compensation from the supplier if discrepancies in speed detection accuracy of these laser guns are confirmed; and*
- (c) whether, apart from refunding the fines, any additional compensation will be offered to the drivers concerned?*

**SECRETARY FOR TRANSPORT** (in Chinese): Madam President, at present, thorough tests will be conducted before any new model of laser guns is introduced into Hong Kong to ensure its accuracy and reliability. Independent experts are also commissioned by the police to carry out regular examinations on the laser guns. In the latest round of regular examination, the speed detection reading on several laser guns of the same model was found to be at variance with the prescribed range under certain laboratory conditions. The police have suspended the use of 17 such laser guns to allow independent experts to further verify their accuracy and reliability. It is expected that the investigation results will be available at the end of April 2002.

If the investigation results indicate that the accuracy and reliability of this batch of laser guns do not conform to the specifications provided by the supplier, legal advice will be sought on whether to claim compensation from the supplier concerned. The police will also review all the affected cases and, in consultation with the Department of Justice, work out reasonable compensation arrangements based on the merits of each case. The processing time will depend on the number and details of the cases.

### **Conversion of Vacant Units in Factory Buildings into Sports Centres**

20. **MR TIMOTHY FOK** (in Chinese): *Madam President, it is learnt that the Administration intends to convert some vacant units in factory buildings into sports centres so as to provide more community sports facilities. In this connection, will the Government inform this Council:*

- (a) of the districts where it intends to carry out such conversion works;*
- (b) of the sports activities that are suitable for the converted venues; and*
- (c) whether such sports centres will be managed by a government department or run by private operators?*

**SECRETARY FOR PLANNING AND LANDS** (in Chinese): Madam President, to encourage better utilization of vacant units in factory buildings, the Town Planning Board has agreed to relax the land use control over factory buildings. Private developers may, by means of planning application, convert vacant units in factory buildings into "Place of Public Entertainment" and "Educational Institution", and so on.

At present, the Government has no plans to convert vacant units in factory buildings into sports centres. Private operators intending to carry out such conversions may apply to the authorities concerned.

## **BILLS**

### **First Reading of Bills**

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

**REVENUE BILL 2002****REVENUE (NO. 2) BILL 2002****MARINE FISH CULTURE (AMENDMENT) BILL 2002****UNITED NATIONS (ANTI-TERRORISM MEASURES) BILL****OCCUPATIONAL DEAFNESS (COMPENSATION) (AMENDMENT) BILL 2002**

**CLERK** (in Cantonese): Revenue Bill 2002  
Revenue (No. 2) Bill 2002  
Marine Fish Culture (Amendment) Bill 2002  
United Nations (Anti-Terrorism Measures) Bill  
Occupational Deafness (Compensation) (Amendment)  
Bill 2002.

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

**Second Reading of Bills**

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

**REVENUE BILL 2002**

**SECRETARY FOR THE TREASURY** (in Cantonese): Madam President, I move the Second Reading of the Revenue Bill 2002 (the Bill). The objective of the Bill is to give effect to a revenue proposal in the 2002-03 Budget, that is, to increase the duty rate on wine to 80% from the existing rate of 60%.

Wine duty generates a stable recurrent income for the Government. In the past three years, wine duty generated an annual revenue of \$220 million for the Government.

The duty is levied on the ex-factory price rather than the retail price. According to revenue figures for 2001, the average ex-factory price of a bottle of wine was \$30 and the average duty per bottle was \$18. After adjustment, the average duty paid per bottle would only rise by \$6. So, the proposal to increase duty will only increase the retail price of wine by a small margin and hence should not generate a pressure for the catering industry. Moreover, since wine which is imported for re-export is not subject to duty, the duty rate adjustment is therefore not relevant to the position and development of Hong Kong as a wine distribution centre and the proposal will not have any impact on the people's basic livelihood. We estimate the proposed increase in duty on wine will bring about an additional revenue of \$70 million in a full year.

For purposes of revenue protection, the proposal under the Bill has come into effect since 2.30 pm on 6 March under the Public Revenue Protection (Revenue) Order 2002. The Order gives legal effect to the proposal for a maximum period of four months. The proposal will cease to have effect as from 6 July should the Bill not be passed before that date by the Legislative Council.

Thus, the Government hopes that the Legislative Council will scrutinize and pass the Bill as soon as possible to ensure that the adjustment in duty rate on wine already in effect to continue its effect before the Order expires on 6 July.

Madam President, I so submit.

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the Revenue Bill 2002 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.

## **REVENUE (NO. 2) BILL 2002**

**SECRETARY FOR THE TREASURY** (in Cantonese): Madam President, I move the Second Reading of the Revenue (No. 2) Bill 2002 (the Bill). The objective of the Bill is to give effect to a revenue proposal made by the Financial Secretary in the 2002-03 Budget. The proposal relates to a reduction in the

quantities of duty-free tobacco and alcoholic liquor that Hong Kong residents may bring back by 40% and 25% respectively. At present, Hong Kong residents may bring back 100 duty-free cigarettes or 25 cigars or 125 g of manufactured tobacco and one litre of still wine.

Last year, among duty-free goods brought back by local residents, duty-free cigarettes alone amounted to 1.4 billion sticks. As the average number of journeys taken by Hong Kong residents into and out of Hong Kong increases annually, the quantities of duty-free tobacco and wine products brought in will continue to rise. The revenue thus lost will increase as well. If our proposal to reduce the said quantities is passed, the new duty-free quantities for tobacco products still stand at 60 cigarettes (3 packets) or 15 cigars or 75 g of other manufactured tobacco and for still wine, 750 ml, which is the standard size of a bottle of still wine. As the reduction will make some local residents purchase duty-paid tobacco products in Hong Kong, local consumption of tobacco products would rise and more duties from tobacco is expected to be paid. An additional \$330 million duty revenue will be generated for the Government in a full year.

The duty-free quantity for still wine in the past was one litre, which was not a multiple of a normal size of a standard bottle and was therefore not fully utilized. Adjusting the duty-free quantity of still wine to the standard size is not expected to have any material impact on the overall amount of duty-free wine brought back by local residents.

The Customs and Excise Department has been performing well in recent years in combating the smuggling of duty-not-paid goods. We are confident that our proposal to reduce the duty-free quantities will not provide any prospects for the sale of illegal duty-not-paid cigarettes.

Madam President, the Bill and the Revenue Bill 2002 I just tabled before this Council contain proposals to increase revenue through existing levy. They will not affect the people's basic livelihood or our economic recovery. They may nevertheless bring about an income of \$400 million for the Government in a full year. Given the huge deficit the Government is being faced with, these are mild but necessary measures to increase income so that the deficit is reduced.

With these remarks, Madam President, I urge Members to support the Revenue (No. 2) Bill 2002.

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the Revenue (No. 2) Bill 2002 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.

## **MARINE FISH CULTURE (AMENDMENT) BILL 2002**

**SECRETARY FOR THE ENVIRONMENT AND FOOD** (in Cantonese): Madam President, I move the Second Reading of the Marine Fish Culture (Amendment) Bill 2002 (the Bill). The objective of the Bill is to change the current prohibition on the transfer of fish culture licences and provide a legal basis to allow licensees to transfer their licences. Since open coastal waters in Hong Kong are subject to multiple uses, waters available for marine fish culture are limited. Under the Marine Fish Culture Ordinance (the Ordinance), marine fish culture is permitted only in specific areas within Hong Kong waters designated as fish culture zones and must be licensed by the Director of Agriculture, Fisheries and Conservation (DAFC).

At present, among the 1 300 fish culture farms with licences and permits, over 80% are small-scale farms and most are family-based operations. Mariculturists begin to age and they often find no incentive or lack the means and knowledge to invest in modern and environmentally friendly practices to upgrade their operations. On the other hand, some progressive, large-scale and company-based marine fish culture operators are eager to expand their operations. There are also newcomers who would like to enter the fish culture business. The progressive mariculturists and newcomers are willing to take over the licences and operation of the small-scale mariculturists, and some mariculturists are prepared to transfer their businesses. However, such business transfers cannot take place because the Ordinance prohibits the transfer of fish culture licences.

The Bill removes provisions that prohibit the transfer of licences. It empowers the DAFC to approve applications for the transfer of fish culture licences, making it possible for mariculturists who are prepared to give up their business to transfer their licences to progressive mariculturists or newcomers, while small-scale fish culture farms may effect mergers. This will help the fish culture industry to restructure in response to market forces and to better utilize the economies of scale and modern methods in fish farming. Moreover, as

mariculturists of a larger scale are more willing to invest in more environmentally friendly farming techniques, the proposed amendments may help improve the water quality in fish culture zones. To forestall speculation and profiteering, the Bill states that a licence will not be allowed for transfer if it has only been held by the applicant for less than two years. In approving an application for a transfer, the DAFC will also consider whether the applicant has violated the Ordinance or licensing conditions.

To ensure that limited marine fish culture resources are properly utilized, the Agriculture, Fisheries and Conservation Department will inspect fish culture farms frequently to monitor if licensees are actually operating. Moreover, the Bill proposes some technical amendments to more effectively prevent enforcement officers from abusing their powers and to intensify some outdated penalty provisions so as to maintain the deterrent effect of the Ordinance in relation to the relevant offences. The proposals in the Bill will be helpful to the sustainable development of marine fish farming. The industry would also like to see the enactment of the Bill at an early date. I hope Members will support the passing of the Bill. Thank you, Madam President.

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the Marine Fish Culture (Amendment) Bill 2002 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.

## **UNITED NATIONS (ANTI-TERRORISM MEASURES) BILL**

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, I move that the United Nations (Anti-Terrorism Measures) Bill be read the Second time. The Bill seeks to implement, through a minimalist approach, resolution 1373 of the United Nations Security Council (UNSCR 1373), which was passed on 28 September 2001, and certain recommendations of the Financial Action Task Force on Money Laundering (FATF).

UNSCR 1373 aims at combating international terrorism on various fronts, including the adoption of effective measures against terrorist financing. It requires, amongst other things, the prevention and suppression of terrorist

financing, and criminalizing direct, indirect and wilful provision or collection of funds for terrorist acts and freezing of terrorist assets. By virtue of Chapter VII of the Charter of the United Nations, UNSCR 1373 is binding on all Member States. In accordance with Articles 13 para 1 and 48(8) of the Basic Law, the Central People's Government gave instructions to the Hong Kong Special Administrative Region (SAR) in October 2001 to implement the resolution.

Hong Kong has been an active member of the FATF, and is also the incumbent President of this international body specializing in recommending standards and best practices in countering money laundering. Following the 11 September 2001 attacks in the United States, the FATF expanded its mission to cover terrorist financing and made eight wide-ranging Special Recommendations to tackle the issue. Such Recommendations overlap to a certain extent with UNSCR 1373. The FATF members are expected to implement the Special Recommendations by mid-2002. Hong Kong's existing laws and administrative arrangements can already effectively deal with most activities typically associated with terrorists, such as kidnapping, murder, unlawful use of explosives causing injury to life and damage to property, and so on. UNSCR 1373 and the FATF Special Recommendations however deal principally with the financing of terrorism and new legislative measures will be required in this regard.

We intend to adopt a two-staged approach to implement the relevant requirements. In stage one, the mandatory elements of UNSCR 1373 as set out in its paragraphs 1(a), (b), (c), (d) and 2(a) and Recommendations II, III and IV of the FATF Special Recommendations will be implemented.

In stage two, the Security Bureau will conduct further research into legislative amendments or proposals to implement the other non-mandatory elements of the resolution, to apply in the SAR other international conventions against terrorism, such as the International Convention for the Suppression of Terrorist Bombings and the International Convention for the Suppression of the Financing of Terrorism, and to give full effect to the FATF's Special Recommendations.

Madam President, as I have explained earlier, we are adopting a minimalist approach in implementing UNSCR 1373 and the special recommendations of the FATF against the financing of terrorism. We have to strike a balance between protecting personal freedoms and human rights and

ensuring public safety. Any increase in enforcement powers must be strictly in accordance to the need to ensure public safety. Hong Kong has always been one of the safest cities in the world, and has traditionally not been the subject of threats of terrorism. This is the reason why we have not followed the anti-terrorism laws of many major jurisdictions in seeking to extensively increase enforcement and investigative powers such as interception of communications or detention. The powers to seize and detain suspected terrorist property in the Bill are no more stringent than what is already provided under the Dangerous Drugs Ordinance and the Drug Trafficking (Recovery of Proceeds) Ordinance.

The most important clause in the Bill is the definition of terrorist act. This definition is based on the definition of terrorism under the United Kingdom Terrorism (United Nations Measures) Order 2001. The definition follows the international trend by requiring that to constitute a "terrorist act" there must be the use or threat of action to influence a government or intimidate the public, and that the use or threat be for the purpose of advancing a political, religious or ideological cause. In addition to these two criteria, the action must also involve serious violence, serious damage to property or serious risk to public health or safety, and so on. Our definition is similar to those adopted in other major common law jurisdictions.

The Bill also empowers the Chief Executive to specify in the Gazette that a person or property is a terrorist, terrorist associate or terrorist property when he has reasonable grounds to believe so. In order to maintain transparency and facilitate compliance with provisions of the Bill, lists of terrorists, terrorist associates or terrorist property which have been specified in the Gazette will be made available to the public.

The Secretary for Security will be empowered to direct the holders of funds not to make those funds available to any person when she has reasonable grounds to suspect that the funds are terrorist property. These measures are essential in ensuring that the enforcement agencies are able to deal with terrorist activities effectively and expeditiously, especially in the freezing of terrorist funds to minimize the chance that they could be withdrawn or transferred.

In order to comply with UNSCR 1373 and the FATF Special Recommendations, the Bill stipulates that it shall be an offence for anyone to collect funds with the intention that the funds be used to carry out terrorist acts, and prohibits making funds, financial assets or economic resources or financial

services available to terrorists. The Bill also prohibits the supply of weapons to terrorists, and bans the recruitment of persons to serve with bodies which have been specified by the Chief Executive as terrorists or terrorist associates.

Madam President, the Legislative Council Panel on Security had earlier expressed its concern on the proposed powers for the Chief Executive to specify terrorists and for the Secretary for Security to freeze terrorist funds. I would like to reiterate the need to enable the enforcement agencies to take timely action against terrorist activities, including the use of effective administrative measures. The Bill provides effective measures to prevent the abuse or wrongful use of enforcement powers. Any person affected by the Chief Executive's specifications or directions by the Secretary for Security to freeze terrorist property may apply to the Court of First Instance to have the specifications or directions revoked.

We have also included in the Bill additional safeguards for such applications, by requiring the Chief Executive or the Secretary for Security to bear the burden of proof in proceedings in the Court of First Instance. We consider that the Bill is in full compliance with the International Covenant on Civil and Political Rights, effectively protecting the rights and interests of affected parties, and preventing the abuse of enforcement powers.

I should also like to point out that all specifications regarding terrorists, terrorist associates or terrorist property will lapse after three years.

Madam President, enforcing against the financing of terrorism is complex, as the funds may be derived from criminal activities or legitimate sources. The fight against international financing of terrorism depends not only on effective policing by the enforcement and supervisory bodies, we are also heavily reliant on the co-operation and support of financial institutions.

Hong Kong, being an international financial centre, has in place comprehensive anti-money laundering laws. In combatting the financing of terrorism, the reporting by financial institutions of suspicious movement of terrorist funds is an indispensable part in any effective enforcement regime. We consider it imperative that our laws against terrorist financing should at least follow the best international standards on anti-money laundering measures. The Bill requires that financial institutions and relevant bodies should report transactions if they "know or have reasonable grounds to suspect" that the funds

are linked to, used, or intended for terrorist acts. The mental element of "having reasonable grounds to suspect" complements one of the FATF's special recommendations against terrorist financing.

Moreover, as hoaxes of terrorist attacks are likely to cause panic and confusion in densely-populated Hong Kong, the Bill therefore provides that it shall be an offence for anyone to communicate any information that he knows or believes is false, with the intention of inducing in any other person a false belief that a terrorist act has been, or will be, carried out.

Hong Kong is a responsible member of the international community, and is obliged to implement the requirements of UNSCR 1373 and the FATF's Special Recommendations. I hope that Members could quickly complete the scrutiny of the Bill and enact it. Thank you, Madam President.

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the United Nations (Anti-Terrorism Measures) Bill 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.

## **OCCUPATIONAL DEAFNESS (COMPENSATION) (AMENDMENT) BILL 2002**

**SECRETARY FOR EDUCATION AND MANPOWER:** Madam President, I move the Second Reading of the Occupational Deafness (Compensation) (Amendment) Bill 2002.

The Bill aims to introduce a package of measures under the Occupational Deafness Compensation Scheme (the Scheme) to improve the benefits of employees suffering from noise-induced deafness by reason of their employment in specified noisy occupations. The Scheme was set up in 1995 under the Occupational Deafness (Compensation) Ordinance (the Ordinance). To be eligible for compensation under the Scheme, a person must be suffering from sensorineural hearing loss amounting to a specified level and must fulfil certain conditions relating to their employment.

These improvement measures are formulated by the Administration on the basis of a comprehensive review conducted by a working group which includes members of medical and audiological professions as well as representatives of employers, employees and the Government. Due consideration has also been given to views expressed during the consultation period.

The Bill proposes six improvement measures. Firstly, we propose to raise the current minimum and maximum levels of compensation which have been set with reference to the wage level in 1994 when the proposal to set up the Scheme was introduced into the Legislative Council. Having regard to the wage movements from 1994 to 2001, we propose to raise the minimum compensation from the existing level of \$248,000 to \$341,000 and the maximum from \$1.44 million to \$2.016 million so as to preserve the value of the compensation. This is in line with the adjustments of compensation levels under the Employees' Compensation Ordinance and the Pneumoconiosis (Compensation) Ordinance.

Secondly, the Bill proposes to revise upwards the existing scale of percentages of permanent incapacity for different levels of hearing loss suffered by eligible claimants. Under the Ordinance, the degree of noise-induced hearing loss suffered by a claimant is determined by the Occupational Deafness Compensation Board (the Board) and is translated into a percentage of permanent incapacity in accordance with a Schedule under the Ordinance. The resultant percentage of permanent incapacity is used for calculating the amount of compensation. By raising the existing scale of percentages of permanent incapacity, the amount of compensation payable will in effect be increased in the majority of cases. The revision is proposed with reference to the scales adopted by Singapore and the United Kingdom.

Thirdly, the Bill proposes to provide successful claimants under the Scheme with reimbursement of expenses incurred in purchasing, repairing and replacing hearing assistive devices. This would help them overcome their communication difficulties and, hence, barriers to employment. There will be a maximum limit of reimbursement in aggregate per applicant.

Fourthly, the Bill proposes to empower the Board to conduct or finance rehabilitation programmes for the benefit of occupational deafness sufferers. The purpose is to help employees suffering from occupational deafness to overcome obstacles caused by the disability at work and in life.

Fifthly, we also suggest expanding the coverage of the Scheme by adding the following four noisy occupations to the existing list of 25 noisy occupations under the Ordinance:

- (a) slaughterhouse employees working near the point of electrocution of pigs;
- (b) mahjong parlour workers employed wholly or mainly to play mahjong;
- (c) bartenders and waiters working near the dancing area in discotheques; and
- (d) disc jockeys working in discotheques.

The expanded list is proposed following our noise surveys on 43 work processes/posts and after making reference to the noise survey report of Singapore on disc jockeys.

Sixthly, the Bill includes a proposal to disregard no-pay leave taken with the consent of the employer during the last 12 months of employment in aggregate for the purpose of calculating the average earnings of the claimant and, hence, determining the compensation payable, on a par with the existing arrangement in respect of maternity leave and sick leave.

The proposed improvement measures will lead to increased payouts from the Occupational Deafness Compensation Fund, estimated to reach \$50 million compared to about \$22 million per annum before the amendments.

On the income side, the current levy of 2.3% on the employees' compensation insurance premium paid by employers will be reduced to 1.2% for five financial years between 2002-03 and 2006-07. Thereafter, the levy rate will become 1.8% as separately proposed under the Employees Compensation Assistance (Amendment) Bill 2002 which was introduced into the Legislative Council on 27 February 2002. On current premium level, a levy rate at 1.8% will generate an annual levy income of about \$52 million. Given the healthy reserve of the Board and the stable levy income, the Board should be able to implement all the improvement measures even with the proposed reduction of levy.

Madam President, the above improvement measures have gone through thorough deliberations by both the Labour Advisory Board and the Board. In the interests of employees suffering from occupational deafness, I commend the Bill to Honourable Members. Thank you.

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the Occupational Deafness (Compensation) (Amendment) Bill 2002 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.

### **Resumption of Second Reading Debate on Bill**

**PRESIDENT** (in Cantonese): We will resume the Second Reading debate on the Appropriation Bill 2002. The public officers concerned will speak, after which the Financial Secretary will reply.

### **APPROPRIATION BILL 2002**

#### **Resumption of debate on Second Reading which was moved on 6 March 2002**

**CHIEF SECRETARY FOR ADMINISTRATION** (in Cantonese): Madam President, since its announcement on 6 March, this year's Budget has drawn positive and generally supportive responses from Members of this Council, different sectors of the community and the public at large. The Financial Secretary has outlined in the Budget the future direction of our economic development, our fiscal objectives and principles, as well as the role of the Administration in the economy. These have been well received as a whole. My colleagues and I are most grateful to Members of this Council for the invaluable views on the Budget. Let me now take the lead in responding to some of the major points raised by Members in the debate last week.

First, on the implementation of the accountability system. The Chief Executive has addressed this Council just now and issued a detailed information

paper on the specific arrangements of the system of accountability of principal officials in the Hong Kong Special Administrative Region (SAR). The introduction of the accountability system is pivotal to the effective governance of Hong Kong. We fully understand that Members require sufficient time to study and discuss the issue. Which is why, starting from tomorrow, the Legislative Council Panel on Constitutional Affairs will hold a series of meetings on the subject, which will be open to all Members. The Secretary for Constitutional Affairs will take the opportunity to explain in greater detail to Members the fine points of the system.

At future meetings of the Constitutional Affairs Panel in the coming month, we will continue to explore with Members this important subject. At a later stage, we will move a motion debate at this Council. We hope that through these meetings, the general public will be able to have a better understanding of the accountability system. We will have an exchange of views with them as well. I am confident that after Members have scrutinized, examined and discussed the accountability system in a prudent and objective manner, the Administration will have their support in implementing the accountability system in the SAR.

Madam President, I would now turn to matters concerning the Civil Service. In his Medium Range Forecast for the next five years, the Financial Secretary has adopted as his assumption that civil service pay will be slashed by 4.75%, and the salary-related portions of subventions to the various subvented organizations be reduced by the same rate in 2002-03. I wish to reiterate here that as clearly stated in the Financial Secretary's Budget speech, the aforesaid reduction is only an assumption made for financial planning purposes in the Medium Range Forecast. In determining this year's civil service pay adjustment, the Administration will adhere to the existing mechanism and take into account various factors, including the outcome of the private sector pay trend survey, the Administration's own budgetary position, the economic situation, changes in the cost of living, morale of the Civil Service and views of the staff side. When the outcome of this year's pay trend survey is made available in May, the Administration will decide on civil service pay adjustment, following the principles of lawfulness, fairness and reasonableness. Meanwhile, I am confident that my fellow colleagues will be as committed as ever to serving the community.

Some Members have also remarked that there is room for improvement in the existing civil service pay system. In fact, the Administration has announced in last December that a comprehensive review of the civil service pay policy and system would be carried out, with the assistance of the Standing Commission on Civil Service Salaries and Conditions of Service, the Standing Committee on Disciplined Services Salaries and Conditions of Service and the Standing Committee on Directorate Salaries and Conditions of Service. The objective of the review is to ensure that our civil service pay system moves with the times, making it more flexible as well as easily manageable, and facilitating better match of jobs, talent and pay.

The review will be conducted in two phases. In phase one, the three committees will make reference to the latest developments in civil service pay administration in other governments, analyse the pros and cons of their practices and draw up recommendations on the best practices that may be of relevance to Hong Kong. In phase two, we will build on the findings in phase one, to conduct an in-depth study on how to improve our civil service pay policy and system. Throughout the course of the review, we will extensively consult the staff side and listen to public views. The three committees will submit the findings of their analysis and study in phase one to the Administration by the middle of this year. Preliminary findings of the study will be released in late April before the report is finalized.

We are committed to maintaining a small but efficient Civil Service. As a result of our efforts, the size of the civil service establishment was reduced from the 198 000 anticipated for March 2000 to 184 300 as at 1 January 2002. Total savings so achieved amount to \$1.43 billion. We are making good progress to reduce the establishment further to 181 130 by March 2003, representing a further reduction of some 17 000, or 9%, since March 2000.

I am also pleased to inform Members that savings amounting to \$2 billion have been achieved in 2002-03 under the Enhanced Productivity Programme. Together with the savings achieved in the two preceding financial years, the accumulated savings now amount to \$5.4 billion, that is, 5.2% of the expenditure, which has exceeded our cumulative savings target of 5%.

During the debate, some Members urged the Administration to streamline the public works procedure and expedite the implementation of the infrastructure projects, so as to bring early benefits to the community at large, stimulate

economic development and create employment opportunities. The Administration has completed the first phase of the review on expediting the public works procedure. Through a number of measures, such as simplifying processing procedure and enhancing project management efficiency, we have now successfully shortened the pre-construction lead time from an average of six years in the past to less than four years on average.

Phase two of the review is underway, which covers the statutory processes of public works. We believe that the process of handling public objections can be further expedited, to be underpinned by amendments to the statutory provisions governing the process. Efforts will be made to strike a balance between safeguarding individuals' rights to raise objections to public works projects and reducing the lead time in these projects in the interest of the whole community.

In the meantime, we are planning to amend the Town Planning Ordinance to streamline the vetting procedures of applications for planning permission, expedite the preparation of plans, and shorten the time required for handling objections. We will also enhance the transparency of both the planning mechanism and the relevant processes with a view to achieving a balance between efficiency and public participation. The Planning and Lands Bureau is working out the detailed proposals and will consult Members and relevant parties in the near future. I hope that Members will give their full support to these proposals, which will help speed up the public works projects and their planning process.

Several Members have expressed concern over the Administration's recent modification of the land grant mechanism for housing development. In my statement on housing issues made in September last year, I already pointed out that the Administration would formulate a balanced set of criteria to guide the allocation of land for housing development. This is nothing new. What we have done now is to formalize the set of criteria used in the past and assign an existing committee to apply these criteria.

As explained by the Secretary for Planning and Lands at the Special Finance Committee meeting, the set of guidelines comprises a number of factors for considerations:

Land Policy — To optimize the utilization of scarce land resources, in order to put land to its best economic and social use.

Planning Policy — To promote an appropriate mix of private and public housing of different densities in urban and new town areas in order to achieve social and visual harmony and variety in urban built form.

Effectiveness — To achieve economies of scale and to provide adequate facilities for the community.

I wish to assure Members that there is no policy to create ghettos in our community. We will continue to ensure that there will be adequate land to meet our public housing objectives. The key to the exercise is to strike the right balance in the allocation process, in the best interest of the community as a whole.

I notice that quite a few Members had touched upon the public housing policy during the debate. This reflects Members' great concern about our public housing programme.

The SAR Government is committed as ever to assisting families which cannot afford to buy or rent private housing to solve their housing problems. The achievements of our public housing programme during the past five years include: significantly reducing the number of households in poor living conditions to about 100 000; redeveloping old housing estates and demolishing all temporary housing areas, cottage areas and a number of squatter areas; offering public housing flats for more than 85 000 families; and reducing the waiting time for public rental housing to the current three years and three months, a three-month difference compared with our goal. Over the same period, the Housing Authority (HA) has provided a total of 125 500 rental units, or an average of about 24 000 each year, for households on the Waiting List. This represents an increase of more than 100% when compared with the figures before 1997. All these reflect our firm commitment to tackling the housing problem.

Individual Members proposed time and again that public housing rentals be reduced. At present, the lowest monthly rental is now \$241 (all-inclusive) and in general, over two thirds of the public housing households are paying a monthly rental of less than \$1,500. These low rental levels of the public

housing flats are the first safety net provided by the Administration. The second safety net is the Rent Assistance Scheme administered by the HA. Under the Scheme, eligible applicants will be given a 50% rent reduction to tide them over their financial difficulties. The third safety net is the Comprehensive Social Security Assistance Scheme under which eligible families are exempted from any rent payments. These three safety nets are more effective in addressing the various needs of people in different circumstances as compared with the proposed rent reduction across-the-board.

As to the Home Ownership Scheme (HOS), some Members are concerned that suspending the sale of HOS flats will impose a financial burden on the HA. I would like to reiterate that the Administration would see to it that the HA will not, on account of the moratorium, encounter cash flow problems.

Some Members specifically raised the point that they hoped the Administration could complete the review of the institutional framework for public housing as soon as possible, to balance the interest of all sectors of the community. The Committee on Review of the Institutional Framework for Public Housing which I head is working in this direction. The reform proposals raised by the Committee must certainly tie in with the accountability system put forward by the Chief Executive. On the other hand, the public housing framework should also be simplified. The review is now at its final stage. I hope that the reform proposals will be announced in the near future.

Apart from housing issues, I would also like to speak on the co-operation between Hong Kong and Guangdong. The SAR Government is making an all-out effort to facilitate the passenger and cargo flow between Hong Kong and the Mainland. The SAR Government and the mainland authorities share the common goal to enhance the overall competitive edge of the region on a mutually beneficial basis and are actively exploring opportunities for co-operation. Hong Kong will work closely with Guangdong on a wide range of issues, including cross-boundary traffic arrangements, interface and co-operation in infrastructural projects such as airports, ports and railways, as well as promotion of tourism and environmental protection in the region. Both sides also agree that the Pearl River Delta is an economic entity with enormous potential. China's accession to the World Trade Organization presents an opportunity for the Pearl River Delta to scale new heights in economic development. Both Hong Kong and Guangdong should complement each other in achieving our common goal. We firmly believe that between Hong Kong and Guangdong there is far more scope

for co-operation than competition. Enhanced co-ordination in infrastructural development between the two sides, coupled with measures in place to avoid mismatch of resources allocation and duplication of infrastructural facilities, will surely turn the Pearl River Delta with Hong Kong as its economic and trading hub into a great driver for economic development in Asia.

Madam President, I will give a detailed account of the development of Hong Kong and Guangdong co-operation at the House Committee meeting this Friday.

Madam President, two of my colleagues, the Secretary for Health and Welfare and the Secretary for Education and Manpower, would respond specifically to Members' remarks and suggestions on issues that fall within their policy areas. After that, the Financial Secretary would make some concluding remarks and wind up the debate. With these remarks, I urge Members to vote in support of the 2002-03 Budget. Thank you.

**SECRETARY FOR HEALTH AND WELFARE:** Madam President, I wish to thank Members for expressing their views on the Budget proposals and would like to take this opportunity to respond to their views and concerns.

First of all, I would like to cover welfare services. Let me reiterate that the objective of our social policies in the present challenging economic climate is to provide an environment where everyone has the opportunity to develop his potential. Necessary support should be provided to those hardest hit by the rapid changes in circumstances, as well as to disadvantaged groups. Our aim is to help our people to enhance their ability to help themselves and to boost their willpower to do so.

Some Honourable Members have referred to the provision of welfare services in the context of both current and future government expenditure.

I would like to present a few facts which will speak for themselves. Recurrent public expenditure on social welfare is \$32 billion in 2002-03, an increase of 58% over the \$20 billion spent in 1997-98. Social welfare is the third biggest spending area of the Government, accounting for 14.6% of total recurrent public expenditure in 2002-03, as compared with 11.8% in 1997-98.

Increase in direct welfare service expenditure has risen from \$6.1 billion in 1997-98 to around \$10 billion in the current financial year. This substantial growth in welfare expenditure is reflected in all service areas.

It is, therefore, clear from statistics that we are already blessed with substantial resources in the welfare portfolio and we remain firmly committed to providing adequate resources to implement the social policies expounded by the Chief Executive.

However, even in the best of times, resources are finite and all of us — the Government, Members of the Legislative Council, service providers and welfare recipients themselves — have a responsibility to ensure that these resources are utilized in the most cost-effective way and more so when there are going to be severe constraints on public spending. The introduction of the lump-sum grant funding initiative has given non-governmental organizations (NGOs) in the welfare sector much greater flexibility in their operations and is a very significant directional change in the way that welfare services are financed and commissioned. This change has empowered NGOs to revisit their service objectives. It has enabled fundamental reorganization of how welfare services are managed and delivered and facilitated re-engineering of many processes. These changes have released resources to meet changing needs and have benefitted the clients whom we seek to serve.

I shall just give one example. In order to strengthen support for families, an Integrated Family Service Centre model has been created, which is designed to bring together existing resources in the family service centre operations to provide services which are based and outreached into the community. The new centres will provide a continuum of preventive, supportive and remedial services. As such, they will meet the changing needs of families in a more holistic manner and make it easier for clients to access the appropriate services.

On social security, some Honourable Members have commented on expenditure provisions for the Comprehensive Social Security Assistance (CSSA) and the Old Age Allowance (OAA). I wish to reassure Honourable Members that the Government is committed to providing a safety net to offer financial assistance to those in need in the community.

The total provision of \$22 billion for the CSSA Scheme and the Social Security Allowance (SSA) Scheme (of which the OAA Scheme is a part) in this

financial year, an increase of 57% over the provision of that in 1997-98, is roughly 10% of the recurrent public expenditure. This is a strong testament to our commitment to provide financial assistance to those members of the community who suffer financial difficulties due to various reasons to help them meet basic needs. Currently, our CSSA system is helping some 400 000 needy recipients, while another 457 600 elders and 102 600 disabled persons are receiving assistance under the SSA Scheme.

Given the enormous resources involved in the CSSA Scheme and the SSA Scheme, it is only prudent and responsible of us that we review the situation from time to time to ensure that public resources are directed to those genuinely in need, and examine whether there are options in utilizing public resources even more effectively and efficiently, and this would also enhance our capacity to target even greater assistance to those most in need.

In this connection, we do not believe that an across-the-board increase in the OAA, as some Honourable Members have suggested, is an appropriate way forward. As I said previously, an across-the-board increase in the OAA rate would effectively reposition this allowance as a universal basic pension. International experience has demonstrated that such a scheme, funded from general revenue, would be difficult to sustain and in our local context, would be unsustainable.

In view of the ageing of our population and the differences in the socio-economic and demographic profiles of the current generation and the future generations of older persons, we have been considering the provision of financial support for needy elders in the context of the three pillar model recommended by the World Bank. The objective of our study is to develop a long-term sustainable safety net that better targets resources at those needy elders to meet their basic needs, and which takes into account our local circumstances, particularly our low and simple taxation system. However, how to achieve the objective is a very complex issue, which we need to examine further very carefully. I would like to take this opportunity to clarify that there are no plans at hand for any major changes, which has been a subject of much speculation recently. If and when there are plans to introduce major changes to the system, we will certainly consult the Legislative Council and the public first.

In essence, we must strive for enhanced productivity, greater cost-effectiveness and other gains so that our dollars provide maximal assistance both

in qualitative and quantitative terms to recipients of our services and to target our assistance to those most in need. In this context, it is necessary to remind ourselves that resources are finite and there will always be disadvantaged people in the community. What we must do is to ensure that these limited resources are directed to those most in need.

Madam President, I shall now turn to health. Some Honourable Members have commented on a number of very fundamental aspects of our health policies. I welcome this opportunity to clarify our policies and restate our agenda in order to reduce the amount of misinformation, which has been generated particularly in the recent past, and facilitate informed and constructive discussion.

Good health is a prerequisite for individuals to flourish as citizens, family members, workers and consumers. Improving health is, therefore, a key concern of not just this Government, but governments all over the world, as it can contribute to higher economic growth and improve community well-being. The health sector plays a critical role in bringing about health improvements. Through its provision of preventive, curative and rehabilitative services, the Government aims to provide goods and services that benefit the public.

Health is fundamentally different from other things that people want. It is an inalienable asset, and in this respect, it somewhat resembles other forms of human capital, such as education and professional knowledge. But it is also different from them in crucial respects. It is subject to large and unpredictable risks and cannot be accumulated, as knowledge and skills can. Health is radically different, unlike other assets which people can insure against loss or damage. The poor need protection against health risk fully, as well as the more affluent. In contrast, where other assets such as housing are concerned, the need for such protection either does not arise or arises only in proportion to income. The basic biological difference between health and other assets exaggerates forms of market failure, such as moral hazard and imperfect and asymmetric information that occur for other goods and services. It explains directly or indirectly much of the reason why markets work less well for health than for other things and why there is a need for a more active and a complicated role for the state. In fact, I have taken this out of the World Health Report by the World Health Organization. It provides an understanding why governments all over the world are involved in and invest substantial resources in their health

care system. And even in the United States where there is no mandated health insurance, the government spending on health care is 44% of total health care expenditure.

In the overall context of health care services, it is, therefore, essential that they are delivered to benefit society as a whole, not just those individuals who are able or willing to pay for them. This is reflected in our long held policy that "no one will be denied adequate medical treatment for lack of means". There is, therefore, a critical need to adopt a holistic approach, and not a blinkered view, to examine rationally our health care system and policies. It is against this background that I offer the following response to comments on the health sector.

It is in the context of the responsibilities expected of, and role undertaken by a government, as I referred to earlier, that governments all over the world are facing daunting challenges. And we are no different here. The problems of our own health sector are well recognized and have been discussed and well researched. The Government began addressing these problems in 1985, when it commissioned W.D. Scott Pty Co. to review the medical and health services which subsequently led to a decision to set up the Hospital Authority (HA). The functions of the HA are enshrined in the Hospital Authority Ordinance (Cap 113, Part I, section 4). It would be beneficial for an informed discussion to revisit what the Ordinance requires of the HA, and I would like to take this opportunity to state some of the key functions expected of the HA.

"The Authority shall -

- ... (c) manage and develop the public hospitals system in ways which are conducive to achieving the following objectives -
  - (i) to use hospital beds, staff, equipment and other resources efficiently to provide hospital services of the highest possible standard within the resources obtainable;
  - (ii) to improve the efficiency of hospital services by developing appropriate management structures, system and performance measures;

- (iii) to improve the environment in public hospitals to meet the needs of patients;
  - (iv) to attract, motivate and retain more qualified staff;
  - (v) to encourage public participation in the operation of the public hospitals system; and
  - (vi) to ensure accountability to the public for the management and control of the public hospitals system;
- (d) recommend to the Secretary for Health and Welfare, for the purposes of section 18, appropriate policies on fees for the use of hospital services by the public, having regard to the principle that no person should be prevented, through lack of means, from obtaining adequate medical treatment; ..."

So the HA does no more than it is required in the Ordinance.

The reforms undertaken by the HA have been what were required and expected of it by the Government and this legislature, and the focus was on reorganizing the public hospitals system, transforming management, creating a governance structure and system, enhancing efficiency and quality and improving responsiveness.

However, recognizing that undertaking the reforms set upon by the HA was only the first step, the Government issued a consultation document "Towards Better Health" in 1993 to address the deeper, structural problems affecting the health care system. However, the proposals were not accepted by the public and little change ensued as a result.

Our next proposal for change has its origin in the study report of the Harvard Team: "Improving Hong Kong's Health Care System. Why and for Whom?" (Harvard Report) commissioned by the Government and published in 1999. The study assessed Hong Kong's health care system in the following areas: cost-effectiveness of the system, equity, risk-pooling, efficiency, sustainability and quality.

Members will recollect that the Harvard Report was highly critical of our system. However, the consultants acknowledged the following achievements: Our assessment of the Hong Kong health care system shows that Hong Kong has a relatively equitable system, in terms of access and utilization and resource distribution. As a result of the 1990 reform of the public hospitals system through the establishment of the HA, Hong Kong has benefitted from improvements in certain aspects of quality and productive efficiency in specific areas. Evidence indicates that the cost-effectiveness of the Hong Kong system is similar to its neighbouring Asian nations (with specific reference to Singapore and Japan) and compares favourably to European advanced economies.

The consultants also highlighted three key weaknesses of the current system:

- (1) The quality of health care is highly variable which the consultants ascribed to the privilege enjoyed by the medical profession to self-regulate without interference and inadequate oversight from external organizations;
- (2) The long-term financial sustainability of the current health care system is highly questionable; and
- (3) Hong Kong's health care system is highly compartmentalized, threatening the organizational sustainability, quality and efficiency.

In response to the comments of the public on the Harvard Report, the Government, in December 2000, released for public consultation proposals for health care reform in the document "Lifelong Investment in Health". The objective of the document was to set out strategic reform proposals for the three main components of our health care system — the organization and provision of health services, mechanisms for assuring the quality of care and the funding and long-term financing highlighted by the Harvard Team, and also sought to address the weaknesses identified by the team.

I shall first bring Honourable Members up-to-date on the latest state of the reform proposals. Following the period of public consultation, we are now pressing ahead with individual reform measures where there has been general agreement in an incremental way. The objective of this comprehensive health care reform exercise is to ensure that our health care system will continue to

provide quality and affordable care to the community in the light of changing circumstances, such as the ageing population, the advances in medical technology and the ever-rising public expectations. Equally important is to ensure the financial sustainability of our system so that we will not pass an undue financial burden to future generations. The public health care sector is already under tremendous stress, and the budget for keeping it going accounts for about 15% of the total government recurrent expenditure.

In the short term, Honourable Members will begin to see new measures being put in place. The strengthening of preventive measures for all individuals in a holistic manner, better integration of primary and secondary care subsequent to the transfer of general out-patient clinics from the Department of Health to the HA, and the gradual introduction of Chinese medicine in the public sector, are just a few examples. We have also initiated discussions with health professional bodies and health provider organizations on the question of quality. For the medium term, we are undertaking to develop an electronic Health Information Infrastructure to facilitate better and timely sharing of health information and patient records between the sectors, thus improving the consistency and standards of care that we provide to patients.

At this juncture, I would like to say a few words on the financing of our health care in particular. This has been a topical issue which has attracted considerable debate and discussion. I would like to quickly revisit the current method of financing our health care. In Hong Kong, our health care system has been financed primarily by tax revenue. It has the merits of being relatively simple to administer. It is also a system that can be simpler to manage, both in terms of budgetary control and quality assurance, with a budget that can be found internationally to be the most effective way of cost and contentment.

However, we should recognize that private resources for health care also provide an essential part of our current funding which is equivalent approximately to the current public financing. With the shortcomings of relying solely on tax revenue as the main means of financing health care, we have, therefore, proposed three strategic measures in the context of the health care reform to ensure the long-term financial sustainability of our system. In developing the proposals, we have, in fact, examined the three primary sources of financing health system, that is, tax revenue; mandatory contributions, either through insurance or savings; and voluntary contributions, that is, private insurance or out-of-pocket expenses. The three measures that we are proposing,

in fact, represent the minimum changes required to sustain the system. And these three measures include rigorous cost containment and productivity enhancement to be undertaken by the public sector, a revamp of our current public fees structure, and the introduction of an individual medical savings scheme, namely, the Health Protection Account. The first two proposals are intended to be implemented in the short term, while the Health Protection Account will be a longer-term proposal.

On cost containment and productivity enhancement, I am acutely aware of the need to first look within the system to identify savings and improvements, before searching for new revenue sources. Therefore, the HA has been implementing a series of measures to achieve the objective of doing more with less, of doing better with the same, without compromising the quality and standard of care provided to patients. According to the Harvard Report, it was projected that there would be an annual increase of 4% in public health care expenditure. But in fact, government subvention to the HA has been capped at approximately 2.2% per annum to meet the needs of our population growth and changing demographic structure.

As reported to the meeting of the Legislative Council Panel on Health Services in April, the HA has already achieved 11% savings through its own productivity enhancement initiatives even before the introduction of the Government's Enhanced Productivity Programme. In addition to this, the HA has achieved another 3% savings in 2000-01 and 2001-02. This year, it is expected to achieve further savings of 2%. I foresee that such cost containment and productivity enhancement measures will continue with the development and implementation of new strategies, including their new mega-clustered management to achieve further economies of scale and efficient use of resources, continuing administrative downsizing of the HA Head Office and hospitals, re-engineering and streamlining of work processes, creation of new cost-effective systems of providing care, and rigorous management of new medical technologies to ensure their cost-effectiveness.

On the subject of fees restructuring, our study on this important subject is nearing completion, and I would like to take this opportunity to restate the objective of this exercise. It is not a means to generate additional revenue to finance the current budget deficit of the HA, nor is it a tool for the Government to gradually reduce its commitment to health care. Rather, the key objective of revamping our public fees structure is to better target our finite resources at the

poor and the needy, and at medical services which carry major financial risks to patients. Through the revision of the current public fees structure, we will also be able to influence patients' health-seeking behaviour and decisions, hence enabling the reduction of inappropriate use of public medical services. Furthermore, the revised fees structure will create opportunities for participation by the insurance industry and collaboration with the private sector. Both sectors have indicated that they welcome such a move, and are prepared to work closely with us in devising innovative insurance and health care products to cater for the new demand arising from the community. We are in the process of formulating our proposals and timetable of our fees revision, and we shall present our recommended package to the Legislative Council Panel on Welfare Services for discussion in the latter part of the year. I can assure Honourable Members that in finalizing our proposals, we shall give due regard to the affordability of the general public, and that there will continue to be a safety net for those who lack the means to pay for their medical services. Contrary to some of the concerns expressed by Members, fees restructuring will be beneficial to the low income and chronically-ill in the longer run.

As for the proposed Health Protection Account, it is one of the most contentious reform measures which attracted much debate. In the light of the public feedback received on this model, we are conducting in-depth studies to examine different aspects of the Health Protection Account. Upon completion of the detailed study, we will be consulting Members again and the public on this proposal. While there is no immediate urgency to implement this scheme, the public should be properly informed of its value, significance and importance. The scheme is designed to enable individuals to accumulate a fair amount of savings throughout their working life to cater for their own medical needs upon retirement. Not only is this scheme in line with the concept and practice of a shared responsibility undertaken also by the individual for her or his own health care needs in the future, it also safeguards our next generations from being unduly burdened by the medical expenditures incurred by us as we become more frail inevitably in the future. To the community as a whole, the savings accumulated represent an important supplementary funding source to complement the financing to be provided by the Government. I believe that this hybrid model of health care financing is a preferred option for Hong Kong, having regard to our societal value, affordability, public aspiration and the Government's continued commitment to heavily subsidize health care. That said, I am open to persuasion and debate if anyone can counter-propose an even more viable, socially-acceptable and attractive financing model.

A final point that I would like to cover is the issue of public/private interface. There has been much criticism against the over-dominance of the public sector. I must point out that health care is produced not only in hospitals and in clinics, it is also provided in the community. In respect of in-patient care, it is true that the public sector accounts for 94%. But even in this sector, people are moving more to day care. And in fact, this number has no meaning as more and more people shift to day care, then the requirement for their stay in the hospitals will decrease. In respect of primary out-patient services, the private sector accounts for 85% of the market and we believe that there is still much room for expansion. The Harvard Report pointed out that one of the strengths of our local health care system is equity and accessibility, that no one has to reduce their use of health services due to inability to pay, and that no one has to travel long distance to receive care. This can be attributed to the Government's commitment to assure every resident access to adequate hospital care and the Government's allocation of a significant portion of its budget to health care. The current market share of the HA is the result of the provision of affordable and quality service to the wider public. It is definitely not, as some have alleged, a deliberative attempt to crowd out the private sector, which has a very important role to play.

Nothing could be further from the truth that we are trying to crowd out the private sector. On several occasions, I have reiterated our fundamental policy to maintain a dual system of care in Hong Kong, with the public and private systems each playing a role complementary to one another. The greatest benefit of this is more choices of care provided to patients, and a more flexible and creative use of talents in Hong Kong. We see the important role and great strengths of the private system. Private health service complements public health care. It is against this background that I am chairing two working groups with representatives of private practitioners and private hospitals. Using the working groups as a forum for dialogue, members have been working very hard to devise innovative packages and care plans which could facilitate better patient flow between the two sectors and give patients more choices when they are in need of treatment.

This is necessary because health is not attained just by adduces of care. There is a well-known quote in the medical circle that we find amusing or amazing, "The operation was successful but the patient died". I think that this is not as amazing as on the face value because in some instances, many older

patients had in fact had very successful operations, for example, concerning their head bones. But after the operations were done and the patients were discharged from the hospital, most of the studies found that half of these elder patients were dead within the following year, because after they were discharged from the hospital, the aftercare was poor. And of course, most of these individuals would require a lot of rehabilitation care before they could really get down on their feet and enjoy quality of life. So when you look at this as an extreme example, health care is provided in a continuum and it is very important that we do not forget that. When we look at our total health care system, not only do we look at the private or public system, but we look at the system in totality. We are not looking at episodes of care at certain time points, we are looking at the whole train of care that we provide before the person is born and after the patient dies. We also look at the bereavement paid to the loved ones.

The deliberation process in the working groups has just started and a number of constructive and feasible proposals have been identified. I have been very encouraged by the very open minds and positive attitudes that we need to build up mutual trust between the public sector and the private sector, which is a fundamental basis for any collaborative schemes to materialize. We share, in fact, a common objective: We are both working to improve the health system. And for us to achieve a better public/private interface, we both need to collaborate and work together.

The HA is devising clinical guidelines and protocols on patient referrals with a view to ensuring that patients who are in stable condition are referred back appropriately to their general practitioners for proper follow-up. Each hospital will put in place audit mechanism to monitor the compliance with the guidelines. In addition, individual hospitals are discussing many programmes with their private counterparts. The objectives are two-fold. While these programmes will give patients more flexibility and choices in their treatment process, they also make better use of the resources and talents in the private sector. Notwithstanding the above, we also need the full participation of the private sector. They need to re-assess their strengths and realign their resources in order to better serve the needs of the community. The issue of variable quality of care, as highlighted in the Harvard Report as one of the weaknesses of our health care system, is another area that has to be tackled. I am heartened to observe that the medical profession and the private providers are really looking at how to enhance their quality. I also feel encouraged that private hospitals have implemented a system of accreditation to safeguard and improve their

quality of service. In my view, of course, this is a step in the right direction, and I am confident that the health sector would continue their efforts in this equally and critically important aspect.

Finally, I would like to say a few words on the comments made about the "positioning" of private sector and comments about how one should be limiting services in the public sector. On the face of it, it sounds like a simple enough, and to some, an attractive proposition, which I surmise would provide plenty of scope for private sector participation. The proponent of this suggested that the Government should confine itself to providing "essential services" and the "non-essential" ones will have to be borne by individual residents. Regrettably, we do not have a definition of what is meant by "essential" and "non-essential". And in the context of what I have just said, the medicine and health services are provided in the continuum and that we need to really have the appropriate services provided by the appropriate level of people. The role of primary care is equally important. Because in medicine, we are not just talking about prevention in totality, but we have three levels of prevention: primary prevention, secondary prevention and tertiary prevention.

Primary prevention is done primarily by the Department of Health, but is contributed by both the public and private sectors to prevent illnesses and diseases. Secondary prevention is early detection of illnesses like picking up hypertension and diabetes, so that these individuals can be better treated and that they do not suffer from the sequelae of these illnesses which will lead to requirement of specialist care and more expensive services. Tertiary prevention is the prevention of complications of illnesses. Of course, the primary health care sector has a very important role to play in preventive services and the continuation of these services is important in the health care system, if we are going to look at the total efficiency of the whole system. So, by necessity, we would have to see what sector would do what. But this division of services would be defined by how medical services are organized and not by whether they are in the private or public sector.

Madam President, we are, in fact, very willing to accept criticisms and constructive proposals for further improvement to our health care system. And I shall certainly be very happy to carry on this debate with Honourable Members of the Council in either this forum or in the Panel on Health Services.

Thank you very much, Madam President.

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam President, the economy and employment are doubtless issues of the utmost concern to the community at the moment. I am in no position to comment on economic issues, and I believe the Financial Secretary knows exactly which course to take. I hope Members will be a bit more patient and will work in concert with the Government to come up with ways to alleviate the double impact of the economic downturn and restructuring.

Economic restructuring is unlike a surgical operation that can instantly remove an illness; and the problem of structural unemployment just does not arise overnight. The Government is as concerned as the public is about the impact of unemployment on society, families and individuals. It has taken many measures to help the jobless seek employment and also to upgrade the quality of the human capital by, among other things, providing more opportunities of education, expanding retraining schemes, promoting lifelong learning, subsidizing employees to upgrade their skills, strengthening employment services, and introducing the Youth Work Experience and Training Scheme.

The Government has undertaken to create jobs in areas with a genuine need to alleviate the unemployment problem on the premise that the interest of the long-term development of society is met. But given that 230 000 people are out of job, it is obvious that the posts to be created by the Government are but a drop in the bucket.

As at 31 March this year, the Government has lived up to its promise and created 8 220 posts, including jobs for cleaners, property management personnel, security guards, peer counsellors, teachers, immigration assistants and constructions workers in various fields. We will report the details to the Panel on Manpower in due course.

Some Members criticized that the employment programmes for the unemployed had failed to produce significant results, and put the blame on inadequate demand in the labour market. In fact, any solution that can thoroughly ease unemployment must be led by the economy; and it is for the market to create employment opportunities. When the economy is in the doldrums, the job market will inevitably shrink. But in Hong Kong, there is also a mismatch of manpower, for there are jobs not filled by anyone when there are also jobless people not being able to land a job.

The Government is actively exploring new economic fronts, improving the business environment, encouraging investment and promoting the local community economy, and creating more job opportunities. Efforts have also been made to enhance manpower training in order to upgrade the competitiveness of local workers in employment by, for example, enriching the contents of the training courses for local domestic helpers to improve their service quality so as to meet the needs of employers, and providing "one-stop" customer-oriented employment services. Over the years, the Employees Retraining Board has successfully helped many middle-age unemployed people to take up jobs in other fields. I agree with the Honourable LEUNG Yiu-chung that the retraining programmes must follow more closely demands in the market. We will step up our market survey efforts and encourage the organization of more "tailor-made" programmes to be organized, in order to boost the employment rate of course graduates.

I wish to thank a number of Members for their support for the Youth Work Experience and Training Scheme, in particular, the Honourable WONG Sing-chi, who has put forward many concrete proposals. We will consider all these views fully when drawing up the details of the scheme.

In times of an economic downturn and an oversupply of labour, the effectiveness of employment services cannot be judged simply by the employment rate. It is more important to make the unemployed people understand their strengths and weaknesses as well as the realities in the labour market, so as to help them set career objectives and strengthen their adaptability to changes and motivation to pursue lifelong learning. We hope that through these employment services, they will be able to come to terms with unemployment more positively and face adversities with confidence.

Next, I would like to speak on education. Despite a huge budget deficit, the Government of the Hong Kong Special Administrative Region (SAR) has substantially increased the provision for education. This precisely shows the importance that the SAR Government attaches to education and its commitment to education. This is commended by a number of Members. But some Members still considered that the resources injected by the Government in tertiary education are insufficient. First of all, let me explain to Members the Government's policy on education subvention.

It has always been the policy of the Government to provide nine years of free basic education for all people and to heavily subsidize education in senior

secondary, matriculation and tertiary levels. In view of the economic recession in recent years, the Government has frozen school fees since 1998-99, resulting in an increase in the proportion of government subvention from 82% to 84%. As far as this academic year is concerned, the additional expenditure incurred is about \$300 million.

Although the Government does not provide full subsidies to kindergarten, tertiary and continuing education, it has made clear commitments to ensure that no one will be denied opportunities of education or further studies for financial reasons. The Finance Committee of the Legislative Council endorsed substantial amendments to student financial assistance schemes last year to benefit more students. It is estimated that the total expenditure for the various student financial assistance schemes will increase by over \$400 million this year, representing a growth of 16%. Faced with a huge demand and resource constraint, the "user pays" principle will enable resources to be used on the most needy and to benefit more people, which will be more conducive to the overall development of society.

Given the enormous scale of basic education, it is impossible to rely solely on government subvention to satisfy all the demands in the community for improving the quality of education, including the demand to reduce the class size. Therefore, we need to set up a flexible and diversified education system, under which individual schools may decide on the teaching and learning arrangements, teacher-student ratio, class size, and so on, based on their education philosophy and parents' aspirations, and also determine the level of school fees in the light of their needs to meet additional expenses.

Schools under the Direct Subsidy Scheme (DSS), which enjoy government subvention and a high degree of autonomy, best serve as a testing ground for measures geared for quality education. Some DSS schools charge a high level of school fees, but a considerable grant to the less well-off students is also offered by them. In the subvented school sector, there are also many outstanding schools as options for students.

A number of Members expressed concern over the cost-effectiveness of education investment. This involves consideration in two areas. First, whether resources are directed at the most needy areas; second, whether resources are put to good use and have achieved the desired results.

I very much agree with the Honourable SZETO Wah that education is a cause about man and its problems cannot be resolved simply by money. But the Honourable Margaret NG, on the contrary, questioned how improvements could possible be made without money? Ir Dr the Honourable Raymond HO and the Honourable Abraham SHEK regretted the ineffectiveness of education endeavours despite huge spending on education. It appears that Members' views are diverse and they are merely stating their own observations.

The crux of the question lies actually in whether resources are distributed reasonably, whether resources are well-spent, whether the powers and responsibilities pertaining to resource utilization are clearly set out, and whether the injection of resources can produce a leverage effect to enhance their effectiveness. A "broad-brush" funding arrangement to the neglect of the differences between schools seems to be fair on the surface, but the fact is that it actually incorporates lots of inequities. Equal distribution of resources will only make it impossible for any improvement breakthrough in the quality of education.

In essence, if those within the institution do not have the determination to keep pace with the times and the ability to adapt to changes, the simple injection of resources will practically take us nowhere. It is most imperative that we work out how the funding mechanism can give play to the positive side of human nature. In the meantime, we should put in place a sound system of checks and balances in the devolution of powers to ensure the proper use of resources, and to avoid increasing red tape and administrative work when enhancing transparency and accountability. To devise such a system, it is always easier said than done. I hope that a more comprehensive review of the education resource allocation strategies and the monitoring mechanism can be conducted in the coming year in consultation with the education sector.

In addition, we will review on a regular basis the effectiveness of our policy initiatives, such as the utilization of the Capacity Enhancement Grant, the Native-speaking English Teacher Scheme, the implementation of whole-day primary schooling, and so on. Apart from this, we are also preparing for the interim review of the education reform in 2003-04, which will cover studies of the impact of the new Secondary School Places Allocation System on primary and secondary students and on teachers, the implementation of the policy on the medium of instruction, and so on. We hope to obtain more information to

ensure that the formulation of policies is justified by academic arguments and has regard for the realities, in which case many unnecessary disputes would then be avoided.

According to members of the community, another reason explaining the ineffectiveness of our education endeavours despite huge investment in education is that the education system, curriculum, teaching methods and the assessment mechanism fail to cope with the needs of the times, and this is a problem that need to be addressed in the education reform. The effectiveness of students' learning depends on many interactive factors. They include the natural endowments of students, family support, school culture, quality of teachers, teacher-student relationship, students' motivation for learning, and so on.

Therefore, the education reform must target at problems that may arise in each and every link and propose solutions. Only when we examine the problems in a holistic perspective can we prescribe the right medicine. There is certainly no panacea in the world, and it is impossible to find one solution that works for all schools. Under the general principle of school-based management, we hope that each and every school can conduct a self-diagnosis and choose the most suitable medicine in the light of their needs.

Indeed, the education reform embraces a great variety of issues. It is mainly because education issues are intertwined, and we cannot just adopt a piecemeal approach. But while many issues are involved, they are not necessarily in a state of disorder. As long as we can study and analyse them in detail, we will be able to trace their correlation. In formulating the blueprint for the education reform, the Government has set priorities for the reform and drawn up a clear timetable and the necessary support measures for gradual and progressive implementation, having regard for the importance and urgency of different schemes or programmes.

All in all, our prime concern is to strengthen moral and civic education for students, upgrade their biliterate and trilingual proficiency and foster their interest in self-learning. As to how daily work and these objectives can be fused, so that priorities are set without creating additional workload which would further strain teachers, that will be a test to the wisdom of school principals.

The education reform is a mammoth and complex project, and its effectiveness can be seen clearly only after a certain period of time. But in the

past two years, we have seen some encouraging signs. Although we still have a long way to go before our objectives can be met, we will forge ahead with conviction. We will at the same time monitor the effectiveness and suitably adjust the direction and pace of reform where necessary. Members are welcome to pay visits to schools so that they witness on site the success of the education reform or otherwise. This will facilitate a fuller understanding of the problems and in-depth discussions by Members, so that they do not have to parrot others' views.

Finally, I wish to thank Members for their suggestions and comments on manpower and education matters in the past year. We firmly believe that the reform can be implemented smoothly only if we listen to and take on board constructive views from all sectors of the community.

Thank you, Madam President.

**PRESIDENT** (in Cantonese): I now invite the Financial Secretary to reply.

**FINANCIAL SECRETARY** (in Cantonese): Madam President, during last week's Budget debate in this Council, I heard many useful views from Honourable Members on the 2002-03 Budget. Business and community organizations, the public and the media have also expressed their opinions in various fora, and many of them are most insightful. I would like to begin my concluding speech on the Budget by expressing my heartfelt thanks to all concerned for their contributions.

A number of institutions and the media have conducted public opinion polls on the Budget. I was very encouraged to see these surveys indicating a high level of support in the community for my maiden Budget.

The Chief Secretary for Administration and other Secretaries have already replied to points made by Members on a number of issues. I will focus on several topics relating to public finance and set the record straight on the role of the Government in the economy. Before that, let me first discuss the purpose of the Budget.

The main functions of the budget are to lay down clear and practicable medium-term fiscal objectives, and propose government expenditure and revenue measures for the coming year. In this, it differs significantly from the policy address, which is the main forum for the Chief Executive to announce his policy objectives; whereas the budget provides the framework to achieve such objectives in financial terms through its revenue and expenditure proposals. Bureau Secretaries will then devise specific measures to implement such policy objectives and announce these to the public. The Budget debate is one opportunity which Members have to raise questions about different policy areas. There are other occasions, such as meetings of Legislative Council panels, for Members to discuss specific issues with the Administration. The budget, therefore, need not dwell on such matters, and I hope Members understand this.

In my Budget speech, I set three targets for public finances in the medium term, that is, by 2006-07:

- restore balance in the Consolidated Account;
- attain a balanced Operating Account; and
- reduce public expenditure to 20% of Gross Domestic Product (GDP) or below.

To achieve these three targets, I will contain annual growth of government expenditure from 2003-04 to 2006-07 at an average of 1.5% in real terms, or 1% in money terms, lower than the forecast economic growth rate for the same period.

I am encouraged that, as evidenced by last week's Budget debate and various comments in the media, the community is broadly in support of these three targets. Of course, some take a different view. They claim that the Government should not attach such importance to fiscal balance or the public expenditure share of GDP. I respect different viewpoints, but I believe that the setting of these three medium-term targets is in Hong Kong's overall interests.

There has been criticism in some quarters that the Budget has only set targets for controlling expenditure, and has not proposed specific measures to achieve them, thereby calling into question our will and ability to deliver. In other quarters, there is worry that, in the process, the Government will cut back on public services and its commitments to the community.

I have not underestimated the challenge of controlling government expenditure. As Members will appreciate, we have a long-established, rigorous and effective mechanism for the management of public finances. Once the targets have been set, Bureau Secretaries will implement the Chief Executive's policy objectives in their respective areas within preset expenditure limits. I believe Members will agree that it is far more effective for Policy Bureaux and departments to set priorities, streamline organization, simplify procedures and utilize market forces than for centrally-planned measures to be imposed. We will further examine how best to give bureaux and departments greater flexibility and more room for manoeuvre, while ensuring the appropriate use of resources.

Some have mistakenly equated control of growth in expenditure to expenditure reduction. I have to point out that government expenditure will continue to grow both in real and in money terms in the years ahead, although the rate of growth is lower than the forecast trend growth rate of the economy for the same period. We need to keep abreast of the times and adapt public services to ever-changing circumstances. We have to strike a proper balance between the prudent management of public finances and the needs of the community.

In order to reach my objective of keeping government small, I made it clear in my Budget speech that I would strive to control the growth of government expenditure not only in real terms but also in money terms. Many economists and analysts have supported this approach and consider it to be the right one for the management of public finances.

I also highlighted the phenomenon that price changes in government expenditure are greater than those in the economy as a whole. This departure from past practice has caused some Members to query whether or not we had in the past disclosed financial information of this nature. I can confirm that in previous years such information was made available in full in budget-related documents. Only the form of presentation has now changed.

I firmly believe the market is more effective than the Government in providing economic impetus, creating employment and allocating resources. If a disproportionate amount of the community's resources is consumed by the public sector, this will hinder private sector development and, in the long run, undermine Hong Kong's competitiveness. A robust economy provides the best conditions for us to tackle the problem of our public finances. I have therefore set a target for public expenditure to be reduced to 20% of GDP or below in the

medium term. I am nonetheless aware of a body of opinion which, while accepting that the Government should contain public expenditure as a share of GDP, claims that such an absolute target is unnecessary.

There is no magic in the target of 20% of GDP or below. But public expenditure will reach 23% of GDP this year, a far higher share than in the 1980s and 1990s. I consider it necessary to set a clear and attainable target for the medium term in order to allow the market to develop further. Once this target has been met, we will consider the need or otherwise for a fresh one.

I also proposed to maintain the fiscal reserves just at a level roughly equivalent to 12 months of government expenditure, to meet operating and contingency requirements. I am glad that most of the community support this proposal. Others, however, have taken the view that the Government should not be too miserly but should use more of our fiscal reserves to increase government expenditure. I do not agree with this. The reserves do not belong to the Government. They are the valuable assets of the community of Hong Kong. The Government is responsible for the optimal use of such assets.

To increase government revenue, the Secretary for the Treasury has just introduced two Bills to implement the Budget's revenue-raising proposals to increase the duty rate on wine and reduce the quantities of duty-free tobacco and still wine that local residents may bring back to Hong Kong. We consider that the proposal to increase duty on wine will not hamper tourism development.

I have also proposed the Boundary Facilities Improvement Tax. There has been some criticism that this will hinder the flow of people between Hong Kong and the Mainland. On the contrary, the Government actively promotes the flows of people, goods, capital, information and services between the two places in many different ways, the investment of substantial resources to improve the boundary facilities being one. Introduction of the Boundary Facilities Improvement Tax at a reasonable rate will help relieve our financial burden.

There have been suggestions that, once the Boundary Facilities Improvement Tax is introduced, the Kowloon-Canton Railway Corporation should reduce its fares for the Sheung Shui to Lo Wu section. As we all know, the Corporation is a separate entity required to operate on commercial principles with the autonomy to set its own fares. Its income is not government revenue. We should not confuse the two.

As shown by public opinion surveys conducted by various institutions, the majority of respondents support the introduction of the Boundary Facilities Improvement Tax in 2003-04. We are considering the detailed implementation of the tax, including arrangements for exemption, and will proceed to draft legislation for introduction into this Council in the current financial year.

Some have suggested that I have tried to draw a veil over possible tax increases in future, in order to gain public support for the Budget. In fact, I made it very clear in my Budget speech that, apart from the specific measures announced to control the growth of government expenditure and raise additional revenues, we will still need to increase recurrent revenue or control recurrent expenditure by a further \$9 billion, if we are to achieve the target of restoring fiscal balance by 2006-07.

In my Budget speech, I forecast a 3% real trend growth in GDP and a 0.4% trend growth in the GDP deflator annually over the medium term up to 2006. These forecasts are regarded as too optimistic by some commentators, who predict that, should they not eventuate, we may not be able to meet the three medium-term targets on schedule. I wish to point out that, these forecasts have been made after detailed study of a copious amount of data and other factors. Compared with forecasts in the market, ours are conservative.

In preparing the budget for 2003-04, the Government will review the medium-term forecast of the trend growth rates of GDP and the GDP deflator, in line with established practice. But there will be no change to the targets of balancing the Consolidated and Operating Accounts or reducing public expenditure to 20% of GDP or below by 2006-07.

The Chief Secretary for Administration has explained this afternoon the Government's stance on civil service pay adjustment. Let me reiterate a few key messages:

- first, the 4.75% cut in civil service pay is only an assumption made purely for financial planning purposes;
- second, civil service pay adjustment has nothing to do with the ability or work ethic of civil servants. I am sure there is no confusion between the two. After working in the Government for nearly a year now, I know the vast majority of civil servants to be

hard-working, committed to serving the community and doing a very good job. To maintain the stability of Hong Kong, it is essential to have the Civil Service on an even keel. I hope that the community can give full recognition to the contribution that our civil servants make to society;

- third, I hope that in any discussions on civil service pay adjustment, both the public and my civil service colleagues will adopt a rational and pragmatic approach, with the overall interests of the community at heart.

Some feel that the Budget has not dealt adequately or in sufficient detail with the direction of our economy. I disagree. In my Budget speech, I have already outlined clearly the direction of Hong Kong's economic development. As a highly externally-oriented and well-developed economy, Hong Kong cannot rely on one or two sectors alone to give impetus to our overall economic development. I consider it imperative to focus on those areas in which we enjoy a competitive advantage and to reinforce Hong Kong's positioning as Asia's centre for financial services, producer and professional services, logistics and tourism. We are moving up the value chain. Our new drive comes from leveraging on our hinterland, particularly the opportunities brought about by rapid growth in the mainland economy.

We must deepen and widen economic integration with the Mainland, in particular the Pearl River Delta. Of course, Hong Kong will, in the process, remain a separate customs territory, maintain its character as a cosmopolitan city and continue to have close trade and economic ties with other places around the world.

Let me emphasize the institutional strengths that Hong Kong enjoys. These include "one country, two systems", the rule of law, a level playing field, clean government, the free flow of information, a simple and low tax regime, and efficient and effective market-regulatory systems. Such strengths, added to a favourable geographic location and a talented workforce, have endowed Hong Kong with every advantage in developing high-value-added activities, and provide impetus to our overall economic development.

My belief that the Government should have a clear vision of the direction of economic development and be a proactive market enabler has raised some

eyebrows, and there has been surmise that I am bending the Hong Kong economy into a paradigm of central planning. This is purely a misconception. Quite the contrary, I will do my utmost to ensure that the Government upholds the principles of a free market and fair competition and does not pick winners.

However, the global economy is changing rapidly, and we need to keep close tabs on the situation. The Government should provide strong policy and resource support to upgrade our hardware and software, in particular by nurturing and attracting human resources and developing markets. This is especially important for economies with limited resources and a relatively small domestic market.

In fact I have already set out in the Budget speech various measures to create a market-enabling environment:

- first, in order to reduce the Government's consumption of resources in the community and give the market further room for development, I have set a target to reduce the share of public expenditure in the economy from the current 23% of GDP to 20% or below in the medium term;
- second, in proposing measures to address fiscal deficits, my strategy is to rely mainly on expenditure control and, as far as possible, avoid tax increases or the introduction of new taxes, thus keeping our government small and our environment business-friendly with a simple and low tax regime; and
- third, I have said that we would use market forces and strengthen our co-operation with the private sector to provide better and more efficient services to the public in various ways. I have also stated that the Government needs to enhance its efficiency and productivity while promoting market development through reprioritization, reorganization and process re-engineering.

Another related issue is the part the Government plays in encouraging employment. The Secretary for Education and Manpower has responded to Members' observations on employment. I would like to add a few remarks at the conceptual level. There are three ways in which the Government can create employment opportunities directly or indirectly:

- first, the Government can, through the implementation of policies, create an environment that enables development of the market, thereby encouraging employment. Examples include our current study to establish a common platform to facilitate data exchange in the logistics industry, our efforts to streamline procedures for the issuance of financial products, our approach to the Central People's Government to abolish the quota system for the Hong Kong Group Tour Scheme, and, not least, holding the Arts and Crafts Fair in Tsim Sha Tsui on holidays;
- second, the Government can, through the allocation of resources, encourage the market to create employment opportunities; and
- last, government departments can provide direct employment opportunities.

Generally speaking, it is more effective to allow the market to create employment opportunities.

Madam President, there are many who say that, in the last six months or so, Hong Kong has changed. Confronted by challenges as our economy restructures, we are all striving to find a way out. In this process, we have learnt to be humble and to devote greater care to our families and others around us.

In concluding my Budget speech, I quoted some song lyrics. I still find one of the lines — "Side by side we overcome ills" — has great depth of meaning. We are proud of Hong Kong's past, Hong Kong's history, but now we have a greater responsibility to create opportunities for the generation to come.

Some have suggested that we should now be singing "Shall We Talk". I fully agree. Members and I should talk to the community at large, and discuss how best to overcome the challenges we face.

I am not a good singer, but I am an attentive listener, happy enough to accompany and clap along. The heat of debate reflects the strength of our feelings; the sparks that fly up symbolize Hong Kong's vitality; the different voices evoke the vibrancy of our city. That has always been Hong Kong's style. I look forward with anticipation to working together with Members of this Council to open up a new era for our economy. Let us talk and act.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the Appropriation Bill 2002 be read the Second time. 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 LEUNG Yiu-chung rose to claim a division.

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

Mr Kenneth TING, Mr James TIEN, Dr David CHU, Mr Albert HO, Dr Raymond HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Eric LI, Mr Fred LI, Dr LUI Ming-wah, Mr NG Leung-sing, Mrs Selina CHOW, Mr James TO, Mr CHEUNG Man-kwong, Mr HUI Cheung-ching, Mr CHAN Kwok-keung, Miss CHAN Yuen-han, Mr Bernard CHAN, Mr CHAN Kam-lam, Mrs Sophie LEUNG, Mr Andrew WONG, Dr Philip WONG, Mr WONG Yung-kan, Mr Jasper TSANG, Mr Howard YOUNG, Dr YEUNG Sum, Mr YEUNG Yiu-chung, Mr LAU Chin-shek, Mr LAU Kong-wah, Mr LAU Wong-fat, Ms Miriam LAU, Mr Ambrose LAU, Miss CHOY So-yuk, Mr Andrew CHENG, Mr SZETO Wah, Mr Timothy FOK, Mr LAW Chi-kwong, Mr TAM Yiu-chung, Dr TANG Siu-tong, Miss LI Fung-ying, Mr Henry WU, Mr Tommy CHEUNG, Mr Michael MAK, Mr LEUNG Fu-wah, Dr LO Wing-lok, Mr WONG Sing-chi, Mr Frederick FUNG, Mr IP Kwok-him, Mr LAU Ping-cheung, Ms Audrey EU and Mr MA Fung-kwok voted for the motion.

Miss Cyd HO, Miss Margaret NG and Mr LEUNG Yiu-chung voted against the motion.

Miss Emily LAU abstained.

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

THE PRESIDENT announced that there were 56 Members present, 51 were in favour of the motion, three against it and one abstained. Since the question was agreed by a majority of the Members present, she therefore declared that the motion was carried.

**CLERK** (in Cantonese): Appropriation Bill 2002.

Council went into Committee.

### **Committee Stage**

**CHAIRMAN** (in Cantonese): Committee stage. Council is now in Committee.

### **APPROPRIATION BILL 2002**

**CHAIRMAN** (in Cantonese): We are to consider the schedule first.

I now propose the question to you and that is: That the sums for the following heads stand part of the schedule.

**CLERK** (in Cantonese): Heads 21 to 31, 35, 37, 39, 40, 42 to 51, 53, 55, 56, 58, 60, 62, 63, 70, 72, 74, 76, 78, 79, 80, 82, 90, 91, 92, 94, 95, 96, 98, 100, 106, 110, 112, 114, 115, 116, 118, 120, 121, 130, 136, 142 to 155, 160, 162, 163, 166, 168, 170, 173, 174, 176, 177, 180, 181, 184, 186, 188, 190 and 194.

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

(No Member indicated a wish to speak)

**CHAIRMAN** (in Cantonese): I now put the question to you and that is : That the sums for the heads stated stand part of the schedule. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

**CHAIRMAN** (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.

**CLERK** (in Cantonese): Head 122.

**MR JAMES TO** (in Cantonese): Madam Chairman, I move that head 122 be reduced by \$60,394,000 in respect of subhead 000, as set out in the paper circularized to Members.

Actually, I have already circularized a letter to Members, offering an explanation on this amendment and the other one I am going to move later at this meeting. I understand also that the Secretary for Security has addressed her reply to Members. Since both these amendments concern matters that have been scrutinized by the current Legislative Council, and they are roughly the same in contents, I guess that Members should know them very well. I only wish to say something in response to the Secretary for Security's reply. Since the Secretary for Security gave her reply last year, I have not had any opportunity to give my response in this Chamber; for this reason, I can only respond now, this year, to the reply given by her last year. Besides, since the incumbent Financial Secretary has assumed office only very recently, and also

since these amendments are connected with budgetary items, I hope that he can also lend me his ear.

First, ever since 1993, the Legislative Council has been moving motions on turning the Complaints Against Police Office (CAPO) into a body independent of the Police Force. Why should there be an independent CAPO? We have made several points in this. To begin with, it is the question of credibility. The main reason is that a CAPO completely independent of the Police Force organization will give people an impression of greater fairness. Giving police officers the task of investigating members of their number may probably lead to problems; for example, CAPO staff may one day be transferred back to their original posts or other teams, and they may find that the police officers once investigated by them can be their superiors or subordinates. This will lead to problems.

Second, many people have complained to us that visits to the CAPO and the Independent Commission Against Corruption (ICAC) give them very different feelings. When people go to the ICAC, the staff there will listen seriously to their complaints, treating them either as reporting clients or aggrieved parties who can provide vital information for the elimination of corruption. But when they complain to the CAPO, they often get the impression that the staff there will easily become sympathetic to their fellow officers — this of course does not happen all the time, because in some cases, the giving of statements is video-taped. But the complainant can usually sense this kind of sympathy very strongly even during initial contact, because once he starts to lodge his complaint, many CAPO officers will ask him to appreciate and understand the situation of police officers. Is it proper for CAPO staff to do so? Even at the very beginning, CAPO staff already hope that the complainant can appreciate the situation of police officers and stop making a complaint or even withdraw his complaint. If the CAPO is fully independent, I am sure that this will rarely happen.

In addition, since the CAPO is not independent of the Police Force, there may be the problem of delayed investigation. The CAPO is part of the Police Force, which is why whenever a person wishes to complain against police abuse of power, his first statement will have to be given to the CAPO. But in case the complainant is involved in a case under investigation by the police, CAPO staff may tell the complainant that if he gives a statement, they will have to forward it to the team responsible for investigating the case in which he was involved.

Actually, the complainant may wish precisely to complain against the team responsible for investigating the criminal case or other cases in which he is involved. Then CAPO staff may also advise the complainant that according to legal advice, if the complainant gives a statement and the statement is then forwarded to the team responsible for investigating the case in which he is involved, he will be put into a very disadvantageous position, because the statement may affect his defence or future statements. The complainant may of course seek his own, independent legal advice. Then, when the complainant really does so, he may also find that most lawyers will advise that this is disadvantageous to him, because the police officer under complaint may be able to know the complainant's defence or other important points in advance. Under such circumstances, most complainants will return to the CAPO in great dejection, informing it that he will not give a statement for the time being. In that case, CAPO staff will tell him that if he does not give a statement, the CAPO will be unable to carry out any investigation.

Members can see that every year, about 30% or 40% of the complaint cases are either withdrawn or classified as not pursuable. And, because of the need to wait for the completion of investigation by the other side, a complaint may have to be delayed for a year or two, or at least half a year to nine months. This may lead to several scenarios. First, all the grievances and anger of the complainant may have totally disappeared by then, and so, he may not pursue his complaint anymore. Second, many complainants may wish to pursue their complaints, but by then, many changes may have occurred to the people and circumstances involved in the complaints. For instance, something may happen following the lodging of a complaint, or when investigation into a complaint is about to start, the relevant witnesses and evidence may have disappeared already.

Therefore, if the CAPO cannot become independent, there will bound to be many problems. Recently (or, precisely, just the evening before last), Deputy Commissioner of Police LEE Ming-kwai said in a radio programme, "Yes, if there is independence (for the complaints body), it may seem to be fairer. But will there be any efficiency? If the staff of the independent body responsible for investigating complaints are not police officers, how can they know how to investigate complaints related to police affairs, especially those about abuses or 'tricky' matters?" Actually, we were already presented with the same argument some 20 to 30 years ago, before the setting up of the ICAC. At that time, one of the arguments against the establishment of the ICAC ran like this: Naturally, only police officers will know how to investigate cases of police

corruption, and there is already an anti-corruption branch within the Police Force. I think this argument is already "bankrupt" today. That is why it can simply be ignored.

The establishment of a CAPO independent of the Police Force may of course incur a bit more expenditure. For instance, the required funding now is some \$60 million, but in the future, more than \$60 million may be required, because there will be all sorts of other support that need funding. But then again, we must remember that the existing CAPO is not at all independent, is simply "neither fish nor fowl". A moment later, I shall talk about how the CAPO's lack of independence has led to a credibility problem which in turn necessitates the appointment of community figures to the Independent Police Complaints Council (IPCC) to shore up the facade. But even this already costs as much as \$60 million, and is by no means value for money.

Last year, when the Secretary for Security gave her reply, she quoted what Mr Denis CHANG Khen-lee, SC, said. According to the Secretary, she once talked to Mr CHANG, and he said that the CAPO was not entirely worthless, and that people should not thus dismiss the CAPO as totally useless. But the Secretary should remember and agree that during his term of office, Mr CHANG, then the Chairman of the IPCC, did make it a point of saying that the IPCC actually thought that at least the head of the CAPO should be a layman (The head of the CAPO is now a Senior Superintendent). The IPCC at that time advocated that the CAPO should be headed by a layman. To be precise, the IPCC thought that many practical problems would result under the existing framework, where all investigations are carried out by police officers. But the Government did not take on board even such a modest reform proposal from the IPCC, and it has been sitting on it ever since.

Last year, the Secretary also referred to some comments made in a seminar, saying that in overseas countries, even if the police complaints bodies there were independent in status, these bodies would only investigate serious cases. I think the investigation of serious cases is the necessary first step. As long as the CAPO can be made up of independent laymen, then even if it is tasked to investigate only serious cases, I would say that this is already some sort of progress. But what is the position of the Government now? So far, it has made absolutely no progress other than mooting a piece of legislation on making the IPCC a statutory body and conducting some sort of consultation. Many members of District Fight Crime Committees have told me, "It is really baffling

for the Government to put forward the legislation in such a manner. The policy laid down as far back as 1996 already specifies that the IPCC should become a statutory body. Why does the Government still try to conduct such an extensive consultation exercise, giving people the impression that the legislation is something new and special?" The answer is very simple. The publicity drive can enable the Government to occupy the air time of television and radio stations with its advertisements and APIs, and then it can say that the operation of the IPCC is marked by enhanced transparency, statutory powers, openness, impartiality and fairness. Actually, there have been colourful tram-body advertisements on the fairness, impartiality and openness of the IPCC for two to three years already. Whether or not the IPCC is to be made a statutory body is simply not the point here. If we just make it a statutory body but do not increase its powers, how can we really assist it in playing its monitoring role?

The Government does not allow the IPCC to employ any full-time observers, nor does it permit the IPCC to employ any personnel with professional experience (in investigation, particularly with respect to criminal cases or related fields) to work full-time in its secretariat. What is the Government up to? What then is the use of turning the IPCC into a statutory body? The truth is of course that if full-time observers are employed, and if these observers are all very "smart", with professional experience in investigation, they will in effect be able to head the work of investigation, to put all matters under their monitoring. And, since they work full-time, they will be able to follow each and every step in the investigation process. That will in practice mean the independence of the IPCC. CAPO staff think that this is even worse for them, which is why they insist on conducting investigations themselves. The reason is that they are very much afraid of being monitored every second during the investigation process. That is why some think that it is better to let the IPCC become independent. I have actually received many complaint letters, more than half of which were about the Kowloon office of the CAPO, and those CAPO staff concerned commented at the end that they would rather the IPCC became independent. They said that if they were always criticized for protecting their fellow officers, they would rather the IPCC became independent. That is what the officers of teams 1 to 4 of the CAPO's Kowloon office said.

It has recently been reported that the Government originally wanted to make some "verbal embellishment" and say that the performance of the observers had been very good, but when the reporters asked more questions, the truth was exposed, as the attendance rate of the 70 or so voluntary observers

could already show how they looked at their task. I really sympathize with them, and I must say that they have done their best despite the voluntary nature of their service.

Another point which we once discussed for a long time was the proposal raised in 1996 on the possibility of setting up a second layer of investigation authority. Specifically, it was asked, "Even if the CAPO does not become independent, can the IPCC be given the authority to conduct investigation of its own when it is not satisfied with the investigation findings of the CAPO?" However, the Government thought that even this was not acceptable. And, when the then Legislative Council sought to introduce an amendment to the relevant bill on the addition of such an investigation authority, the Government finally chose a "lose-lose" approach and withdrew the bill a few days before the reunification, even at the expense of not turning the IPCC into a statutory body.

In one word, the Government simply does not allow any room for negotiations at all, and its standpoint is that police officers must be investigated by police officers only. It thinks that this is the best approach, one that can best suit the context of Hong Kong. I do not know what is meant by "best suiting the context of Hong Kong". A context constituted by the opposition of large numbers of rank and file police officers? Or, other contexts? Can the Government explain what is meant by "best suiting the context of Hong Kong"? Can it also tell us who actually find this approach best suiting the context of Hong Kong? In what ways does this approach suit the context of Hong Kong? I think the Government really owes us an explanation.

Finally, as Members are aware, we now have to rely on the IPCC to monitor the work of the CAPO. But the IPCC is not empowered to impose any disciplinary actions, and even if the Commissioner of Police has imposed any such actions, he will not let the IPCC know the exact details — he simply "does not bother". Many past cases can in fact serve as examples. In the more distant past, there was the case of LEE Ming-kwai (now Deputy Commissioner, but then Assistant Commissioner), who played records of a symphony to drown the noises of the protesting masses. The IPCC viewed that this was unacceptable and wrong, amounting to an abuse of power. But Members all know what happened in the end. The IPCC wrote to the Chief Executive, but the Chief Executive said that LEE Ming-kwai had done a good job, and he even awarded an honours medal to LEE. Well, I really do not know why the members of IPCC can still continue to serve on the IPCC.

A recent example is the case of Chief Superintendent David THOMAS, who made use of his authority and instructed his subordinates to pay some so-called courtesy visits to the school of a 13-year-old girl, whose father, a club manager, was involved in some personal quarrels with him. What was actually going on? The IPCC considered that this was nothing but an abuse of power, and it was even surprised that the rank of the police officer involved was so senior. However, although the Secretary for the Civil Service subsequently set up a tribunal to look into this matter, David THOMAS was spared any punishment in the end. That being the case, I must ask, "Is the existing system still effective in terms of deterrence and monitoring? Is the IPCC able to play its desired role?" As I pointed out a moment ago, the CAPO will not inform the IPCC of the details of the punishments imposed. Therefore, even when the IPCC says that a complaint is substantiated, we must realize that this is nothing but its own conclusion. The IPCC may report with great satisfaction that many cases have been classified as substantiated, that it has identified many cases of impropriety, but can there be any deterrent effect in the end? They will simply ignore the IPCC, and in that case, how can we be convinced that the IPCC can bring the good system into full play? If the desired results cannot be achieved, then I must say that this is precisely the reason why the \$60 million in respect of the relevant subhead should be reduced. I think this sum of money will all be wasted. I hope that Members can speak for and support my proposal.

**Mr James TO moved the following motion:**

"That head 122 be reduced by \$60,394,000 in respect of subhead 000."

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

(No Member indicated a wish to speak)

**CHAIRMAN** (in Cantonese): Secretary for Security, do you wish to speak?

**SECRETARY FOR SECURITY** (in Cantonese): Madam Chairman, the Government strongly opposes the Honourable James TO's amendment to reduce subhead 000, that is, the operating expenditure of the police, by reducing head 122 by \$60,394,000 so that funds allocated to the Complaints Against Police

Office (CAPO) are eliminated. In fact this is a topic that has been discussed and debated for some years. Since Mr TO is so minded to seek my response, I now follow up my words said last year point by point. I would also like to respond to Mr TO's speech.

First of all, I must clarify this. Mr TO said, Mr Denis CHANG, SC, told me the CAPO was not completely useless. What transpired on that day was not like that. I remember clearly that when I asked how he would evaluate the work of the CAPO, he said, "It is getting better and better." He also said that if it had to become independent, then "it is only a matter of perception". That was what he said to me. Members should be able to tell that I did not fabricate all these as Mr CHANG speaks very good English. Indeed he spoke English most of the time when he had lunch with me on that occasion. He added that if investigation into police conduct was left to a police department, one advantage was that this could "internalize the values". That means complaints against the police for negligence of duty or misconduct invariably point to more civilized and law-abiding behaviour and no abuse of power within the police, which are values that should be internalized. Thus the management of the police should promote these values within the force. In fact he told me he saw a number of advantages in retaining investigation into police conduct within the police. However, he also told me that to let the CAPO become independent would be "a matter of perception". Does this perception mean that the people have no confidence in police officers investigating police officers? Figures do not bear this out. Currently there are about 5 000 complaints every year. If the people had lost confidence in the CAPO, why did so many members of the public lodge their complaints?

Moreover, has the CAPO been trying to protect their own colleagues by refraining from investigation? I have looked at the relevant cases and found that that was not the case. Members may be aware of a recent case in which some police officers were involved in assaulting the owner of a discotheque. The CAPO conducted an investigation and several police officers were subsequently convicted of criminal offences. These officers are in the course of an appeal. It has been said many complaints could not be substantiated. A reason is that some complaints are intrinsically deficient. About 40% of the complaints were withdrawn as they could not be substantiated. That is the case all over the world.

Mr TO had a very good memory. He could recall the forum on the mechanism for dealing with complaints against the police held by the Hong Kong

Police Force on 8 March last year. On that day, many experts were present. One of them was Mr Frank WOHL (Chair, New York City Civilian Complaints Review Board), an expert from New York City, the United States. In New York City, there is an independent mechanism for investigating into police affairs. He found that in New York City, 30% of the cases could not be substantiated because very often, complaints against the police are, as Mr TO has correctly pointed out, acts on the spur of the moment. Most of the complaints in Hong Kong are such trivial complaints as against negligence of duty, that is, "loafing" or complaints against impolite remarks such as "nanny" for senior female citizens (a very unwise thing to do) or "virago" for a woman. None of these are serious in nature. That a significant proportion of the complaints could not be substantiated is a common phenomenon in a number of places in the world.

At the forum held last year, an American expert, Mr Mark GISSINER, Immediate Past President of the International Association for Civilian Oversight of Law Enforcement, was present. His observation was that there were various ways of carrying out investigations into the police. Some were independent investigations, such as those carried out in New York, which was unique of course. Some other investigations, such as those carried out in London and many cities in the United States, were carried out by teams being part of their police department. When we watched television series, we would hear the term "Internal Affairs". So, having the police investigate itself is not unique to Hong Kong. The expert, having looked into the numerous modes of investigation in the world, said, "You will find there is no appreciable difference in the statistical roles of misconduct findings between police investigated and independently investigated complaints." Hence, independently investigated complaints do not produce a higher chance of conviction.

The expert also pointed out that the focus of looking into a mechanism for complaints against the police should not be like Mr TO's, in which Mr TO, after citing some cases, criticized some colleagues as if the police officers had not been meted sufficient punishment and then asked: Why were the officers not "fired" or "blacklisted"? Why could they be reinstated, or promoted? This is a totally negative attitude, full of vengeance. Let us see what the expert had to say: "A key component that should be considered as part of an oversight system is to facilitate proactive thinking by police professionals and authorities about human rights and policing and to encourage them to initiate meaningful projects and good practices". In other words, all experts agree that a mechanism for

complaints against the police or for monitoring by the people over the police should focus more on encouraging the police to initiate improvements in their management culture and procedures and more respect for human rights than on punishing individual police officers who break the law. This objective, if achieved, is even better than internal investigation by the police. Certainly, there are experts who also pointed out that on lodging a complaint against the police, immediate action may have to be taken on the scene. Evidence may have to be collected, photos taken or objects fingerprinted. What would the police officers on the scene do if there was an independent team to investigate into the complaint? He could do nothing or even ignore any requests. The complainant may call the independent team by phone, but it may take one or two hours before it arrives. When the team arrives, much of the evidence could have disappeared. Therefore, many people may find that having an independent department carry out the investigation may generate a "them/us" confrontational situation that may not be helpful to finding out the real cause of the problem or completing an investigation successfully.

I would also like to respond to a certain case mentioned by Mr TO. He queried why some police officers who had broken the rules were promoted. He mentioned a senior officer, whose name I do not intend to mention here. In fact, after some exaggerated reports in the press, some of which even accused him of abuse of power, an independent investigation was caused to be conducted by the Civil Service Bureau under disciplinary regulations for civil servants. The final conclusion was that there was no negligence of duty or misconduct on the part of the officer. The investigation was not carried out by the police or the Security Bureau, but by an independent civil servant appointed by the Civil Service Bureau. After a detailed investigation, he was cleared of allegations of misconduct. I understand Mr TO also queried why the officer was promoted. Indeed, he should have been promoted earlier. As he was involved in the allegations, his promotion was delayed for two years.

There is still a fundamental question. Do we think any police officer who has been complained against or warned should not be promoted afterwards? What consequences will this bring? Well, I recall that as we discussed law enforcement issues in the Legislative Council, such as the United Nations (Anti-Terrorism Measures) Bill that just went through its First Reading, many Members reminded us that the power requested by the Government should be commensurate. For instance, the power demanded should be proportional to the threat of terrorism. Then, should our reaction towards any police officer or

any civil servant accused of negligence of duty be commensurate as well? If the negligence of duty is so serious as to warrant a dismissal, the officer should be dismissed. If, however, a dismissal is not necessary but a written or verbal warning or a delayed promotion is, do we not give the officer a chance in future? Do we not consider a promotion for him? Should we discriminate against him in the years to come? Any such discrimination or negative feelings toward an officer in such a case would only create a growing number of low-morale civil servants in the Police Force or even any department. Is this in the interest of the community?

What I actually want to say is that I oppose Mr TO's amendment as this one, moved year after year. I think that at the back of his mind, there is a kind of prejudice, enmity against police officers so that he wants them punished, purged and "blacklisted" if found negligent in their duties. I also oppose cancelling the entire provision to the CAPO simply because the investigations against the police are carried out by the police. This would be tantamount to ignoring the contribution made by the 170 members of the CAPO, 19 members of the Independent Police Complaints Council (IPCC) (three members of the Legislative Council included), 25 staff of the IPCC office together with 63 specially appointed observers, and several hundred people who have worked towards a serious and impartial investigation into, and towards monitoring, the complaints against the police. I very much regret this kind of attitude.

Regarding the IPCC legislation, as Mr TO said, and indeed as Members are aware, we have tabled a bill, as promised. The consultation period has ended, though some District Councils are still arranging meetings for discussions. We have received around 100 submissions, most of which agreed that the IPCC should be made a statutory body.

Must the police be precluded from investigating the police? Only a small number of people insist that they must. However, I believe Hong Kong people have a clear mind. Why must a place like New York City have an independent department to carry out investigations into police matters so that the people there can be comfortable about the investigations? As Members know, New York City is quite unlike Hong Kong. Many violent crimes and many cases of police officers suspected of power abuse and unnecessary shooting take place in New York City. I believe Members may recall that several years ago, there was this incident in which three police officers fired 41 shots at an African American, who probably acted suspiciously on returning home as he put his hand into his

pocket for his keys. The officers mistook him to be a thief. The incident shocked the United States community.

But Hong Kong is different. I would not say there is no abuse of power by the police. Corruption and abuse of power may occur in any community or its forces, but in Hong Kong they are not widespread. Our Police Force enforces the law in a civilized manner and demonstrates great care in exercising its power. If the police were prevented from investigating police matters purely out of political reasons or prejudice against the police, the entire framework for investigation into the police and for monitoring such investigations would become politicized. Then, the morale of our Police Force would suffer a heavy blow. I do not think this is at all necessary. It is my conviction that the CAPO as it is operating smoothly and is doing better and better. The IPCC falls short of being perfect. As Mr TO said, some observers had not been present as often as they were expected. However, it must be appreciated that observers have a heavy workload. They have to fit themselves into the timetables of the complainants and the subjects of complaint. They need to follow up each case and ensure the CAPO investigations are conducted in an impartial manner. All these mean hard work. We are willing to make continuous improvements by having more specially appointed observers and making remedies in other aspects.

I think the present system has ensured that there is fair handling of complaints against the police and that a balance is struck between morale and stability of the police. It is thus not necessary to delete all of the \$60 million-odd needed by the police. The deletion would make it impossible for the people to follow up their complaints in future. Therefore, I urge Members to support the Government and object to Mr TO's amendment.

**MR JAMES TO** (in Cantonese): Madam Chairman, the first response I wish to make is that I am really surprised, for this is the first time I hear the Secretary accused me of harbouring prejudice and enmity against police officers and seeking even to "nail" them. I must tell the Secretary that I can openly declare that I have never been arrested by any police officers, nor have any of my family members or even my closest friends been arrested by police officers before. I definitely have no reason to hate the police officers or to "nail" them. I absolutely have no reason to do so. On the other hand, after hearing what the

Secretary said just now, I wish to tell the Secretary that I am afraid she is fond of defaming others, adhering to the autocratic system of police officers investigating into complaints against police officers, and forcibly shielding the blundering officers. According to the explanation she gave in an interview, she does all these because she has to demonstrate her "brotherhood". The Secretary is trying to break up my relationship with police officers; but why must she do that? I have no intention to compete for her ministerial post; she will definitely be appointed to it. There is indeed no need for her to do such things to me. I am therefore very surprised. We are just discussing the issue in question, I really cannot see any reason why the Secretary has to say such things. Our Secretaries will all be appointed as ministers in future, but is what the Secretary doing a prelude to the culture?

With regard to the possibility of bringing about a reform of the culture within the Police Force mentioned by the Secretary just now, I consider this a very important point. However, we must not forget that a coin has two sides. While the Secretary is of the opinion that I wish to revenge and nail the police officers concerned, I consider it necessary to impose punishment on those who have committed mistakes, so as to create some deterring effect and facilitate reforms of police culture. So, my purpose is to strike a proper balance. In the case cited by me earlier on, despite the conclusion — a unanimous one — reached by the IPCC (some of the Honourable colleagues in this Chamber are also members of the IPCC) that the relevant act should constitute abuse of power, the Chief Executive just said in the end, "No, he was right." So, this is the problem of the present system. Perhaps the IPCC has conducted an investigation through the CAPO and found that there was indeed abuse of power (please bear in mind that the IPCC is not genuinely independent), then the CAPO would conclude upon completing its investigation that the act concerned really constituted abuse of power and its report would be endorsed by the IPCC, which shared the same view. What would the Government do then? The Government would say that it had to set up a tribunal under the more independent Civil Service Bureau to review whether the report has made any mistake. In the event that the Civil Service Bureau concludes upon review that the relevant act should constitute abuse of power, the Government may still refer the case to the Chief Executive for decision if it wishes to protect the persons concerned. In that case, the Chief Executive may just say, "I do not think they have done anything wrong this time."

What a system we presently have! It really beats me how such a system can play a monitoring role, or even give rise to changes in the culture of the police and thereby inducing police officers to adjust their personal and intrinsic values. The existing system is in fact very simple. There is no cause for panic even if one should be "nailed" by the IPCC and those holding senior posts could have yet one more chance, for they could hire a competent lawyer to defend them and enable them to be acquitted of their charges through the Civil Service Bureau. I really do not understand why there could be such a system.

What is more ridiculous is the Secretary's argument about the possible loss of confidence on the part of the public. She said that if the public should have lost confidence in the CAPO, the number of complaint cases received by the CAPO would not have risen. I consider this argument a paradox because the CAPO is the only channel through which the public can lodge complaints against police officers. The people just have nowhere to turn to if they do not lodge their complaints with the CAPO. What would these people do? I believe Members must have received many complaints and even those Members opposing the amendments proposed by me today have received many cases of complaint. Where will Members refer the complaint cases to? As some of the complainants are electors or kaifongs, Members would normally suggest the complainants lodge their complaints with the CAPO. For my part, I will suggest the complainants lodge their complaints with the CAPO even if I do not give them a referral. As regards those complaints I am ready to give referrals, I would still suggest them lodge their complaints with the CAPO. What is more, in some cases I have even begged the complainants to go to the CAPO. As a matter of fact, this is the only suggestion I could make. Since I cannot conduct any investigation on my own initiative, what else could I do?

In addition to suggesting them lodging their complaints with the CAPO, I will also provide the complainants with a letter setting out in detail the points I find to be of importance, so that the CAPO can learn from the letter that some items must be looked into. So, this is what I do. Given that Members are all treating the relevant complaint cases in this manner, naturally the number of complaints lodged with the CAPO will be on the increase. From an objective point of view, an increase in the number of complaints received implies an increase in the number of cases involving abuse of power. Let me explain that with a simple example. As the crime rate drops, the number of people being

requested to produce their identity cards for verification has also dropped. The figure has fallen from between 3 million-odd and 4 million in the past to approximately 2 million in recent years. As there are fewer chances of encounter, there will naturally be less conflict between the public and the police. The number of complaints received by the CAPO has increased just because the complainants have no other channels of redress. Actually, we should regard this as an alarm that the situation has worsened, rather than claiming that it reflects strong public confidence in the CAPO. In my view, the Secretary has to a large extent "framed" the public, as they just do not have any other channels through which they can lodge complaints. Even if they should lodge their complaints with the Secretary, their complaints would eventually be referred to the CAPO; as such, the result will just be the same.

I understand that many members of the public are presently trying to sue the police through civil proceedings, and that more people are instituting proceedings against police officers battering them or framing them up. Why would people rather seek redress for their cases through civil proceedings? This is because civil proceedings will be conducted in one single court only and the proofs required are not as stringent as those involved in criminal proceedings. Besides, many of the cases are in fact the "throw in and lose half the stake" ones, which can be settled by way of compensation. What does this tell us? It tells us that more and more people would rather sue the Government for compensation via other means; but then, the Secretary is claiming that this situation reflects the increased confidence of the public.

Moreover, I have never said that all of the police officers in the CAPO would practise favouritism, nor have I tried to deny the enthusiastic and earnest efforts made by CAPO members, IPCC members and staff of the IPCC Secretariat who are genuinely serving the community. Certainly, they have all been working hard to do a good job despite the many constraints of the present system. Nevertheless, it does not follow that it is most effective for the system to operate in the present mode. We should never interpret it this way. Let us take a look at an analysis made by a professor of the University of Hong Kong. As members of the legal profession, we should be all the more aware that in many cases the complaints are closely related to some people charged with certain offences and whether or not they gave the guilty confession voluntarily. The professor has spent several years' time to analyse a number of cases and

hundreds of statements, checking out the number of cases in which the statements were involuntarily made and the number of cases the statements of which have been found by the Court upon trial as having been made involuntarily. The resulting figures are definitely not the ones we have been informed of. In particular, regarding the complaints against "frame-up" and battering by police officers, which amount to some 700 to 800 cases annually, only a very limited number of such cases can be established. Hence, the successfully established cases only account for a very small percentage of the complaints lodged. Certainly, we cannot compare all the figures in this way, but the comparisons thus drawn can at least provide us with some very good reference. As shown in the findings, almost one third of the statements collected were inadmissible on the grounds that they were taken involuntarily, which means that the persons concerned made those statements just because they were being threatened, coerced, battered or framed up. We can see that very clearly in the analysis.

Further still, the Secretary also mentioned just now that, most regrettably, some 30% to 40% of the complaints had to be withdrawn and thus could not be followed up. Why? As I pointed out in my previous speech, investigations had been delayed because the agency responsible for conducting them was not independent. But then, the Secretary told us just now that it would not work if the investigating agency should become independent, because police officers would not collect the relevant exhibits but would leave the job to the independent investigators. So, the Secretary was in effect telling us that if the investigating agency should become independent, the relevant exhibits would either become lost or the efforts to collect them would be delayed. Let us look at the ICAC for some corroboration. Do Members think it is possible for the ICAC to do its job so inefficiently? It is certainly impossible in reality. If the relevant agency is competent, independent and efficient, it will certainly be vested with statutory powers to conduct investigations. Its staff will arrive on the scene by the time police officers arrive and collect the relevant exhibits. Upon returning to the police station concerned, the senior officers of both the police and the ICAC will then discuss the case. The ICAC will never let the police take away or destroy the exhibits. This is absolutely impossible. If the agency responsible for conducting investigations can perform its duties this way on the crime scene, the confidence of the public in the present system will certainly be bolstered. Last but not least, I should like to point out that while justice must be done, it must also be upheld; and that justice which cannot be administered is not the kind of justice we want. I urge Honourable Members to support my motion.

**CHAIRMAN** (in Cantonese): I now put the question to you and that is: That the amendment moved by Mr James TO be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Mr James TO rose to claim a division.

**CHAIRMAN** (in Cantonese): Mr James TO has claimed a division. The division bell will ring for three minutes.

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

**CHAIRMAN** (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:

Miss Margaret NG, Mr CHEUNG Man-kwong, Mr LAW Chi-kwong and Mr Michael MAK voted for the motion.

Mr Kenneth TING, Mr James TIEN, Dr Raymond HO, Dr LUI Ming-wah, Mrs Selina CHOW, Mr HUI Cheung-ching, Mr CHAN Kwok-keung, Mr Bernard CHAN, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU, Mr Timothy FOK, Mr Henry WU, Mr Tommy CHEUNG, Mr LEUNG Fu-wah, Dr LO Wing-lok, Mr IP Kwok-him and Mr LAU Ping-cheung voted against the motion.

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 LEUNG Yiu-chung, Dr YEUNG Sum, Mr LAU Chin-shek, Miss Emily LAU, Mr Andrew CHENG, Mr SZETO Wah, Mr Albert CHAN, Mr WONG Sing-chi and Ms Audrey EU voted for the motion.

Miss CHAN Yuen-han, Mr CHAN Kam-lam, Mr Andrew WONG, Mr Jasper TSANG, Mr LAU Kong-wah, Miss CHOY So-yuk, Mr TAM Yiu-chung, Dr TANG Siu-tong, Mr Frederick FUNG, Dr David CHU, Mr NG Leung-sing, Mr YEUNG Yiu-chung, Mr Ambrose LAU and Mr MA Fung-kuok voted against the motion.

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

THE CHAIRMAN announced that among the Members returned by functional constituencies, 25 were present, four were in favour of the amendment and 21 against it; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 30 were present, 15 were in favour of the amendment and 14 against it. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the amendment was negatived.

**MR JAMES TO** (in Cantonese): Madam Chairman, I move that head 122 be reduced by \$94,355,000 in respect of subhead 103, as set out in the paper circularized to Members.

Madam Chairman, my speech will be shorter this time. *(Laughter)* Actually, I just hope the new Financial Secretary will look more deeply into this area. Why must I do this? Certainly, I have no intention to give the Financial Secretary any trouble, but I do wish him to keep a closer watch on this subhead on reward and special services because the expenditure on this subhead amounts to almost \$100 million. So, where would such \$90 million-odd go?

First of all, I must explain that I am not trying to cut informer's fees, even though there have been reports in many local newspapers of me seeking to cut the provision for informer fees. What I propose to reduce is a mysterious item of expenditure of some \$90 million-odd including the payments for informer fees, and perhaps we may refer to this item of expenditure as special expenses. Why do I propose to reduce this item of expenditure? This is because I have been denied of information on how much of that sum will be used for informer's fees, and how much will be spent on manpower and equipment respectively. The Government has refused to provide us with even the most basic information, just how can we know what purposes will the sum concerned serve?

If any Honourable colleagues, say, the Honourable Audrey EU, who is elected to the Council for the first time, should be interested in the information concerned, might try requesting for a briefing with the Government. We attended a briefing of this kind in 1999, albeit the information we got was mainly the monitoring-related expenses, other items of expenditure were just described generally and briefly.

I hope Members will understand that I am not asking for information on the amount of fees informers have received. I have been dealing with security issues for such a long time, so I have gained considerable knowledge relating to the monitoring matters in this respect, I certainly will not raise such a question. Besides, I am not interested in such details either. I have also handled complaint cases of a rather sensitive nature before, but I still do not understand why the Government is unwilling to disclose to us even some principle issues or general figures. What is more, despite the fact that we are willing to obtain the relevant information behind closed doors upon taking an oath promising to keep strict confidentiality, the Government still refuses to accede to our request. In short, the information will never be disclosed. But then, is it absolutely impossible for the relevant information to be disclosed by the Government? The Government says it is currently considering the matter, which means that it is procrastinating. The Government has mentioned before that the expenses concerned involved interceptions, and that it still had to take quite some time to consider a lot other factors, including the ones occurred to their mind very recently. However, I have been inquiring about the details of this subhead for many years, and I just hope the Government can expedite its efforts in this respect.

I have read the letter addressed by the Secretary to Members. The Secretary says in the letter that she agrees in principle that this item of expenditure should be accountable. However, the question remains how government officials will be held accountable for the relevant expenses. Here, I should like to respond to the speech made by the Secretary last year. She said last year that if Mr James TO should find any information that could be made public, she would like Mr TO to read out the relevant information, but Mr TO did not do so then.

As a matter of fact, some countries do disclose such information. Let me read out some examples to Members briefly. According to the intelligence agency of the United Kingdom, its establishment comprises 1 832 full-time employees. Of its employees, about 55% are below the age of 40, 47% are female and 6% are part-time workers. In 1998-99, it spent £400 million. How was the money allocated and for what purposes was it used? Of those £400 million, some 30% was spent on anti-terrorist activities in Northern Ireland, 22% on efforts to combat international terrorism, 20.5% on counterespionage, 11.5% on internal vetting, 7% on efforts to combat serious crimes, and 3.5% on intelligence relating to efforts to curb nuclear proliferation. I obtained such information from the Internet. With regard to Canada, while the country's intelligence agency has 2 097 employees, breakdowns of the relevant salary expenses and operating expenditure were listed together with other capital construction expenses. In the most recent year (2001-02), the total expenditure in this connection was CAN\$92 million. As regards New Zealand, the country's intelligence agency has 115 employees and has spent NZ\$11.5 million.

I have quoted these examples for Members' reference. Actually, I still have the information on three to four more countries, including the Czech Republic and Hungary. These former communist states have democratized and thus listed out even their expenses on intelligence fees. I have not yet told Members how the relevant government departments of these countries disclose information to and are held accountable by their respective congresses or the relevant subcommittee set up under them. I have asked the parliamentarians of those countries and learnt that they could make special inquiries behind closed doors.

At any rate, this Council is the legislature of Hong Kong and our electoral base is much larger than the 800-strong Election Committee returning Mr TUNG

Chee-hwa. Speaking of accountability, Mr TUNG claims that he is highly representative and has won the trust of the public because he was elected by an 800-strong Election Committee. I cannot help but consider his argument a joke. In any case, the Legislative Council is at least a representative council. Hence, I just cannot see any reason why the Government cannot disclose to this Council such figures as the breakdowns of certain expenses, for example how much is spent on informer fees, operating expenditure, manpower, equipment, and so on. I wish to remind Members that \$100 million is not a small sum, and that with this sum, a great deal of equipment can be acquired on hire purchase. According to my understanding, the largest amount of expense is most probably the expenditure on informer's fees for anti-narcotics operations. Nevertheless, however large the amount may be, it just will not exceed a few million dollars, which is already a rather enormous sum. But if it should amount to \$100 million, I would say the expenditure on informer's fees is really too high. Perhaps this has something to do with history, particularly the interception activities conducted by the former Special Branch in the past.

So, I just wish to have some brief information only. As for today's meeting, I hope the Secretary will inform us of the progress of the relevant review and the time when we can further discuss the issue from the accountability perspective. We have indeed waited too long in this respect.

**Mr James TO moved the following motion:**

"That head 122 be reduced by \$94,355,000 in respect of subhead 103."

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

(No Member indicated a wish to speak)

**CHAIRMAN** (in Cantonese): Secretary for Security, do you wish to speak?

**SECRETARY FOR SECURITY** (in Cantonese): Madam Chairman, the Government strongly opposes the amendment of Mr James TO that seeks to delete the entire sum of \$94,355,000 to be allocated under the subhead of "reward and special services" for the Police Force. I understand Mr TO has

been hoping to obtain more information about expenditure under the subhead. However, in past years, we have been repeatedly explaining why the relevant details cannot be released.

First, in response to Mr TO's question on accountability and supervision, I must reiterate that the sum will be regulated by a strict regulatory mechanism. The Police Force has formulated a set of detailed internal guidelines for expenditure under the item, to be strictly followed by the relevant police officers. The Police Force has an internal monitoring mechanism, including approval for each payment by senior police officers, regular and surprise checks on details and accounts for all payments. The Internal Audit Division of the Police Force and the Audit Commission also conduct regular and surprise checks on payments under the subhead "reward and special services". On a recent occasion, the Commissioner of Police, explained in response to questions raised by Members that 1 200 payments had been made out as informer fees last year. He also released the figures relating to surprise checks for the subhead. Thus, there is already in place a sound mechanism in regulating the subhead.

Why can payments under the subhead not be disclosed? I must repeat this: We are very much concerned that in disclosing the information, covert operations of the Police Force will be adversely affected. Mr TO said we need not worry about that. If, however, all details regarding the number of informers, payment to each informer and all additional items of equipment procured are exposed, over time, covert operations of the Police Force will naturally be affected in some measure. This may even lead to predictions made by some unscrupulous law-breakers as to which payment goes to which informer through tracking the expenditure pattern of the police. They may even locate the persons suspected to be acting as informers and kill or hurt them. Thus, we have great reservations about a total exposure of raw information to the public.

Mr TO has cited a number of examples abroad, saying MI5 in Britain or intelligence agencies in Canada and Eastern Europe have made public their staff strength or even the ratio of men to women staff under their employ. If that is the extent of detail Mr TO desires, I can disclose the information right now. Would Mr TO be satisfied if I now told the public that the head of the Security Wing was a permanent resident of Hong Kong, male, ethnic Chinese aged about 40? Well, these are not what he wanted. He said he wanted details under the "reward and special services" subhead, which are completely different in nature.

Mr TO mentioned the MI5 of Britain. In fact it disclosed information in the form of some rough statistics only. For example, in 1995-96, it was said 25% of the expenditure was used on intelligence relating to counter-espionage and anti-arms proliferation activities, 3% on anti-subversion activities and the rest on anti-terrorist activities, including domestic and international terrorist activities. The nature of these figures is completely different from that of the information under the subhead "reward and special services". What plans has the Government then to enhance the transparency of its work? As I said last year, expenditure under subhead 103 has a level of confidentiality similar to the work on interception of communications. The Government, particularly after I have taken office, has conducted an in-depth study in respect of the Interception of Communications Ordinance.

Mr TO considers our progress has been slow. But we must not forget that the interception of communications has been going on for several decades, if not a hundred years. No one conducted any study on it until January 1997, just before the reunification. At that time, the then Government suddenly released a white bill but shelved it after the reunification. Nobody cared about it until I took office and set up a working group to deal with it. I can tell Mr TO that despite the very heavy workload at our Security Bureau and many urgent and unexpected matters that require our attention, such as the right of abode issue and anti-terrorist work, the working group, which is an inter-departmental group has made some progress.

I can promise Mr TO that the study on the Interception of Communications Ordinance and its operation should be completed within this year. After our comprehensive review, we hope to be able to find a balance between further opening up intelligence work of the Government and the police, protecting the safety of police operations and enhancing accountability towards the people.

Madam Chairman, I urge Members to support the Government and oppose the amendment of Mr TO.

**MR JAMES TO** (in Cantonese): Madam Chairman, my reply is very straightforward. First of all, I should like the Secretary to bear in mind that I have no intention to keep a close watch on how each single sum of money is spent; I have never made such a demand before and neither have my colleagues.

We are only concerned about collective payments and sums of large amounts. To cite an example, we certainly do not know how much of this \$100 million provision will be spent on informer fees but let us assume the amount to be \$30 million. If we feel that certain types of offences have been on the increase recently, we may consider it necessary to boost the resources in certain aspects, making adjustments or reviewing whether the equipment we have is among the most update ones. We may perhaps have to vote for more funds. On the other hand, if we consider there is no need for such a large amount of provision after reviewing the overall crime situation, the Financial Secretary may allocate the excess funding to other purposes. Hence, I very much hope that the Financial Secretary will consider seriously whether this \$100 million sum is enough, rather than adopting simply the view of the Commissioner of Police or the Secretary for Security that the amount is enough. I wonder whether the Financial Secretary has inquired about or tried to understand the uses of this \$90 million-odd provision when drafting this year's Budget, or he simply accepted their views that the amount should be enough.

So, all I wish to know is how the entire sum of provision and the items under it are regulated and controlled, rather than the respective amount of fund allocated to each item of expenditure. This is because funding allocation is a very meticulous art; we have to study the funding scale, such as how large a share should be given to drug-related matters and arms-related matters. Since it would involve another subject, we have not asked for any studies in this respect. Recently, some people are saying that there seem to be more arms in our community, while some others even query whether the police have slackened their law enforcement efforts relating to arms after cracking the CHEUNG Tze-keung case and crumbling many of his accomplices. What is more, some people have even expressed concern that certain intelligence networks and the Criminal Intelligence Bureau might have purchased less intelligence due to financial constraints. I hold that matters relating to these major concepts should be monitored.

Nevertheless, I have never asked the Government to expose every detail of the relevant information, including the names of the informers and the respective amounts of fees paid to them, and thereby leaving the informers in perils. This is definitely not what I want. I only urge the Government to disclose the relevant information to Members. Taking the various committees of the ICAC as an example, members of those committees, some of whom are Honourable

colleagues, are not allowed to take away with them the files they have read at the meetings and many of the questions raised then must be answered right at the meeting place. While such meetings may be conducted behind closed doors, parties attending the meetings may also be requested to take oath and observe the confidentiality requirement. As such, the details of the relevant information will not be exposed to the public. I consider the remarks made by the Secretary, particularly her point that every detail would be exposed to the public, an insult to the argument advanced by me. Further still, I would consider the Secretary did so with an ulterior motive if she kept making such remarks year after year despite her clear understanding of the situation.

Lastly, I wish to make it clear that I am not interested in the standard information of other intelligence agencies, which can be found on the Internet. But then, the Secretary has refused to provide even such standard information. So, comparatively speaking, the Secretary's response is really unacceptable. The Secretary just talked about the monitoring system without making any mention of the process of the various meetings and the meetings held behind closed doors. I have consulted the lawmakers in many countries and jurisdictions and found that their experiences were very much different from ours. As for their parts, these overseas lawmakers were surprised or even astonished to learn of the practice in Hong Kong. For major issues like the budget, not only the lawmakers but also their personal assistants (known as Legislative Directors) will have to attend the briefings concerned. Indeed, given the enormity of the funding involved, their personal assistants should really attend the budget briefings. Naturally, these personal assistants may most probably be recruited through some exceptionally stringent employment procedures and may even be required to undergo vetting. In my view, such steps would be inevitable if their work should involve the disclosure of certain confidential information. Nevertheless, so far our Government still refuses to disclose anything.

Thank you, Madam Chairman.

**CHAIRMAN** (in Cantonese): I now put the question to you and that is: That the amendment moved by Mr James TO be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Mr James TO rose to claim a division.

**CHAIRMAN** (in Cantonese): Mr James TO has claimed a division. The division bell will ring for three minutes.

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

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

Functional Constituencies:

Mr CHEUNG Man-kwong, Mr LAW Chi-kwong and Mr Michael MAK voted for the amendment.

Mr Kenneth TING, Mr James TIEN, Dr Raymond HO, Mr Eric LI, Dr LUI Ming-wah, Mrs Selina CHOW, Mr HUI Cheung-ching, Mr CHAN Kwok-keung, Mr Bernard CHAN, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU, Miss LI Fung-ying, Mr Henry WU, Mr Tommy CHEUNG, Mr LEUNG Fu-wah, Dr LO Wing-lok and Mr IP Kwok-him voted against the amendment.

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 LEUNG Yiu-chung, Dr YEUNG Sum, Mr LAU Chin-shek, Miss Emily LAU, Mr Andrew CHENG, Mr SZETO Wah, Mr WONG Sing-chi and Ms Audrey EU voted for the amendment.

Miss CHAN Yuen-han, Mr CHAN Kam-lam, Mr Andrew WONG, Mr Jasper TSANG, Mr LAU Kong-wah, Miss CHOY So-yuk, Mr TAM Yiu-chung, Dr TANG Siu-tong, Mr Frederick FUNG, Dr David CHU, Mr NG Leung-sing, Mr YEUNG Yiu-chung, Mr Ambrose LAU and Mr MA Fung-kwok voted against the amendment.

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

THE CHAIRMAN announced that among the Members returned by functional constituencies, 24 were present, three were in favour of the amendment and 21 against it; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 29 were present, 14 were in favour of the amendment and 14 against it. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the amendment was negatived.

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That the sum for head 122 stand part of the schedule.

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

**CHAIRMAN** (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.

**CHAIRMAN** (in Cantonese): I now put the question to you and that is: That the schedule stand part of the Bill. According to the Rules of Procedure, this question is neither amendable nor debatable.

**CHAIRMAN** (in Cantonese): Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

**CHAIRMAN** (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.

**CHAIRMAN** (in Cantonese): We are to consider the clauses of the Bill. I now propose the question to you and that is: That the following clauses stand part of the Bill.

**CLERK** (in Cantonese): Clauses 1 and 2.

**CHAIRMAN** (in Cantonese): Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

**CHAIRMAN** (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.

**CHAIRMAN** (in Cantonese): Council now resumes.

Council then resumed.

### **Third Reading of Bill**

**PRESIDENT** (in Cantonese): Bill: Third Reading.

### **APPROPRIATION BILL 2002**

**FINANCIAL SECRETARY** (in Cantonese): Madam President, the

Appropriation Bill 2002

has passed through Committee without amendment. I move that this Bill be read the Third time and do pass.

**PRESIDENT** (in Cantonese): I now proposed the question to you and that is: That the Appropriation Bill 2002 be read the Third time and do pass.

**MR MARTIN LEE**: Madam President, may I, on behalf of Members of the Democratic Party, ask for a short suspension, so that we can conduct a consultation before deciding how to vote on the Third Reading of this Bill?

**PRESIDENT** (in Cantonese): Members, I have accepted Mr Martin LEE's request. I now declare that the meeting be now suspended and then resumed after a short while.

6.14 pm

Meeting suspended.

6.25 pm

Council then resumed.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the Appropriation Bill 2002 be read the Third time and do pass. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

**PRESIDENT** (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.

**CLERK** (in Cantonese): Appropriation Bill 2002.

### **NEXT MEETING**

**PRESIDENT** (in Cantonese): I now adjourn the Council until 2.30 pm on Wednesday, 24 April 2002.

*Adjourned accordingly at twenty-six minutes past Six o'clock.*