

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 26 June 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.

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 SIN CHUNG-KAI

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

DR THE HONOURABLE PHILIP WONG YU-HONG

THE HONOURABLE WONG YUNG-KAN

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

THE HONOURABLE HOWARD YOUNG, J.P.

DR THE HONOURABLE YEUNG SUM

THE HONOURABLE YEUNG YIU-CHUNG, 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 JAMES TIEN PEI-CHUN, G.B.S., J.P.

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 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

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

MR RAYMOND YOUNG LAP-MOON, J.P.
SECRETARY FOR COMMERCE AND INDUSTRY

CLERKS IN ATTENDANCE:

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

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

MRS JUSTINA LAM CHENG BO-LING, ASSISTANT SECRETARY
GENERAL

MR RAY CHAN YUM-MOU, ASSISTANT SECRETARY GENERAL

TABLING OF PAPERS

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

Subsidiary Legislation/Instruments	<i>L.N. No.</i>
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Child Abduction and Custody (Parties to Convention) (Amendment) Order 2002	103/2002
Declaration of Mental Hospital (Consolidation) (Amendment of Schedule) Order 2002	104/2002
Shipping and Port Control (Closure of Waters) Notice 2002	105/2002

Other Papers

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| No. 87 | — | J.E. Joseph Trust Fund
Report for the period 1 April 2001 to 31 March 2002 |
| No. 88 | — | Kadoorie Agricultural Aid Loan Fund
Report for the period 1 April 2001 to 31 March 2002 |
| No. 89 | — | Report of the Independent Police Complaints Council 2001 |
| No. 90 | — | Hong Kong Export Credit Insurance Corporation
Annual Report 2001-2002 |
- Report of the Panel on Home Affairs 2001/2002
- Report of the Bills Committee on Revenue Bill 2002 and Revenue (No. 2) Bill 2002
- Report of the Bills Committee on Noise Control (Amendment) Bill 2001
- Report of the Bills Committee on Employees Compensation Assistance (Amendment) Bill 2002

ADDRESSES

PRESIDENT (in Cantonese): Addresses. Mr Eric LI will address this Council on the Report of the Independent Police Complaints Council 2001.

Report of the Independent Police Complaints Council 2001

MR ERIC LI: Madam President, on behalf of the Independent Police Complaints Council (IPCC), may I present the Report of the IPCC 2001.

The IPCC is an independent body whose members are appointed by the Chief Executive. Its main duty is to monitor and review the investigation conducted by the Complaints Against Police Office (CAPO) of the Hong Kong Police Force into complaints against the police to ensure impartiality and thoroughness. When examining the investigation reports, the IPCC can ask the CAPO to clarify areas of doubt or request the CAPO to re-investigate into a complaint if it is not satisfied with the investigation result. Where necessary, the IPCC may also interview witnesses including the complainants, complainees and professionals, such as forensic pathologists, for further information or expert advice. A case will not be finalized until the IPCC has endorsed the CAPO's investigation results.

In 2001, the IPCC reviewed and endorsed a total of 3 540 complaint cases involving 6 103 allegations, a decrease of eight cases but an increase of 169 allegations when compared with the corresponding figures of 3 548 and 5 934 in 2000. Allegations of assault, misconduct/improper manner/offensive language, and neglect of duty constituted 81.6% of the complaints, representing a slight increase of 1.4% when compared with the figure of 80.2% recorded for 2000. Of the 6 103 allegations endorsed, 112 were classified as substantiated, 129 were substantiated other than reported, 30 were not fully substantiated, 1 123 were unsubstantiated, 383 were false, 478 were no fault, four were curtailed; 1 727 were withdrawn, 626 were not pursuable, and the remaining 1 491 allegations which were of a very minor nature, such as impoliteness, were resolved by informal resolution, that is, mediation by a senior police officer who is at least at the Chief Inspector of Police rank in the complainees' division. The substantiation rate in relation to the 2 255 fully investigated allegations in 2001 was 12%.

In 2001, the IPCC raised 868 queries on the CAPO's investigation reports, asking for clarifications on ambiguous points or questioning the results of investigations. Subsequently, the results of investigation of 93 allegations were changed. Arising from the investigation results endorsed by the IPCC in 2001, criminal proceedings, disciplinary and other forms of internal actions were taken against 293 police officers. The IPCC also suggested improvements to police procedures where appropriate.

To provide a higher level of service, the IPCC has promulgated a set of performance pledges in terms of standard response time in handling public inquiries and monitoring complaints against the police. The performance of the IPCC in meeting its pledges in 2001 was satisfactory. 99.1% of normal cases were endorsed within the pledged period of three months. In addition, 98.9% of complicated cases and 99.2% of appeal cases were endorsed within the pledged period of six months. With experience gained from the past years' operation, the IPCC will strive to maintain a high level of performance in future.

Although the IPCC plays no part in the actual investigation, the IPCC members and lay observers, through the IPCC Observers Scheme, can observe the conducting of investigations and interviews by the CAPO on a scheduled or surprise basis. In 2001, 210 observations were arranged under the IPCC Observers Scheme. After each observation, the observers report to the IPCC as to whether the CAPO has conducted the investigation in a thorough and impartial manner. Their feedback has been useful for the IPCC in monitoring the complaint cases.

During 2001, the IPCC organized a series of programme to publicize its functions and image. A seminar was organized in March 2001 at the Hong Kong Convention and Exhibition Centre. The seminar was aimed at providing a forum for community leaders to discuss the keys to an effective police complaints monitoring system. The Commissioner of Police and three overseas speakers experienced in civilian oversight of investigation of complaints against police made presentations at the seminar. Over 500 community leaders and representatives of government bureaux/departments attended the seminar. They found the presentations by the speakers informative and thought-provoking and they also participated actively during the open forum.

Apart from the seminar, the IPCC also produced jointly with the Radio Television Hong Kong a television series comprising four half-hour episodes for broadcast on local television stations with a view to enhancing public understanding of the operation of the police complaints system and the work of the IPCC. In addition, 16 secondary school talks were organized within the year to promote awareness of the IPCC's work among the younger generation.

Madam President, to sum up, 2001 was a busy and successful year for the IPCC. Details of the activities of the IPCC and some complaint cases of interest are given in the Report of the IPCC 2001. We shall continue to keep up with the high standard of thoroughness and impartiality in our monitoring and review of investigations into public complaints against the police. We understand that the Administration will introduce the Independent Police Complaints Council Bill to the Legislative Council to make the IPCC a statutory body, and we hope that this can further enhance the monitoring function of the IPCC and public confidence in the police complaints system.

Thank you.

PRESIDENT (in Cantonese): Mr IP Kwok-him will address this Council on the Report of the Panel on Home Affairs 2001/2002.

Report of the Panel on Home Affairs 2001/2002

MR IP KWOK-HIM (in Cantonese): Madam President, in my capacity as the Chairman of the Panel on Home Affairs, I would like to report on the work of the Panel during the Legislative Session of 2001-02.

Over the past year the Panel discussed many issues of importance and I would like to highlight four of them and make a brief report here.

The Panel discussed with the Administration on the Report of the Sports Policy Review Team. Members in general supported the initiatives proposed in the Report to promote public participation in sport, encourage the provision of more opportunities of sports activities for students and provide better support for disabled athletes. Some members, however, had reservations about the proposal of dissolving the Hong Kong Sports Development Board and

establishing a Sports Commission to advise on strategic policy planning and funding of sports development. They considered that there should be a clear central authority for policy making as well as disbursement of public funds in respect of sports development.

The Administration advised that the lack of a clear central authority responsible for overall policy, planning, co-ordination and monitoring of sports development was one of the major problems of the current administrative structure for sport. The proposal of establishing a Sports Commission was put forward to address the problem in this respect. The Administration further explained that under the proposal, the single funding body to be set up in future would disburse public funds in accordance with the strategic funding policy of the Sports Commission.

The Panel heard the views from over 50 interested organizations on the Report. As the Chairman of the Panel, I will move a motion on the Report for debate at the Council meeting on 3 July 2002.

The Panel had a meeting with the Administration on the outcome of the District Council (DC) Review. Most members in general expressed disappointment with the role of the DCs remaining advisory in nature and the very limited powers in district affairs being given to DCs. The Administration undertook to continue to explore ways to further enhance the role and functions of DCs in district affairs, and to conduct a comprehensive review of DCs after the DC elections in 2003.

The Panel also discussed the proposed arrangements for the conduct of village representative (VR) elections compatible with the Court of Final Appeal judgement in December 2001 on VR elections.

According to the Government's proposal, two types of VRs, namely, an indigenous inhabitant representative representing indigenous inhabitants of an indigenous village and a resident representative representing all residents of a village would be returned in the VR elections to be held in 2003 and thereafter. Members noted that a person would be required under the proposed arrangements to have ordinarily resided in a village for at least three and five years immediately preceding the date of his application to be registered as a voter and his nomination as a candidate respectively before he could participate in the relevant election.

Some members queried whether such a stringent residency requirement was compatible with the Hong Kong Bill of Rights Ordinance. The members also expressed concern that disputes might arise if the responsibilities of the two types of VRs had not been clearly delineated.

The Panel also heard views from the Heung Yee Kuk on the proposed arrangements on the conduct of VR elections. The Panel had scheduled a special meeting to hear views from the public on the proposed arrangements.

The Panel has kept a close interest in the issue of racial discrimination and also the promotion of equal opportunities in the context of racial issues. The Administration undertook to provide the Panel with an analysis of the results of the consultation conducted on the need of legislation against racial discrimination in the private sector as early as possible.

Madam President, I so submit.

ORAL ANSWERS TO QUESTIONS

PRESIDENT (in Cantonese): Questions. First question.

Changes in Operation of "One Country, Two Systems"

1. **MISS EMILY LAU:** *Madam President, the Consul-General of the United States in the Hong Kong Special Administrative Region (SAR) said on 6 June that initiatives such as the proposed Closer Economic Partnership Arrangement (CEPA) with the Mainland and streamlining the operation of the boundary through co-location of customs and immigration officials on the Mainland side of the boundary have raised questions for the international community. He further stated that "it is essential that Hong Kong demonstrates clearly that these changes in the operation of 'one country, two systems' will neither weaken Hong Kong's autonomy nor dilute its core values." In this connection, will the executive authorities inform this Council:*

- (a) *of the latest developments of the above two initiatives, and how these initiatives amount to changes in the operation of "one country, two systems";*

- (b) *whether they are aware of expressions of similar concerns by other foreign government officials; if so, of the details of such concerns; and*
- (c) *how the SAR Government demonstrates to the international community that the above initiatives will not weaken the SAR's autonomy or dilute its core values?*

SECRETARY FOR COMMERCE AND INDUSTRY: Madam President,

- (a) Consultations on the Mainland/Hong Kong CEPA formally commenced in January this year. The proposed CEPA will cover three areas: namely, trade in goods, trade in services, and trade and investment facilitation. So far, two rounds of High Level Consultations have been held. Officials of both sides have been meeting regularly and steady progress has been achieved in all the three areas.

Both the Mainland and the SAR agree that, first and foremost, the proposed CEPA should be fully consistent with the Basic Law and the "one country, two systems" principle. Our status as a separate customs territory and our full autonomy over trade and economic policy as provided by the Basic Law will not be affected by the CEPA.

As regards the co-location of customs and immigration facilities on the Mainland side, the overall principle as agreed between Guangdong and Hong Kong is that the relevant departments of the two sides will carry out separate immigration and customs clearance procedures in accordance with their own relevant laws and regulations. While they operate at adjacent sites on the Shenzhen side, there will be a buffer zone segregating the facilities of the two sides. Specifically, the two sides will avoid overlapping jurisdictions. The intention is that the area to be managed by the SAR will be clearly designated and that Hong Kong laws will apply in such a designated area. Such an arrangement, which preserves the existing mode of operation primarily, will not in any way affect

the operation of "one country, two systems". Hong Kong will remain a separate customs territory.

- (b) Many of our trading partners have indicated interest over the progress of the CEPA consultations. They are mainly concerned with the economic aspects of the proposal, especially whether their trade interests might be affected by the CEPA.

As regards the co-location proposal, some of our interlocutors from local consulates as well as some visiting officials from overseas have expressed keen interest in knowing more about the co-location arrangement. They are aware, though, that there are already in place some co-located border clearance facilities between some countries (for example, the Poland/Germany and Poland/Czech Republic land crossings). Their particular concern is whether and how our status as a separate customs territory, which is the cornerstone of our customs and immigration controls, will be affected by the implementation of the proposed co-location arrangement.

- (c) The proposed CEPA will fully comply with relevant rules of the World Trade Organization (WTO). Similar to other free trade agreements, the CEPA will not weaken the autonomy of any party to the arrangement. When concluded, the CEPA will be notified to the WTO, with the text of the arrangement submitted to the WTO Committee on Regional Trade Agreements for examination. The transparency in respect of the scope and operation of the CEPA will also demonstrate to the international community that the initiative will not undermine the SAR's autonomy on trade and economic policy.

On the co-location arrangement, we have explained to all our interlocutors, both local and overseas, that the major grounds for such an arrangement are the lack of usable land on the Hong Kong side for expansion of our control points and the benefits of streamlined procedures for passengers. However, there will be no relaxation in the SAR's customs and immigration control resulting from the co-location arrangement. There will neither be joint

inspection nor sharing of database or computer facilities between the relevant SAR and mainland authorities. These basic principles will be observed in the implementation of the co-location arrangement.

MISS EMILY LAU (in Cantonese): *Madam President, in part (b) of the main reply the Secretary mentioned that some of our interlocutors from local consulates as well as some visiting officials from overseas had expressed keen interest in the co-location arrangement, and that their concern was whether our status as a separate customs territory, which is the cornerstone of our customs and immigration controls, would be affected by this arrangement. Will the Secretary tell this Council what serious consequences it would bring to Hong Kong if our status is really affected? Moreover, the Secretary also mentioned that similar arrangements are in place at Poland/Czech Republic and Poland/Germany land crossings. In what way are those arrangements similar to the proposed arrangement in Hong Kong?*

SECRETARY FOR SECURITY (in Cantonese): Madam President, I will answer the supplementary question asked by the Honourable Emily LAU. As some of our interlocutors from local consulates and some visiting officials from overseas have been assured, any arrangement to facilitate immigration clearance will not affect Hong Kong's status as a separate customs territory and tourist zone. In other words, irrespective of how the formalities will be simplified or streamlined, Hong Kong will maintain independent control on the entry and exit of visitors and goods. This is definitely not going to change. I can assure Miss LAU of this.

Miss LAU asked about similar arrangements in some countries. In fact, inspection can be conducted in a variety of manners. For instance, the Honourable James TO proposed earlier that control be imposed only on entry and not on departure; some suggested one-way inspection, whereby inspection is undertaken by customs officials of one side only on all north-bound visitors and goods; some suggested "joint inspection", that is, both sides will have access to the same computer facilities and share information on visitors. Regarding the co-location arrangement under our proposal, Hong Kong may carry out inspection in accordance with our own laws and policies, and will not share with another jurisdiction computer facilities and information. As for the similar

arrangements at Poland/Czech Republic or Poland/Germany land crossings, they only serve to enable Polish customs officials and their German counterparts to sit next to each other or to sit more closely to each other on the same site, so long as the venue allows, so that visitors do not have to get on and get off the vehicles for customs clearance at two different control points. But still, the two countries conduct inspections separately.

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

MISS EMILY LAU (in Cantonese): *Madam President, I was asking the Secretary this: In relation to part (b) of the main reply, what serious consequences would it bring to Hong Kong if Hong Kong's status as a separate customs territory is affected?*

SECRETARY FOR SECURITY (in Cantonese): Madam President, if Hong Kong ceases to be a separate customs territory, then we certainly cannot enjoy the tariff concessions offered by some of our trading partners. For example, if a trading partner imposes a 50% tariff on steel exported from China and imposes the same tariff on Hong Kong — of course, Hong Kong is not a steel exporter — then we can no longer enjoy the status of a separate customs territory. On the tourism front, Hong Kong is a separate tourist zone. If we are unable to maintain this status, some territories (such as the European Union) will not grant visa-free status to holders of the SAR Passport, and we would then be treated in the same way as others.

MR KENNETH TING (in Cantonese): *Madam President, the United States appear to be very concerned about the situation in Hong Kong. Under the NAFTA of the North America, a concessionary zone is formed by three countries. Is their case the same as ours under "one country, two systems", and is there a need for us to make the same arrangements as theirs?*

PRESIDENT (in Cantonese): Which Secretary will answer this question? Secretary for Commerce and Industry.

SECRETARY FOR COMMERCE AND INDUSTRY (in Cantonese): Madam President, CEPA is a free trade zone agreement. In fact, there are over 100 similar agreements and arrangements in the world. This arrangement in North America involves the United States, Canada and Mexico. While many free trade zone agreements are in compliance with some WTO regulations, their provisions are nevertheless different. In this connection, the relevant arrangements that we are currently discussing with the Mainland do not necessarily have to model on the North American Free Trade Agreement, but obviously, they must be consistent with the relevant spirit.

DR LUI MING-WAH (in Cantonese): *Madam President, judging from the prevailing economic conditions in Hong Kong, it is necessary for Hong Kong to make arrangements for closer economic partnership with the Mainland. If our interlocutors from local consulates and visiting officials from places all over the world are so concerned about this issue, will it affect the negotiations between Hong Kong and the Mainland? Moreover, what is the progress of the relevant negotiations?*

SECRETARY FOR COMMERCE AND INDUSTRY (in Cantonese): Madam President, as I mentioned in the main reply, many consuls and countries have inquired of us the progress of the negotiations. In fact, they have expressed concern mostly over the economic aspects, rather than questioning whether the principle of "one country, two systems" will be affected. We have been maintaining communication and liaison with them. Certainly, we cannot tell them the specific details, but we have informed the relevant trading partners of the general progress. So far, I do not think their concern will impede our negotiations with the Mainland.

MR JAMES TO (in Cantonese): *Madam President, in discussing the co-location proposal with the Mainland, will the Government consider exercising exclusive jurisdiction in the area in front of our checkpoint, that is, to stipulate by legislation exclusive jurisdiction for Hong Kong with the consent of the Mainland, rather than effecting overlapping jurisdiction by Hong Kong and the Mainland, despite the fact that the area is located within the boundary of the Mainland? Does the Government think that this arrangement can bolster the confidence of*

the international community in the implementation of "one country, two systems"?

PRESIDENT (in Cantonese): Which Secretary will answer this question? Secretary for Security.

SECRETARY FOR SECURITY (in Cantonese): Madam President, our views happen to coincide with those of Mr TO. In pursuance of the implementation of "one country, two systems", in our consultations with the Mainland on the site for the future co-location arrangement, our direction is that an area in Shenzhen be designated for the management and conduct of inspection by Hong Kong. The geographical location and boundaries of this area should be expressly specified, and legislative amendments will be required in both places for implementation. In the case of Hong Kong, we believe amendments have to be made to our legislation to the effect that our law enforcement agencies can effect enforcement in the designated area outside the boundary of Hong Kong. The Mainland will also have to carry out some work in respect of their law to provide for the application of Hong Kong laws in the designated area, to ensure that there would be no overlapping between the laws of Hong Kong and those of the Mainland in this area.

MR CHAN KAM-LAM (in Cantonese): *Madam President, I think establishing closer economic partnership with the Mainland and streamlining customs clearance procedures in Hong Kong and in the Mainland are very important to Hong Kong. The United States Consulate appears to be very concerned about the affairs of Hong Kong. Since the reunification, how far is the United States Consulate concerned about the affairs of Hong Kong? It is because the Secretary mentioned in the main reply that the Government would often explain our situation to officials from overseas countries. The kind of economic arrangements to be made between the Government and the Mainland can also be found elsewhere in the international community. So, I would like to know whether foreign governments often give their views on the development of Hong Kong-Mainland relations.*

PRESIDENT (in Cantonese): Which Secretary will answer this question? Secretary for Commerce and Industry.

SECRETARY FOR COMMERCE AND INDUSTRY (in Cantonese): Madam President, as trade in Hong Kong is free and thriving, we have many trading partners internationally. Insofar as trade is concerned, if Hong Kong intends to adopt any new measure or new policy, naturally many Consulates of foreign countries or their government officials will from time to time inquire of us the relevant progress. The United States are certainly among them, for the United States are now our second largest trading partner. The European Union and Japan are also trading partners of great importance to us. These countries will, from time to time, inquire of us the progress and details of Hong Kong's trade and economic arrangements with the Mainland. Circumstances permitting, we will inform them of the relevant details and progress as far as possible.

PRESIDENT (in Cantonese): Last supplementary question.

MR HOWARD YOUNG: *Madam President, I doubt if the co-location of customs and immigration facilities on the other side of the border would affect our core values or autonomy. I would like to ask the Government, in explaining the system to overseas governments, in particular the United States, did it bother to ask whether the sending of officials by the United States to Vancouver in Canada for clearance duties had affected the core values or the autonomy of the United States, or was it the other way round that the Canadians had such feelings?*

SECRETARY FOR SECURITY (in Cantonese): Madam President, the Honourable Howard YOUNG was referring to the pre-clearance arrangement, which is a different kind of arrangement. The United States and Canada agree that United States officials responsible for customs and immigration control, as well as the control of animals and plants, and so on, can station at major airports in Canada to conduct inspections on visitors before boarding. This will save visitors from having to go through any further inspection procedure when they arrive at the United States. This arrangement is agreed subsequent to consultations between the two countries and formalized by way of legislation. A Pre-clearance Act was enacted in Canada to authorize United States officials to enforce law within the boundary of Canada. Given that this arrangement is agreed by the two countries, there is no question of the autonomy of either side being injured. But this is totally different from our co-location arrangement.

Consultations are being held with the Mainland to seek the consent of the Mainland to the designation of an area in Shenzhen where we can apply the laws of Hong Kong and conduct inspection on visitors and goods in accordance with the relevant legislation in Hong Kong.

PRESIDENT (in Cantonese): Second question.

Handling of Dead Bodies in Unnatural Death or Dead Body Found Cases

2. **MR LAU KONG-WAH** (in Cantonese): *Madam President, it was reported that on 8th and 11th of this month respectively, an elderly man jumped onto the track at a Mass Transit Railway (MTR) station and was crushed to death by a train and a young man plunged to his death from a building. Their badly mutilated bodies covered in blood were not removed from the scenes until after more than three hours, causing emotional disturbance to many passers-by who saw the dead bodies. In this connection, will the Government inform this Council:*

- (a) *of the general procedure and the time usually required for removing the dead bodies in respect of unnatural death or dead body found cases;*
- (b) *of the details concerning the handling of the dead bodies in the two cases, the reasons for taking more than three hours to remove them, and whether it was due to a shortage of manpower or communication problems between the departments concerned; and*
- (c) *whether it has reviewed if the departments concerned have made mistakes in handling the two cases, and whether it has considered other courses of actions which are more respectful of the feelings of the deceased's family members and cause less inconvenience to the public?*

SECRETARY FOR SECURITY (in Cantonese): Madam President,

- (a) In removing dead bodies in unnatural death or dead body found cases, the police will, depending on the circumstances of individual

cases, assume different responsibilities and take different actions. In general, a uniform branch officer will take the following actions at the scene where a corpse is found:

- (i) check whether there is any sign of life;
- (ii) remain at the scene and maintain communication with the Regional Command and Control Centre, immediately request for ambulances to rescue the injured if suspect that the person concerned still has chance to live, and/or request for the turn out of criminal investigation units if there is reasonable suspicion that crimes have occurred;
- (iii) identify witnesses and record their particulars;
- (iv) examine in detail the environment of the scene to see if there is any suspicion and note all observations in the record book;
- (v) ascertain the identity of the deceased and arrange to inform the family members concerned;
- (vi) after the completion of all police operations, ask for the turn out of the dead removal teams of Food and Environmental Hygiene Department (FEHD);
- (vii) escort the transfer of the corpse to public mortuaries; and
- (viii) search the corpse and record details of properties found from the deceased.

According to the Force Procedure Manual, if the police receive reports of cases of "persons fell from height", the police officer who first arrived at the scene should examine the surrounding environment to see if there is any suspicion. Unless there is apparent evidence indicating so, the case should not be classified as suicide lightly and the dead body should not be removed. Apart from the above, police officers should also consider whether blood or body fluid found in the scene would pose any danger to

themselves or other persons. Other potential threats, such as proximity to heavy machinery, traffic conditions of the roads or tracks concerned, should also be considered. Unless all police operations have been finished and safety has been confirmed, the dead removal team of the FEHD should not be asked to come to scene for removal of corpses. This is to avoid holding up FEHD staff at the scene unnecessarily before they can start their removal work.

The time required for the removal of dead bodies depends on the complexity of investigation required at the scene and hence cannot be generalized. Under normal circumstances, the FEHD can remove the corpse from the scene one hour after they are informed of police's request for their service.

- (b) Details of the two incidents mentioned in the question are as follows:

The first incident happened at 8.42 am on 8 June 2002. The police were informed by the Command Centre of the MTR Corporation Limited (MTRCL) that something resembling body parts of a person were found on the railway track in Ngau Tau Kok Station. Honourable Members, I am sorry to say that the following description may sound insensitive, but that is a most unfortunate case. Police officer of the MTR district arrived at the scene in one minute. Preliminary observations confirmed that the items found were body parts of a person and the police commenced investigation into the incident immediately. An ambulance also arrived at the scene 15 minutes later. As the person had already been torn into parts and was obviously dead, the ambulanceman did not pick up the dead body. Service from the FEHD dead removal team was requested instead. Meanwhile, to find out whether there was any suspicious circumstances relating to the death of the deceased, the police conducted investigation at the scene, collect evidence, identify witnesses and collect body tissues and blood sample, and so on, from the deceased, in accordance with established guidelines. After all the initial investigation work at the scene had been completed, the corpse was picked up by the dead removal team at

11.00 am and was transported to public mortuary. This case required a relatively longer period of time for removal of dead body because the dead removal team could only start to pick up the body parts on the railway track after the MTR station staff had rescheduled the MTR trains.

The second incident occurred at 9.43 am on 11 June 2002. The police received a call at the 999 hotline, reporting a case of "person fell from height" in Lee Cheng Uk Estate in Cheung Sha Wan. Police officer turned up at the scene five minutes after the time of report. An ambulance also arrived shortly. The ambulanceman did not remove the dead body after having confirmed that the person was already dead. The deceased was a young person with no identification documents found on his body, and it could not be ascertained from where the deceased had fallen. The case could not be classified as a suicide case right away and the police had to conduct initial investigation to determine whether there was any suspicion about the case. The police conducted searches at the adjacent building and examined video tapes recorded by CCTVs of elevators. It was subsequently confirmed that the deceased entered the elevator on the second floor. The police identified the mother of the deceased by paying visits to households on the second floor of the building. The identity of the deceased was confirmed and the mother also revealed that the deceased was suffering from stress related to examinations before his death. The case was classified as suicide after initial confirmation that there was no suspicion of foul play. The police requested service from dead removal team of the FEHD at 12.23 pm and the corpse was removed at 1.10 pm.

In both incidents, the departments concerned have taken prompt actions in accordance with relevant guidelines and have the dead bodies removed within a reasonable timeframe. There was no delay. The police and the FEHD have sufficient manpower to handle the work and effective communication is maintained between the departments.

- (c) In handling the two incidents, the relevant departments did not neglect the feelings of the deceased's family members and the

possibility of causing inconvenience to the public. Both cases were handled in accordance with established procedures by the police and the FEHD, and were finished in the shortest time possible. In the first incident, the dead body was covered by a black cloth once the police officer had arrived at the scene. Most of the platform concerned was cordoned off, leaving behind only the foremost part of the platform, which is the farthest away from the location where the dead body was found, for boarding and alighting by passengers. The body parts of the deceased were all out of the sight of the passengers. This arrangement was to prevent causing any unpleasant feeling to the passengers. In fact, staff of the station had not received any complaint. As regards the second incident, the corpse was covered by a blanket from an ambulance during the entire process of investigation. When it rained, an additional water-resistant black cloth was put on top of the blanket. The police had conducted an evaluation regarding this incident and concluded that actions taken on the day were appropriate.

MR LAU KONG-WAH (in Cantonese): *Madam President, if the incident had happened indoors or not in a public place, then it might be appropriate if the normal procedures were undertaken. But if the incident happened in a busy public place, where the dead body was left unattended as the police were making their investigations and where trains continued to run by, that would be not just indifferent but also cold. May I ask the Secretary, with regard to the fact that the MTRCL only removed the dead body after a few hours, did the Government ever discuss with the MTRCL afterwards to see if any new measures could be adopted to prevent the recurrence of the same situation?*

SECRETARY FOR SECURITY (in Cantonese): Madam President, what the MTRCL did on that day was to cordon off part of the platform in the Ngau Tau Kok Station to facilitate police investigations and to prevent passengers from catching sight of the dead body. As I have said earlier, the dead body was covered. That the time taken to handle the dead bodies in these two cases was relatively longer is mainly due to the fact that the police had to follow the established procedures to conduct some forensic and criminal investigations to

examine if there was evidence showing the deceased had committed suicide or was killed, or if the deceased in one of the cases had been pushed down the tracks or in the other case if the young man had been pushed from the building, before the cases could be classified. Moreover, dead bodies should not be removed without any good cause, for this may affect the process of collecting evidence. Admittedly, the time taken to handle the dead bodies in these two cases was quite long, but proper actions were taken to minimize any unpleasant feelings that might cause the public.

MR CHAN KWOK-KEUNG (in Cantonese): *Madam President, may I ask the Secretary since when ambulance personnel have not been required to handle dead bodies and why?*

SECRETARY FOR SECURITY (in Cantonese): Madam President, I am sorry to say that I cannot tell off hand when this practice started to be in place, but that should be quite a well-established one. For work in the government departments is divided like this, ambulances or "white vehicles" as they are commonly called are supposed to handle injured persons and come to their rescue, but if the police have found human bodies showing no signs of life, then ambulances should not be summoned to remove the bodies. As to the handling of dead bodies, the service is provided by the dead removal teams of the FEHD. That is the difference between "white vehicles" and "black vehicles".

MR WONG YUNG-KAN (in Cantonese): *Madam President, in part (b) of the main reply given by the Secretary to the Honourable LAU Kong-wah, it can be seen that the time taken for handling the dead bodies in the two cases was about three hours and the time required for removing the dead body in the second case was more than three hours. It is believed that similar cases have occurred before. May I ask the Secretary whether such a long time was required in the past, if so, has the Government made a review of the procedures with a view to shortening the time required so that dead bodies may not come into the sight of the public and hence any unpleasant feelings so caused may be minimized?*

SECRETARY FOR SECURITY (in Cantonese): Madam President, according to the information I have at hand, there is one more case which happened in June this year in which the handling time was more than three hours. As a matter of fact, most cases do not require such a long handling time and the reason that they do is mainly due to the need to confirm the identity of the deceased and the police must determine on *prima facie* evidence whether the deceased has died of suicide or has been pushed to his death down from a building. The police also need to contact the families of the deceased before they can remove the corpse. Moreover, when investigation was being made in these two cases, the police had acted in accordance with established procedures and covered the dead bodies in order to show respect for the deceased and minimize any unpleasant feelings which might be caused to passers-by. I hope Honourable Members could understand that when foul play is suspected, such as when the person may be killed as a result of murder or manslaughter, the police are obliged to collect evidence in order to bring the criminals to justice in future.

MR WONG YUNG-KAN (in Cantonese): *Madam President, may I ask the Secretary whether the police will look into whether the procedures of handling corpses can be expedited?*

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

SECRETARY FOR SECURITY (in Cantonese): Madam President, I am aware of how Honourable Members feel on this issue and I will examine if the procedures concerned can be streamlined.

MR NG LEUNG-SING (in Cantonese): *Madam President, Mr LAU mentioned "causing emotional disturbance to many passers-by" in his main question, but the Secretary said in the main reply that "in fact, staff of the station had not received any complaint". Therefore, may the President allow me to raise a hypothetical supplementary question since the two remarks do not tally. May I ask the Secretary, although the staff on site might not have received any complaint, if there was actually a passer-by who saw the corpse and that caused*

some unpleasant feelings in him, then which department can he turn to for treatment or other assistance?

PRESIDENT (in Cantonese): Mr NG Leung-sing, you do not have to ask a hypothetical question, you may simply phrase your question like this, "did anyone make a complaint afterwards and if so, which department could he turn to?"

SECRETARY FOR SECURITY (in Cantonese): Madam President, according to the information I have at hand, no government department which was involved in the case which happened at the MTR station has received any complaint, and as for the other case, I have to check if any complaint was received. However, I would think that the reporters at the scene might have some unpleasant feelings, for such was mentioned in their reports. There is also a possibility that some members of the public did not make any complaints to government departments, but they expressed their unpleasant feelings to the reporters at the scene.

MR NG LEUNG-SING (in Cantonese): *Madam President, the Secretary has not answered my supplementary question. I was asking which government department should a person turn to for assistance or treatment if he has some unpleasant feelings after the event.*

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

SECRETARY FOR SECURITY (in Cantonese): Madam President, I do not have any information at hand to answer this question. I think I need to look into that later. (Annex I)

MISS CHOY SO-YUK (in Cantonese): *Madam President, in part (a) of the main reply, the Secretary pointed out that "under normal circumstances, the*

FEHD can remove the corpse from the scene one hour after they are informed of police's request for their service". However, in both cases about one hour was required before the corpses were removed after the police had handled the two cases. May I ask the Secretary whether the authorities would consider informing the dead removal team of the FEHD to stand by at the scene after they had confirmed that the person who fell from the building was dead, and once the police had finished with their investigations, the corpse could be removed at once and hence there was no need to spend one hour of waiting time in the interim?

SECRETARY FOR SECURITY (in Cantonese): Madam President, despite the fact that there are more than 10 dead removal teams in the FEHD, they are on call and stationed in different places of the territory. In order that there will not be any waste in the time of the teams, the police will only call on them to come to the scene after they have finished the initial investigations and considered that the corpse can be removed, that is, when the person is confirmed dead and totally without any sign of life, that they would call the team to the scene to remove the corpse. In the two cases, for example, the time used in handling the other procedures was more than three hours. If the staff from the FEHD were asked to stand by at the scene for a few hours, then it would not be the best way to use the resources. The existing practice is that the teams would only be called when the police think that the corpse can be removed. Under normal circumstances, at most one hour is needed from the call to the eventual removal of the corpse.

PRESIDENT (in Cantonese): Third question.

Early Admission Schemes of Universities for Secondary Six Students

3. **MR YEUNG YIU-CHUNG** (in Cantonese): *Madam President, recently, several University Grants Committee (UGC)-funded universities have successively launched various early admission schemes for Secondary Six (S6) students who have obtained outstanding results in the Hong Kong Certificate of Education Examination (HKCEE) for first degree course studies in the coming academic year. In this regard, will the Government inform this Council whether it knows:*

- (a) *the respective admission requirements and procedures stipulated by the universities for these schemes and, in respect of the coming academic year, the target number of top S6 students planned to be admitted, the respective numbers of applications received and students admitted so far by each university;*
- (b) *if the authorities concerned have received complaints about such schemes; if so, of the details; and*
- (c) *the measures the authorities concerned will take to prevent such schemes from affecting the operation of the Joint University Programmes Admissions System (JUPAS)?*

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

- (a) The recruitment and admission of students are within the autonomy of universities. Regardless of whether the institutions are admitting Secondary Seven (S7) graduates or outstanding S6 students, they are free to determine the admission criteria and procedures. They may also stipulate additional conditions to meet the special requirements of individual faculties or disciplines.

A total of seven UGC-funded institutions have implemented admission schemes to recruit outstanding S6 students this year. Although the admission requirements and procedures are not the same among the institutions, applicants are generally required to have outstanding academic performance. The institutions will normally select applicants for interviews on the basis of their results in the HKCEE. In addition, their performance in non-academic aspects such as sports, music, leadership and social services will be taken into account.

As at mid-June 2002, the target number of students to be admitted, the number of applicants and the number of students accepting admission offers made by individual institutions in the 2002-03 academic year under these schemes are set out in the Annex.

- (b) The Government and the UGC have not received any complaints against the universities' admission schemes for outstanding S6 students.
- (c) Early this year, the UGC has reached the following understanding with the institutions on their admission schemes of S6 students:
- (i) advance admission of S6 students should be based on exceptional merit, and institutions have to absorb any additional resources requirements; and
 - (ii) the number of outstanding S6 students admitted by an institution should not exceed 2% of its first-year-first-degree places for that academic year.

As the schemes only involve a small number of S6 students, the normal operation of the JUPAS will not be affected. The UGC will keep the schemes under review to ensure that they will not cause inconvenience to the secondary schools.

Annex

Admission schemes for outstanding S6 students of
UGC-funded institutions in 2002-03 academic year

<i>Institution</i>	<i>Target number of students</i>	<i>Number of applicants</i>	<i>Number of students accepting admission offers</i>
City University of Hong Kong	46	City University of Hong Kong has not launched any schemes for admitting S6 students into its undergraduate programmes in 2002-03 academic year	
Hong Kong Baptist University	26	24	Action in progress
Lingnan University	14	14	7

<i>Institution</i>	<i>Target number of students</i>	<i>Number of applicants</i>	<i>Number of students accepting admission offers</i>
The Chinese University of Hong Kong	57	442	109
The Hong Kong Institute of Education	10	The scheme was announced in mid-June, with the deadline for application in late June.	Not applicable
The Hong Kong Polytechnic University	47	55	Action in progress
The Hong Kong University of Science and Technology	36	206	56
The University of Hong Kong	54	232	55
Total:	290	973 ¹	227

MR YEUNG YIU-CHUNG (in Cantonese): *Madam President, from the Annex to the main reply provided by the Secretary, we can see that the number of students admitted by The Chinese University of Hong Kong (CUHK) has obviously exceeded the target number of students. In this connection, may I ask the Secretary whether the relevant UGC understanding has any binding effect on the institutions; if not, whether the Government will disapprove of the CUHK?*

¹ Since each outstanding S6 student may apply for admission to more than one institution at the same time, the total number of applicants is the total number of applications received.

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese):

Madam President, since this is the first year these admission schemes are implemented, it is very difficult to gauge the response of S6 students to the schemes and the number of students accepting the admission offers. As a result, the numbers of students admitted by individual institutions have indeed exceeded their respective target numbers. Actually, the outstanding students prefer certain universities to other institutions. For this reason, setting the maximum number of admissions at 2% of the institutions' first-year-first-degree places just may not be able to reflect the real situation. The UGC has discussed the issue with the heads of the eight universities. Given that the total number of students admitted will not exceed 2% of the 14 500 admissions (the total number of first-year-first-degree places), the UGC has accepted that individual institutions may admit more students than their respective target numbers of admissions for the coming academic year. Nevertheless, the UGC will review this year's arrangements, with a view to making better arrangements next year.

MR CHEUNG MAN-KWONG (in Cantonese): *Madam President, an understanding is always an understanding, and it must be observed as it involves the credibility of the universities. From the Secretary's main reply, we note that the eight institutions concerned have obviously reached an understanding, that the number of outstanding S6 students to be admitted by an institution should not exceed 2% of its first-year-first-degree places for that academic year. However, according to the Annex to the main reply, the CUHK has obviously breached the understanding — despite its target number of 57 students, the institution has admitted 109 students, which means that it has admitted 52 or almost 100% more students. Will the Government inform this Council whether it would consider the CUHK "cheating" if it had indeed admitted an excessive number of students in breach of the understanding reached by the eight institutions? Is it fair to the other institutions if the CUHK has resorted to "cheating" in admitting more students? Is the Vice-Chancellor of the CUHK, who will soon assume office as the Secretary for Education and Manpower, being reasonable in so doing?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese):

Madam President, according to the explanation given by the CUHK, the over-

enrolment is attributable to the fact that a great number of students have applied to the CUHK for admission, and that out of the institution's expectation, the selected students have all accepted the admission offers made to them. As I mentioned in answering the supplementary question just now, because this is the first year these admission schemes are implemented, it is very difficult to gauge the number of S6 students who will accept the admission offers. For this reason, the UGC has discussed the issue again with the heads of the eight institutions. They have all agreed to accept the arrangement made by the CUHK this year. As regards the institutions with an over-enrolment of students, in principle, they may have to re-adjust the number of S6 students to be admitted in the following academic year, so that the number of outstanding S6 students to be admitted will not exceed 2% of their respective first-year-first-degree places. Nevertheless, we must wait until the UGC has reviewed this year's admission arrangements before formulating the specific arrangements with the eight institutions in respect of next year's enrolment.

MR AMBROSE LAU (in Cantonese): *Madam President, the Secretary mentioned in the main reply that the advance admission of S6 students should be based on exceptional merit. May I ask the Secretary whether the UGC has formulated any specific and detailed criteria on the so-called "exceptional merit", so as to prevent abuses?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, since this is the first time the schemes are implemented, the UGC has not drawn a definition of outstanding S6 students; rather, individual institutions are allowed to formulate their respective minimum requirements for admission. According to the publicized academic achievements of the students who have accepted the admission offers, the majority of them have obtained "A" grade in six subjects or more in the HKCEE.

DR LO WING-LOK (in Cantonese): *Madam President, some outstanding S7 students have asked me to raise this supplementary on their behalf. Given that the authorities have made this arrangement for the outstanding S6 students, why have they not made the same arrangement for the outstanding S7 students? If they are similarly outstanding, why must those in S7 pass this year's Advanced*

Level Examination before they can enrol in universities while those in S6 can be admitted direct? Should this arrangement not be open to discussion?

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, this is the first year the admission schemes are implemented. Since our purpose is to enable the universities to scoop the cream of the crop, it is just natural that the schemes be applied to S6 students. When anything new is introduced, there will certainly be some people who feel that they are being unfairly treated because they are not benefited. However, there must be a start.

DR TANG SIU-TONG (in Cantonese): *Madam President, the Secretary mentioned in paragraph (ii) of part (c) of the main reply that the number of outstanding S6 students that may be admitted by an institution should not exceed 2% of its first-year-first-degree places for that academic year. May I ask the Secretary whether this 2% is calculated on the basis of the total number of new enrolments of the relevant university or the number of students enrolled in each department?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, the 2% is calculated on the basis of the total number of first-year students enrolled in the relevant university, rather than that of individual departments.

DR RAYMOND HO (in Cantonese): *Madam President, the Secretary mentioned earlier that while the UGC had not given the institutions any special guidelines on the definition of outstanding S6 students, the students' performance in non-academic aspects such as sports, music, leadership and social services would also be taken into account by the institutions. May I ask the Secretary whether guidelines will be issued, with reference to the experience gained in this exercise, to enable the secondary school students to know whether they are eligible for applying for advance admission?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, the admission of students is within the autonomy of universities. Regarding the advance admission of outstanding S6 students, however, I understand that the UGC will co-ordinate with the various institutions. In fact, after determining their basic admission criteria, the institutions will let the secondary school students know about their minimum requirements.

MR NG LEUNG-SING (in Cantonese): *Madam President, given that admission of students is within the autonomy of universities, and that the existing understanding has specified that the advance admission of S6 students should be based on exceptional merit, could the Secretary inform this Council whether the institutions are free to determine their admission criteria and definition of exceptional merit, or the UGC would, from now on, stipulate what grades obtained in which and how many subjects could be considered as exceptional merit?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, while the UGC has not drawn any definition of exceptional merit for the first year, we do not wish the institutions to consider purely the students' academic performance either. As far as I know, in view of the excessive number of applications, some institutions have actually laid down some minimum requirements like obtaining an "A" in five or seven subjects. But then, these institutions will also take into account the students' performance and abilities in other aspects.

MR YEUNG YIU-CHUNG (in Cantonese): *Madam President, are the admission offers conditional, which means that the students concerned still have to obtain certain required grades in the public examination or their schools' examinations before they are really admitted by the institutions?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, let me reiterate that the academic year ended currently is the

first year the schemes are implemented, and the UGC has not laid down any basic criteria to require students to have obtained what results in the HKCEE to qualify for admission by the eight institutions. However, I believe the UGC will look into the question in the course of review, with a view to enabling the eight institutions to determine together a set of minimum requirements.

PRESIDENT (in Cantonese): Fourth question.

Developing Hong Kong into Wine Distribution Hub of Asia

4. **MR TOMMY CHEUNG** (in Cantonese): *Madam President, the former Financial Secretary stated in August 2000 that Hong Kong was well placed to develop into a wine distribution hub of Asia and encouraged wine producers from different parts of the world to set up their operations in Hong Kong. Moreover, the Trade and Industry Bureau together with the Hong Kong Trade Development Council (TDC) had also commissioned a consultancy study on Hong Kong's prospects in this area. Regarding the policy objective of developing Hong Kong into a wine distribution hub of Asia, will the Government inform this Council:*

- (a) *whether it is still actively pursuing this objective; if not, of the reasons for that; and of the expenditure on research incurred so far in this regard;*
- (b) *of the recommendations proposed in the consultancy report and, whether it has formulated specific measures and timetables for implementing such recommendations; if it has, of the results achieved by such measures so far; and*
- (c) *whether, in addition to the overseas publicity programmes launched abroad by the Economic and Trade Offices in overseas countries and the Hong Kong Tourism Board, it will adopt other measures to help achieve the above policy objective?*

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

- (a) In 1999, the Commerce and Industry Bureau (then known as the Trade and Industry Bureau) and the TDC commissioned a consultancy study to assess Hong Kong's potential to develop into a distribution and trading centre for wine in Asia. The study, which costed HK\$500,000, was completed in 2000. It concluded that in view of the projected continuous growth in the regional demand in the next few years and other favourable factors, Hong Kong had the potential to become a regional wine distribution and trading centre.

While on the whole trade in wine did not grow in the past few years amidst the gloomy economic environment, as we understand it, some wine traders are still optimistic about the prospect of wine distribution and trading business. The Government will continue to support the industry in developing such business.

- (b) In brief, the consultancy study identified three options for developing wine distribution and trade business in Hong Kong:
- (i) Supporting the wine industry by reducing the constraints it faces. The consultant's recommended measures include adopting an open bond storage system and streamlining the application process for dutiable commodities permits;
 - (ii) Leveraging Internet technology and e-commerce opportunities by the industry to develop the wine market and enhance the efficiency of the supply chain; and
 - (iii) Upgrading physical facilities to encourage wine suppliers to stock wine in Hong Kong for regional distribution.

In taking forward the consultant's recommendations, the Government's role is to reduce regulatory restrictions that impede trade in wine, and to introduce the commercial recommendations put forward by the consultant to the industry for its consideration. It is entirely up to the industry to decide whether to take on these commercial recommendations.

In the past two years, the Government made efforts on a number of fronts to facilitate or promote trade in wine:

- (i) A consultancy study was commissioned to explore the feasibility of fully implementing the open bond system (OBS). Following confirmation of the feasibility of the OBS, the Government has carried out a pilot scheme, and has prepared necessary legislative amendments for the full implementation of the OBS in phases. Under the OBS, there will be no mandatory Customs attendance at bonded warehouses to supervise their operations, and the bonded warehouse operators will not need to pay the Customs Attendance Fee. The new arrangement will reduce the operating costs of the bonded warehouse operators and the traders in dutiable commodities. The Government introduced the relevant legislation into this Council in January 2002;
- (ii) The Electronic Data Interchange (EDI) services have been extended to cover dutiable commodities permit (DCP) applications since January 2002. Traders can now submit applications for DCPs and collect approved DCPs electronically. The time required by the Customs and Excise Department to process such applications has been significantly reduced from two working days, as stated in its performance pledge, to half day. The Government has also introduced other related EDI services, enabling traders to make customs appointments, submit warehouse returns, and so on, through the EDI;
- (iii) The then Trade and Industry Bureau and TDC organized a seminar entitled "Hong Kong as a Regional Wine Trading and Distribution Centre: Prospects and Opportunities" in June 2000 to brief the industry on the consultant's recommendations. The executive summary of the consultancy study report was subsequently uploaded onto the TDC's webpage. The industry may also use the TDC's trade portal for information exchange and discussion; and
- (iv) The Government studied the feasibility of using wartime underground tunnels and bunkers for wine storage in 2000.

It was concluded that only a small number of bunkers might be used for wine storage. Recently, a wine trader has indicated interest to turn a few underground bunkers into a facility for wine storage and related purposes. The departments concerned will actively follow up the proposal.

- (c) In addition to the measures above, the TDC will keep in touch with the industry, and consider organizing promotional activities in response to the needs of the wine trade. We welcome concrete proposals from the industry.

Separately, the Commissioner of Customs and Excise has all along exercised discretion under the Dutiable Commodities Regulation to exempt the duty on wine if the wine is used as samples or advertising matters and if it is of no commercial value and not intended for re-sale. In 2000 and 2001, the Commissioner exempted the duty on wine used in 24 wine tasting events and exhibitions.

MR TOMMY CHEUNG (in Cantonese): *Madam President, the Secretary indicated in paragraph (i) of part (b) of the main reply that preparatory work for launching the OBS had already started. Could the Secretary inform this Council whether a timetable has been formulated for this and what stage the preparatory work has reached?*

SECRETARY FOR COMMERCE AND INDUSTRY (in Cantonese): *Madam President, the relevant amendment to subsidiary legislation has been submitted to this Council and is now under scrutiny. I believed the relevant amendment, once passed, will be enforced by the Customs as soon as possible. Though no timetable has been set, I believe we do not have to wait very long. If I acquire any further information, I will be pleased to furnish it to the Honourable Tommy CHEUNG.*

MR HUI CHEUNG-CHING (in Cantonese): *Madam President, it has been nearly two years since the former Financial Secretary encouraged wine traders*

from different parts of the world to set up their operations in Hong Kong. May I ask the Secretary how many wine traders have set up operations in Hong Kong?

SECRETARY FOR COMMERCE AND INDUSTRY (in Cantonese): Madam President, was the Honourable HUI Cheung-ching asking how many wine traders had indicated interest to operate wine businesses in Hong Kong?

MR HUI CHEUNG-CHING (in Cantonese): *Madam President, yes. It has been two years since the proposal was raised. May I ask the Secretary if he has any statistical data on the number of wine traders who wish to set up operations in Hong Kong?*

SECRETARY FOR COMMERCE AND INDUSTRY (in Cantonese): Madam President, there are actually many wine suppliers and distributors in Hong Kong. The objective of the Government in making the proposal and promoting it is to enhance the effectiveness of the supply chain. As far as we understand it, more than 1 000 wine traders are involved in supplying wine to Hong Kong, and there are more than 100 licensed wine distributors in the territory. As regards whether there has been an increase in the number of distributors who chose to set up operations in Hong Kong after the proposal was made, we do not have statistical data on this.

MR HUI CHEUNG-CHING (in Cantonese): *Madam President, my supplementary question is: How many wine brewers have chosen to make investments in Hong Kong?*

PRESIDENT (in Cantonese): Mr HUI, did you ask how many wine brewers will make investments in Hong Kong?

MR HUI CHEUNG-CHING (in Cantonese): *Madam President, my question was about wine brewers because I think Hong Kong has the conditions to become a wine brewing centre.*

SECRETARY FOR COMMERCE AND INDUSTRY (in Cantonese): Madam President, I am sorry that I do not have the relevant information at hand. Nevertheless, I will be pleased to check if we have got such information. (Annex II)

MRS SELINA CHOW (in Cantonese): *Madam President, we have been told by the Hong Kong Wine Industry Coalition that the tax increase measures proposed by the incumbent Financial Secretary will deal a blow to the policy objective of making Hong Kong a wine distribution hub. May I ask the Secretary whether he has discussed the relevant study report with the Financial Secretary when holding discussion on this matter this year and whether the Government is still insisting on adhering to this policy objective? Furthermore, what impact will the latest tax increase measures have on this policy objective?*

SECRETARY FOR COMMERCE AND INDUSTRY (in Cantonese): Madam President, the Financial Secretary was fully aware of the contents of the study report and has considered the report when proposing the tax increase on wine. The tax increase proposal will actually not affect the Government's plan to develop Hong Kong into a wine trading or distribution hub. This is because tax will not be levied on the re-export of wine — not involving the sales or consumption of wine locally. Therefore, the proposal will not have any impact on the plan to develop Hong Kong into a re-export centre for wine.

MR HENRY WU (in Cantonese): *Madam President, the Secretary mentioned in the main reply that the Government had conducted a study in 2000 on the feasibility of using wartime underground tunnels and bunkers for wine storage, and it was concluded that only a small number of bunkers might be used for this purpose. As it was pointed out in the main reply that a wine trader had indicated interest, may I ask the Secretary whether public tenders will be invited if it is decided that underground bunkers can be used for storing wine, and whether expert wine collectors (they might be interested too) will be allowed to bid?*

SECRETARY FOR COMMERCE AND INDUSTRY (in Cantonese): Madam President, the Secretary for Economic Services is now following up this proposal

with individual wine traders. I have to inquire the Economic Services Bureau of the progress. Nevertheless, I do not rule out the possibility of conducting open tenders.

MR HUI CHEUNG-CHING (in Cantonese): *Madam President, has Invest Hong Kong (InvestHK) set up under the Commerce and Industry Bureau lobbied wine manufacturers to make investments in Hong Kong? Can the Secretary cite some concrete examples?*

SECRETARY FOR COMMERCE AND INDUSTRY (in Cantonese): Madam President, InvestHK has formulated a series of work priorities. They include travelling to overseas countries in search of people or firms interested in investing in major businesses in Hong Kong. As far as I know it, the red wine, or table wine, industry is not its priority concern. However, Hong Kong is an international tourism centre, and so tourism is its major concern. In other words, InvestHK will focus its effort on attracting investors to Hong Kong. Given that tourism and the red wine industry are interrelated, it is hoped that the latter will be given a boost if more investors are attracted to Hong Kong to invest in tourism.

MR NG LEUNG-SING (in Cantonese): *Madam President, the Secretary indicated in the main reply that in taking forward the consultant's recommendations, the Government's role was to reduce regulatory restrictions that would impede trade in wine. May I ask the Secretary, in addition to enhancing efficiency electronically, what measures the Government has taken subsequent to its acceptance of the consultancy report, and how effective such measures are?*

SECRETARY FOR COMMERCE AND INDUSTRY (in Cantonese): Madam President, I have mentioned in the main reply that for a place to become a wine distribution or trading centre, it will depend to a large extent on whether sites are available for storing wine awaiting re-export or shipment to a third country. According to the practice currently adopted in Hong Kong, wine traders are not required to pay duties only because their warehouses are guarded by government staff to ensure that their wine will not enter the local market. Therefore, the

OBS will be very useful to wine traders because they will be exempted from the payment of fees to the Government if they store wine in OBS warehouses. At present, the OBS is applicable only to one or two industries, such as beer or crude oil, but not to wine. Therefore, a proposal has been submitted to the Legislative Council on extending the OBS to cover wine. It is believed this will greatly reduce the so-called "compliance costs".

MR HENRY WU (in Cantonese): *Madam President, it was mentioned earlier that only a small number of underground bunkers and tunnels might be used for wine storage. In this connection, may I ask on what basis the bunkers and tunnels were assessed to be suitable? Will it be possible for the remaining underground bunkers to be used for other purposes, such as goods storage, so as to boost government revenue and help resolve the fiscal deficit?*

SECRETARY FOR COMMERCE AND INDUSTRY (in Cantonese): *Madam President, in assessing the suitability of the underground bunkers, the Government must consider their future use for wine storage. Therefore, the Government must examine whether there is enough space and whether extensive conversion works will be required. As Members are aware, wine must be kept at constant temperature. The geographical location of its storage place is therefore critical. If a lot of efforts are required before air-conditioning can be installed, the place might not be suitable for wine storage. Of course, we must also consider if the location is close to main roads. Actually, we have inspected one or two places, which are situated adjacent to main roads, and concluded that they are not suitable for setting up warehouses.*

MRS SELINA CHOW (in Cantonese): *Madam President, the remarks made by the Secretary just now are completely in contradiction with what we have been told by the industry. On the one hand, the Government is trying to achieve its goal of developing Hong Kong into a wine distribution centre in Asia, and on the other, it has decided to raise duty on wine. Will this move give the whole world a message that wine should actually skip Hong Kong? Owing to financial constraints, the Government might not be able to achieve its goal of developing Hong Kong into a wine distribution centre, no matter what promotional activities have been carried out.*

SECRETARY FOR COMMERCE AND INDUSTRY (in Cantonese): Madam President, the essence of a goods distribution centre lies in its ability to pool and disperse goods. The goods do not necessarily have to be consumed in Hong Kong. Therefore, the duty increase proposal will not have any impact on the policy objective of developing Hong Kong into a red wine distribution centre.

PRESIDENT (in Cantonese): Fifth question.

Disclosure of Information on Private Occasions by Government Officials

5. **MR LAU PING-CHEUNG** (in Cantonese): *Madam President, it has been reported that, at a hearing of a recent fraud case, a prosecution witness disclosed that a Senior Land Executive of the Lands Department had told some persons from the private sector on a private occasion that an application for change of land use in respect of a particular land development plan, if made, would stand a good chance of being approved. Subsequently, a bank granted a loan for the development plan, but in the end the plan was not approved by the Lands Department. In this connection, will the Government inform this Council whether:*

- (a) *there are guidelines governing government employees' attendance at functions which are commercial in nature or those which may give rise to conflicts of interests; if so, of the details; if not, the reasons for that;*
- (b) *the land executive concerned had informed his superior before attending that private occasion, and whether he had been authorized to comment to outside persons on the development of the land in question; and*
- (c) *follow-up actions will be taken against the land executive; if so, of the details?*

SECRETARY FOR PLANNING AND LANDS (in Cantonese): Madam President, first of all, I would like to clarify that the parties to the litigation in

this case do not involve the Lands Department and its staff. The Lands Department has never received any application for change of land use and has never contacted the defendants.

My reply to the three-part question from Mr LAU is as follows:

- (a) There are clear guidelines requiring civil servants to be vigilant against conflict of interests at all times.

Existing civil service rules stipulate that it is a disciplinary offence for a civil servant to use or disclose any classified or sensitive information to benefit his private interests. In this context, private interests include the financial and other interests of the officer himself, his family or other relatives, his friends, the clubs and associations of which he is a member, or any person to whom he owes a favour or is obligated in any way.

Individual departments have issued internal circulars for compliance by their staff, covering areas where their staff may be exposed to conflict of interest situations and providing guidelines which govern the use of information obtained in an officer's official capacity.

The Lands Department has also issued internal circulars with clear guidelines reminding its staff that in dealing with members of the public, they must follow the established guidelines, maintain good behaviour and avoid conflict of interests. The Lands Department strictly enforces its internal circulars and the related civil service regulations and circulars, and takes appropriate action against any of its staff who have violated these rules.

- (b) According to records, the Lands Department did not receive any request from its staff seeking to participate in private meetings associated with the development project concerned or to comment to outside persons on the development of the land in question.

- (c) The staff member concerned retired from the Civil Service in 1994. There was reportedly no charge brought against him in this case. At present, there is no evidence to suggest that there had been any improper behaviour on his part during his employment with the Lands Department. Therefore, there is no reason for us to take action against him.

MR LAU PING-CHEUNG (in Cantonese): *Madam President, it has been reported that the Lands Officer grade had quite a lot of problems in the past, including corruption and abuse of power. How is the establishment of the grade monitored? How does the monitoring of the grade differ from that of other professional departments such as the Buildings Department, Planning Department and Territory Development Department?*

PRESIDENT (in Cantonese): Which Secretary would reply? Secretary for Planning and Lands.

SECRETARY FOR PLANNING AND LANDS (in Cantonese): Madam President, in addition to general monitoring by the Civil Service Bureau, the Lands Department would periodically circularize to all staff administrative circulars, setting out in detail circumstances under which conflict of interests may arise as well as the suitable ways of handling, so as to heighten staff alertness in this regard. Staff of the Lands Department responsible for supervising staff of different ranks would keep a close watch on staff actions that would possibly break the rules.

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

MR LAU PING-CHEUNG (in Cantonese): *Madam President, the second part of my supplementary is: How does the monitoring of this non-professional grade of the Lands Department differ from that of such other professional departments as the Buildings Department, Planning Department and Territory Development Department?*

SECRETARY FOR PLANNING AND LANDS (in Cantonese): Madam President, as far as I understand it, there is no particular difference.

MR ALBERT CHAN (in Cantonese): *Madam President, the question of Mr LAU Ping-cheung is mainly about the Lands Officer grade of the Lands Department, and it gives people an impression that "he is not catching the eagle but the chickens". In the Nina Tower case, the media had used such a heading as "Property Developers like to meet Senior Officials". Mr Bowen LEUNG also admitted then that he had been too benevolent. Would the Government inform this Council if the relevant guidelines were too benevolent to senior officials, especially the Secretaries and the future senior officials at ministerial level? Are the guidelines too loose for major property developers? What concrete measures are there in the Government's guidelines to ensure those senior officials would not be partial to major property developers?*

PRESIDENT (in Cantonese): Mr Albert CHAN, the theme of the question is about the monitoring of staff of the Lands Department, is there any direct relationship between your question and the Lands Department?

MR ALBERT CHAN (in Cantonese): *Madam President, in part (a) of the main reply, the Government has mentioned that there are some stipulations in the existing Civil Service Regulations and the reply of the Secretary is related to all grades of the Civil Service, therefore, my supplementary is related to the main reply.*

PRESIDENT (in Cantonese): Which Secretary would reply? Secretary for the Civil Service.

SECRETARY FOR THE CIVIL SERVICE (in Cantonese): Madam President, I am pleased to answer the general question.

In respect of the general conduct of civil servants, the Civil Service Bureau issues guidelines periodically. For example, we have worked out guidelines related to conflict of interests, explaining in detail matters for attention by civil

servants such as they must always be aware of whether their comments and behaviour on certain occasions or when they are received or come into contact with certain persons would involve a conflict of interests. In other words, their official capacity may actually have conflict with their personal interests, or would give people an impression that there would be potential conflict of interests. We have worked out detailed guidelines such as they must make declarations. If they violate these rules, of course, they may be subject to disciplinary actions.

MR AMBROSE LAU (in Cantonese): *Madam President, the Secretary has stated in his main reply that the Lands Department strictly enforces its internal circulars and the related Civil Service Regulations and circulars, and takes appropriate action against any of its staff who have violated these rules. How many staff have violated these rules in the past three years? What appropriate actions has the Government taken?*

SECRETARY FOR PLANNING AND LANDS (in Cantonese): Madam President, in the past three years, the Lands Department handled 83 cases in which staff were suspected of violating these rules but conflicts of interests were not involved. Among such cases, 53 were established and most of them involved minor faults such as in punctuality for work against which verbal or written warnings had been issued. There were 13 serious cases, in which one staff was dismissed, three were ordered retirement and nine were reprimanded.

MR NG LEUNG-SING (in Cantonese): *Madam President, Mr LAU Ping-cheung has just said that, conflicts of interests usually arise from the changes in land use. Since the changes in land use would give rise to so many potential interests and concerns about corruption, would the staff of the department receive enhanced education against corruption, unlike those of other departments? Would the Independent Commission Against Corruption (ICAC) provide the department with more guidelines or follow-up actions related to anti-corruption education?*

SECRETARY FOR PLANNING AND LANDS (in Cantonese): Madam President, I am not sure about the views of the ICAC of the matter, but the Lands

Department attaches great importance to conflicts of interests. We have a circular on conflicts of interests and it would be circularized to all staff for their perusal once every half a year. The circular sets out in detail the causes and definitions of conflicts of interests and the definition of relatives as well as common cases of conflicts of interests.

MR ALBERT CHAN (in Cantonese): *Madam President, I am very pleased to have a chance to ask a question again. The Secretary for the Civil Service has earlier referred to some specific guidelines but senior officials would usually come into contact with persons from the private sector on private occasions for meals or golf games. The public would not know what they say on such occasions. How would the Government ensure that senior officials have not violated the rules during such close contact on private occasions? How would the Secretary convince me that senior officials would not disclose any confidential information of the Government on such occasions?*

SECRETARY FOR THE CIVIL SERVICE (in Cantonese): Madam President, all civil servants, senior and junior officials alike have private lives. Our guidelines have stated clearly that when civil servants come into contact with other people, for instance, on private occasions or when they are received as I have said earlier, they must know clearly whether the reception may give rise to conflicts of interests. If so, they must certainly be careful. Frankly speaking, if the conflicts of interests under discussion really constitute acts of corruption or bribery, civil servants are certainly subject to the Prevention of Bribery Ordinance. In any case, so long as we became aware that civil servants have violated the laws or regulations, we would certainly take legal or disciplinary actions against them.

PRESIDENT (in Cantonese): Question time ends here.

WRITTEN ANSWERS TO QUESTIONS

Monitoring Contents of Computer Game Software

6. **MR CHAN KWOK-KEUNG** (in Chinese): *Madam President, it has been reported that a computer game software featuring violence and triad society*

activities as its background story will be released during this summer holidays, and the contents of the software may contravene the Control of Obscene and Indecent Articles Ordinance (Cap. 390) (COIAO). In this connection, will the Government inform this Council whether:

- (a) the Television and Entertainment Licensing Authority (TELA) has carried out investigation to find out if the publication of the contents of the software may violate the law; if so, of the results;*
- (b) it knows the release date of the software in Hong Kong;*
- (c) the TELA has any mechanism to preview and judge if the contents of soon-to-be-released computer game softwares violate the law; if so, of the details; and*
- (d) it will consider introducing legislative amendments to require that computer game softwares be sent to the authorities concerned for assessing whether their contents contain obscene or violent elements before they are released?*

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

- (a) The COIAO does not require a publisher to submit an article before its publication to the Obscene Articles Tribunal (OAT) for classification. The publisher has the discretion as to whether the article should be submitted to the OAT. Thus, the TELA has no authority to require a computer game software to be submitted to the OAT for classification before it is released. The TELA is concerned about the report that a computer game software featuring violence and triad society activities as its background story will be released, and has taken follow-up actions by closely monitoring computer game softwares sold in the market and their promotional materials. The TELA has found in its monitoring work a computer game publication which is suspected of containing triad-related elements in its report about a game software. The TELA has submitted the publication to the OAT which has classified it as a

Class II (indecent) article. The TELA is now initiating prosecution against the publisher under the COIAO.

- (b) The TELA has no information on the release of the game software in question. The department will closely monitor the situation. Once the release of game software in the market is detected and if there may be obscene or indecent elements in the content, the TELA will submit the software to the OAT for classification, and take appropriate follow-up actions.
- (c) The existing classification mechanism aims at striking a proper balance between protecting the youth from obscene and indecent materials and upholding public morals on the one hand and safeguarding the free flow of information and freedom of expression on the other. Under the COIAO, the TELA has no authority to pre-censor soon-to-be-released computer software to ascertain if the content would violate the law, or require a publisher to submit the article to the OAT for classification before it is published.
- (d) The Government has no plan to introduce legislative amendment to require computer game software to be sent to the authorities concerned for pre-censorship before it is released for sale.

Regulating Credit Rating Agencies

7. **MR NG LEUNG-SING** (in Chinese): *Madam President, it has been reported that, upon the announcement by an international credit rating (CR) agency of its CR reports on a number of listed companies during the trading hours of the local stock exchange on 21st of last month, the stock prices of the companies concerned plunged immediately. Regarding CR agencies, will the Government inform this Council whether:*

- (a) *mechanisms or measures are in place for regulating these international CR agencies' procedure for announcing CR reports and to ensure the impartiality, objectivity and transparency of such reports; if so, of the details; if not, the reasons for that;*

- (b) *it knows how overseas regulatory bodies regulate CR agencies; and*
- (c) *it knows if the relevant authorities plan to promote the development of locally-established CR agencies; if so, of the details; if not, the reasons for that?*

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

- (a) Currently in most of the developed markets, it is not necessary for credit rating agencies (CRAs) to register with market regulators in their place of business. In general, regulators rely on general provisions in their securities regulatory regime that apply to all market participants to regulate the activities of CRAs.

Hong Kong follows the practice of developed markets. Currently, CRAs in Hong Kong are not registered with the Securities and Futures Commission (SFC). However, CRAs are subject to the regulation of our securities law in combating market misconduct. Under the newly enacted Securities and Futures Ordinance, there are specific provisions prohibiting insider dealing, market manipulation, false trading, price rigging, disclosure of information about prohibited transactions, and disclosure of false or misleading information. These provisions have general application not limited to licensed persons. The SFC could therefore take action against any person who knowingly or recklessly discloses false or misleading information that is likely to induce transactions.

- (b) The International Organization of Securities Commission (IOSCO) is considering the regulation of CRAs in view of their significant influence on the financial market. Although CRAs are registered as investment advisers with the Securities and Exchange Commission in the United States, we understand that such registration does not directly address the quality or reliability of their ratings, or the timing of their release of information. In the wake of the Enron case, the authorities in the United States are re-examining the role of rating agencies and considering whether it is necessary to step up regulation in this area. We will closely

monitor international developments to ensure that Hong Kong's regulatory regime is on par with international standards and best practices.

- (c) At present, there is no locally-established CRA in Hong Kong. There are practical difficulties in setting up local CRAs. A CRA has to operate for a long period of time before it can establish its credibility and secure the acceptance of the market. The private sector needs to consider the commercial viability before making this kind of long-term investment. The involvement of the Government may affect the CRA in building up its independence and credibility of its ratings. The government practice is to continue to encourage private investment in the development of local CRAs, so that the quality of CRAs can be enhanced through competition in the market.

Articles Not Allowable in Aircraft Cabin

8. **MR HENRY WU** (in Chinese): *Madam President, following the "September 11" incident last year, enhanced security measures, including the ban on the carriage of any sharp or bladed objects into the aircraft cabin, have been adopted at the Hong Kong International Airport (HKIA). Accordingly, articles for personal use such as nail clippers, nail files and tweezers exceeding certain lengths or in certain shapes (such articles) are not allowed in the aircraft cabin, and they can only be carried in check-in baggage. When staff responsible for security checks in the Airport Restricted Area find that boarding passengers have carried such articles with them, they will seize these articles and instruct the passengers concerned to reclaim them, within a time limit of seven days, at the relevant airline counters at the airport when they return to Hong Kong. In this connection, will the Government inform this Council:*

- (a) *of the criteria the Civil Aviation Department (CAD) has adopted in drawing up the list of articles not allowable in the aircraft cabin;*
- (b) *of the reasons for specifying the seven-day time limit for reclaiming such articles; the disposal methods for the articles not reclaimed upon expiry of the time limit; and, since September last year, the number of such articles which have not been reclaimed;*

- (c) *whether it is aware of the respective international airports which have put in place the same stringent stipulation concerning articles not allowable in the aircraft cabin and the time limit for reclaiming such articles; if there are none, of the reasons for adopting such stringent stipulation;*
- (d) *whether it knows if other international airports have adopted practices different from the above concerning boarding passengers' carriage of such articles, such as by pooling these articles, storing them in the luggage bay and allowing passengers to reclaim them upon disembarkation; if so, of the details of such practices and the justifications for not adopting them in the HKIA;*
- (e) *of the number of complaints about the above measure received from flight passengers so far; and*
- (f) *whether it has been reviewed if the above stipulation will cause inconvenience to passengers not carrying check-in baggage, especially business travellers who are in a hurry and those not returning to Hong Kong through the HKIA, and whether it will formulate improvement measures; if it has, of the conclusion ; if not, the reasons for that?*

SECRETARY FOR SECURITY (in Chinese): Madam President,

- (a) The security personnel at the HKIA screen passengers and their carry-on bags according to a list of restricted articles published in the Hong Kong Aviation Security Programme drawn up by the Aviation Security Authority under the Aviation Security Ordinance (Cap. 494). The list contains items such as firearms, explosives, pointed and bladed items which are considered to pose safety and security risk to the operations of the flight.

The list of restricted articles is subject to regular review in the light of the changing operating environment and security requirements. The enhanced measure of including knives, knife-like objects and

bladed items of any length in the list of restricted articles was introduced on 28 September 2001 after the "September 11" incident. Since 23 March 2002, nail clippers of less than 6 cm long (not including nail file), round-ended nail files, and round-ended scissors with blades less than 5 cm long have been taken out from the restricted articles list.

An up-to-date list of restricted items is available to the public on the CAD webpage at <<http://www.info.gov.hk/cad>>, a copy of which is at the Annex to this reply.

- (b) All properly documented items removed from the passengers are forwarded to the airlines for collection by passengers at the HKIA. The requirement to reclaim the items within seven days was therefore a practice determined by the airlines. With effect from 13 May 2002, the retention period has been extended to 14 days. If the passengers cannot return to the HKIA within 14 days to reclaim their property, they can make special arrangements with the airlines.

Unclaimed items will be disposed of by the airlines. For items that are abandoned by the passengers at the screening points, they will be trashed within four days by the Aviation Security Company Limited (AVSECO).

Since it is from the airlines that the items are reclaimed, the Government does not have statistics on the number of items that have not been reclaimed. However, since the exclusion of nail clippers, nail files and scissors of certain descriptions from the restricted articles list from 23 March 2002 as mentioned in part (a) above, there has been a decrease in the average number of restricted articles removed from passengers at the screening points. In June 2002, a daily average of 1 350 items of restricted articles are removed from passengers, of which 1 000 pieces are abandoned and 350 pieces forwarded to the airlines for reclaiming by the passengers.

- (c) Since the "September 11" incident, the United States Federal Aviation Administration has banned the carriage of all kinds of knives and bladed objects into the aircraft cabin of United States carriers and all other carriers bound for the United States, including those from the HKIA. In view of the international trend to tighten up aviation security measures after the "September 11" incident, the CAD has extended this security requirement to all other flights operating from the HKIA. In fact, since the "September 11" incident, the banning of the carriage of all knives and bladed objects into aircraft cabin has become a common international practice adopted at airports in the Mainland and many other countries such as the United States, Canada, Australia, Japan and Thailand. The time limit for reclaiming the security items varies from seven days in Thailand to 30 days in the Mainland.
- (d) The current practice of handling removed security items at the HKIA was adopted by the airlines after consultation with the Airport Authority Hong Kong (AAHK), the AVSECO and the CAD taking into account factors such as the number of items to be handled, flight movement schedules, operating environment, handling procedures, resource implications as well as practices adopted elsewhere. As the scale and environment of operations vary from airport to airport, airlines may have to apply different handling procedures at different airports to ensure the smooth operation of their flights. At the HKIA, in view of the large number of security items intercepted and numerous flights involved, the practice of organizing and preparing the security items for delivery as hold baggage to destinations for collection by passengers upon disembarkation may cause significant delay to the flights.
- (e) Since the introduction of the enhanced measure of including knives, knife-like objects and bladed items of any length into the restricted articles list on 28 September 2001, the AVSECO which conducts the security screening of passengers at the HKIA has received 30 written complaints from passengers regarding the removal of their restricted articles.

- (f) The CAD, together with the AAHK and airlines, regularly review the security procedures in the light of the prevailing operating environment and security requirements. In the interests of aviation security, passengers without check-in baggage must be subject to the same security procedures as all other passengers using the HKIA. In case of need, they can request their airline to make special arrangements for the delivery of their security items.

Since the tightening up of the restricted articles list in September 2001, the CAD, the AAHK and airlines have used various means to publicize the new requirements to passengers. These include verbal reminders by airline staff at check-in counters, announcements on the webpages of CAD, AAHK and airlines and at the departure hall, display of samples of restricted items at the CAD booths at the departure hall, and the issue of letters to travel agents asking them to convey the message to passengers. Such measures are aimed at increasing passengers' awareness of the security requirements so that they can refrain from carrying the restricted items in their hand baggage and thereby minimize inconvenience caused at the HKIA.

Annex

Restricted Articles

From 28 September 2001, the carriage of knife, knife-like object or bladed item of any length or description into the aircraft cabin and the Enhanced Security Restricted Area (ESRA) of the HKIA is banned. This is to tighten up, for general enhancement of security, the previous list of restricted articles under which knives with blades less than 76 mm in length are allowed. If passengers do wish to carry these items, they may put them into their check-in baggage. From the same day, the sale of these items at all airport shops in ESRA is also banned. The following items, however, are permitted for carriage into the aircraft cabin/ESRA.

1. Nail Clippers (with nail file) - length of nail clippers (not including nail file) is less than 6 cm long;
2. Round-ended nail files and
3. Round-ended scissors with blade less than 5 cm long.

For an updated list of examples of restricted articles, please click here <<http://www.info.gov.hk/cad>>.

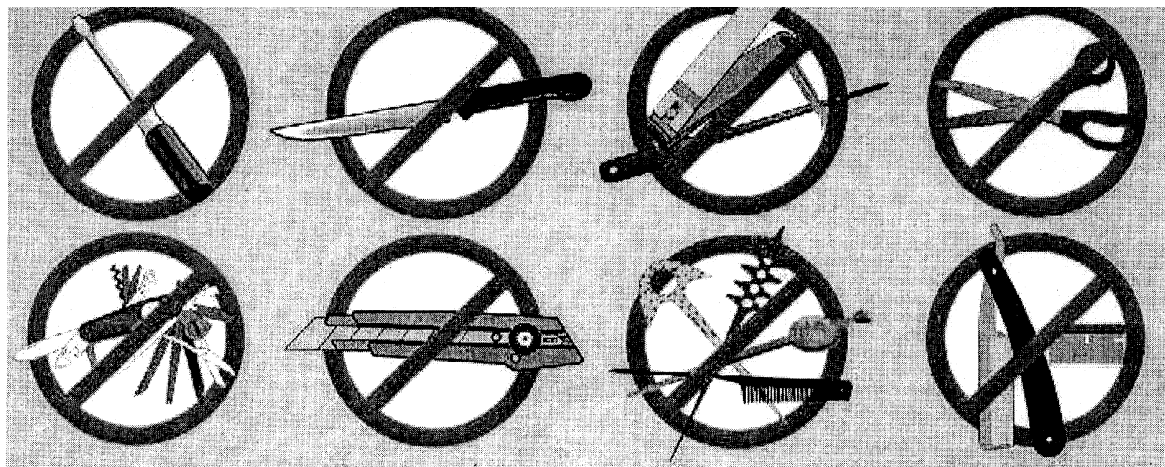
Articles Restricted to be Carried into Aircraft Cabin

Restricted Articles

Examples of a restricted article would include:

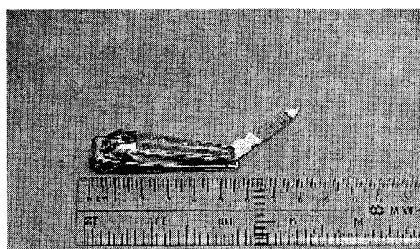
- (a) Firearms including shotguns, air guns, humane killers, bolt guns, flare pistols and starting pistols, ammunition, replica or imitation firearms, cross bows.
- (b) Explosive material, including military, commercial or home-made explosive, explosive devices, detonators, smoke cartridges, grenades, mines and other explosive military ordinance, replica or imitation explosive material or devices.
- (c) Pointed or bladed items made or adapted to cause injury, flick knives, gravity catch knives, stilettos, daggers, kukris, other knives both real or ceremonial with blades of any length or description, including sheath knives, kirpans and skeandhus, open razors, scalpels, ice picks, swords, sword sticks, umbrellas containing sword blades, harpoons, spears or arrows.
- (d) Items containing incapacitating substances, including tear gas, mace and phosphorous acids.
- (e) Highly inflammable substances (for example, petrol, lighter fuel, and so on)
- (f) Gas containers and aerosols with a capacity of more than 500 ml.
- (g) Knuckle-dusters, clubs, coshes, rice flails.

For Travelers < Information at a glance < CAD

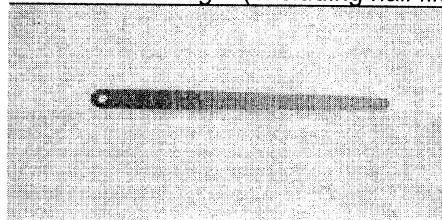


Definition of pointed item and bladed item

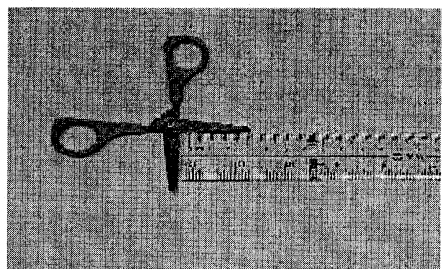
Allowable items for carriage



Below 6 cm in length (excluding nail file)

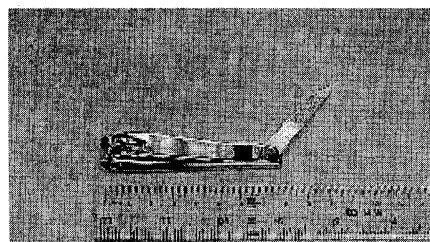


Round-ended nail file

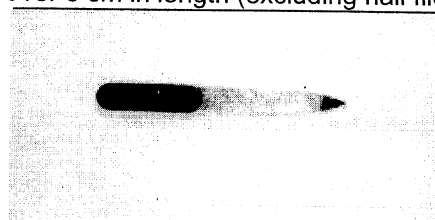


Round-ended scissors with blade below 5 cm in length

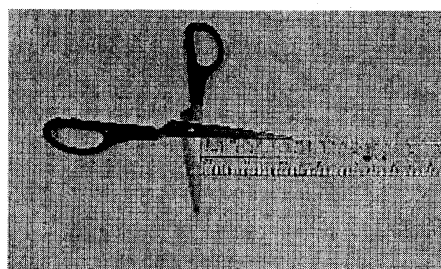
Not allowable items for carriage



Over 6 cm in length (excluding nail file)



Pointed nail file



Pointed scissors or scissors with blade over 5 cm in length

Improvement to Air Quality in Pearl River Delta Region

9. **MISS CYD HO:** *Madam President, on 29 April this year, the Government of the Hong Kong Special Administrative Region (SAR) and the Guangdong Provincial Government issued a joint statement, expressing their consensus to improve the air quality in the Pearl River Delta (PRD) Region by reducing the regional emissions of sulphur dioxide, nitrogen oxides, respirable suspended particulates and volatile organic compounds by 40%, 20%, 55% and 55% respectively by 2010, using 1997 as the base year, and forecasting that, if these emission reduction targets are achieved, the SAR will be able to meet its current Air Quality Objectives (AQOs) by 2010. In this connection, will the Government inform this Council:*

- (a) of the respective average percentage of each type of air pollutants that currently comes from cross-boundary sources, as measured locally in the SAR and in other parts of the PRD Region;*
- (b) of the extent to which the current AQOs for the SAR have been met;*
- (c) of a detailed account of how the above emission reduction targets are set; and*
- (d) whether it has discussed with the Guangdong Provincial Government the making of concerted efforts to utilize renewable energy sources, with a view to further reducing the emissions from power stations; if so, of the progress; if not, the reasons for that?*

SECRETARY FOR THE ENVIRONMENT AND FOOD: Madam President,

- (a) From air pollution data recorded by the SAR and other areas within the PRD, it is difficult to indicate how much of the pollutants come from cross-boundary emission sources. This is because the situation largely depends on meteorological conditions. No general conclusion could be drawn. In terms of emissions in the entire PRD Region including the SAR, the findings of the Study of Air Quality in the PRD Region (the Study) show the following relative shares of air pollutant emissions from the SAR and other parts of the PRD Region:

*Relative shares as percentage of the total
emissions in the entire PRD Region
(using 1997 as base year)*

	<i>Sulphur Dioxide</i>	<i>Nitrogen Oxides</i>	<i>Respirable Suspended Particulates</i>	<i>Volatile Organic Compounds</i>
Hong Kong	13%	20%	5%	12%
Other parts of the PRD Region	87%	80%	95%	88%

- (b) The extent to which the AQOs were complied with in 2001 is set out in the Annex. The information is based on the monitoring results of the Environmental Protection Department (EPD).
- (c) The Study confirms that the four major air pollutants in the PRD Region are sulphur dioxide (SO₂), nitrogen oxides (NO_x), respirable suspended particulates (RSP) and volatile organic compounds (VOC). During the study, the consultant compiled the emission inventories of the four major pollutants using 1997 as the base year to ascertain the major emission sources and their geographical distribution. A projection for the future emission levels was made on the basis of the emission inventories by making reference to forecast economic growth and development trends in the region. The consultant then took into account the clean air measures that the SAR Government and the Guangdong Provincial Government have implemented or have committed to implementing, and by utilizing computer air quality models, assessed the future air quality of the PRD Region and predicted the emission reduction levels (the emission reduction levels) that were required for the two Governments to meet their current AQOs. The Administration set the emission reduction targets mentioned above on the basis of the predicted emission reduction levels.
- (d) To achieve the emission reduction targets for SO₂, NO_x and RSP, the Study recommends Hong Kong to use cleaner fuel for power generation. As for other areas in the PRD Region, the Study puts

forward a number of suggestions, including examination of the use of alternative energy, for example, renewable energy such as hydroelectricity, wind energy, solar energy and geothermal energy. The two Governments have agreed to set up an expert group to consider in detail the improvement measures recommended in the Study report, including their feasibility and the technical issues involved, and to draw up detailed plans for consideration by the two Governments.

Annex

Compliance of Hong Kong Air Quality Objectives in 2001

<i>Pollutants</i>	<i>Number of stations (among the 14 monitoring stations operated by EPD) that are monitoring the concerned pollutant</i>	<i>Number of stations (among those monitoring the concerned pollutant) that meet the relevant Air Quality Objective for the concerned pollutant (2001)</i>				
		<i>1-hour Objective</i>	<i>8-hour Objective</i>	<i>24-hour Objective</i>	<i>3-month Objective</i>	<i>1-year Objective</i>
Sulphur Dioxide	14	14	N/A	14	N/A	14
Total Suspended Particulates	10	N/A	N/A	10	N/A	8
Respirable Suspended Particulates	14	N/A	N/A	14	N/A	9
Nitrogen Dioxide	14	13	N/A	10	N/A	11
Carbon Monoxide	6	6	6	N/A	N/A	N/A
Photochemical Oxidants (as Ozone)	11	9	N/A	N/A	N/A	N/A
Lead	6	N/A	N/A	N/A	6	N/A

Remark: "N/A" — There is no relevant Air Quality Objective for the concerned pollutant.

Safety Standards Adopted for Regulation of Beauty Products

10. **MR FRED LI** (in Chinese): *Madam President, regarding the safety standards adopted for the regulation of beauty products, will the Government inform this Council:*

- (a) *of the reasons for its decision to adopt the Mainland's standards as the standards for testing the safety of beauty products in Hong Kong; whether it has consulted experts before making the decision; if it has, of the kinds of experts it has consulted and their advice; if not, the reasons for that;*
- (b) *of the countries or national standards institutes whose safety standards on beauty products are recognized by the Customs and Excise Department (C&ED) as "reasonable safety standards"; how these safety standards compare to those of the Mainland;*
- (c) *of the current channels through which the authorities inform members of the public, importers and distributors of beauty products of these "reasonable safety standards";*
- (d) *whether beauty products are required to comply with the safety standards set by their countries of origin before they can be imported into or sold in Hong Kong, or they are only required to comply with any one set of the safety standards recognized by the C&ED; and*
- (e) *given the absence of a unified set of safety standards and system for safety tests, how the C&ED ensures that all imported beauty products put up for sale in Hong Kong meet the "reasonable safety standards"?*

SECRETARY FOR ECONOMIC SERVICES (in Chinese): Madam President, my reply to the five parts of the question raised by the Honourable Fred LI in *seriatim* is as follows:

-
- (a) The Government Chemist (GC) tenders expert advice to the Government on safety standards for consumer goods. Having considered the standards for cosmetic products published by various international standards institutes, the GC opines that the Chinese National Standards – Hygiene Standards for Cosmetics (GB 7916-87) is the appropriate standard for testing cosmetic products. This is because the Chinese National Standards:
- (i) set out comprehensively the safety requirements, including the permitted amounts of restricted substances and additives; and
 - (ii) stipulate detailed procedures for testing whether a cosmetic product complies with the requirements.
- (b) Pursuant to the Consumer Goods Safety Ordinance (CGSO), reasonable standards for cosmetic products stipulated by other national or international standards institutes are recognized by the Commissioner of Customs and Excise (the Commissioner) for enforcement purposes. That is to say, the Commissioner will accept the "general safety requirement" in the CGSO as met, where a cosmetic product complies with the requirements of a reasonable national or international standard for the product concerned (for example, that of the United States, the European Union, Australia, Japan, and so on). This is because the requirements of these standards are generally comparable to those stipulated in the Chinese National Standards. Take for instance, the restrictions in respect of heavy metal in cosmetic products (such as mercury, lead, arsenic, cadmium, and so on) stipulated in the Chinese National Standards are broadly the same as those stipulated by the Food and Drug Administration of the United States.
- (c) The Government adopts a two-pronged approach to make members of the trade and the public aware of the safety requirements for cosmetic products:

- (i) *to reach out to the trade:* in January 2002, the C&ED organized a seminar to explain the safety requirements for cosmetic products under the CGSO for members of the Cosmetic and Perfumery Association of Hong Kong. The C&ED will be pleased to organize similar talks for cosmetic products importers and dealers; and
 - (ii) *to make information available for inspection:* the Product Standards Information Bureau of the Innovation and Technology Commission maintains a library of safety standards published by international and national standards institutes for different kinds of consumer products including cosmetic products, and members of the public are welcome to use this library.
- (d) Pursuant to the CGSO, cosmetic products being consumer goods must comply with the "general safety requirement" if they are to be imported into, supplied or manufactured in Hong Kong. The CGSO does not, however, require cosmetic products to meet the safety standards set by their countries of origin and, meeting the requirements of a reasonable national or international standard for the product concerned is equally acceptable. Take for instance, a cosmetic product can be manufactured in the United States to Japanese safety standard and it will be recognized by the Commissioner as having met a reasonable safety standard.
- (e) The CGSO makes it a responsibility of the suppliers to ensure that the cosmetic products they supply meet the "general safety requirement". The objective is to ensure that the products meet reasonable safety standard while at the same time gives the suppliers the flexibility to make reference to relevant safety standards published by relevant standards institutes.

To ensure that beauty products put up for sale in Hong Kong meet relevant safety requirements, the C&ED is vigilant in enforcing the law. This includes conducting spot checks, and purchasing samples of cosmetic products for testing. When products in breach

of the safety requirement are found, the Commissioner will prosecute the importers or dealers of the cosmetic products concerned, or require them to take appropriate remedial action.

Of the enforcement actions taken in respect of consumer goods by the C&ED in 2001, 321 spot checks and 43 investigations were related to cosmetic products. The Department had also issued prohibition notices and initiated prosecutions against cosmetic products in accordance with the CGSO in the past three years. These actions demonstrate how the C&ED can, through the existing monitoring and enforcement mechanism, tackle safety problems associated with beauty products.

Real Estate Developers Providing Public Facilities

11. **MR ALBERT CHAN** (in Chinese): *Madam President, at present, some land leases have clauses requiring the real estate developers concerned to provide certain public facilities on the sites concerned. It is learnt that after lands are granted, some real estate developers do not start the works on building the facilities in a timely manner, and they even put off the works until close to the deadline. In this connection, will the Government inform this Council:*

- (a) *of the number of real estate developers, over the past three years, who have failed to complete the public facilities concerned within the specified time limits as stipulated in the clauses of the land leases, the descriptions of the development projects, the names of the developers, as well as the type of the public facilities involved, and the specified and actual dates of their completion; and*
- (b) *whether it will consider stipulating in future land leases that occupation permits will not be issued to real estate developers until after the completion of the public facilities concerned, so as to protect the public interest; if so, of the details; if not, the reasons for that?*

SECRETARY FOR PLANNING AND LANDS (in Chinese): Madam President, in the past three years, there were seven property developments involving late completion of public facilities as against the dates specified in the respective land leases. Details of the seven cases are provided at Annex.

The Government attaches great importance to the timely completion of public facilities because they serve the interests of the local community. In this respect, the Government has specific measures to ensure timely delivery of such public facilities.

If the construction of public facilities were entrusted to a developer who would hand over the facilities to the Government upon completion, the developer would be liable to pay the Government liquidated damages for any delayed handover of the facilities. Reimbursements to the developer for constructing the public facilities would not be released until the facilities have been fully completed and handed over to the Government.

In respect of public facilities built at the developer's expense, the Government could forbid the developer from completing sale transactions with flat buyers if the public facilities were not completed on time. Alternatively, the Government could allow the sale transactions to proceed if the developer were able to provide a written undertaking and a bank bond as collateral security. In the event of the developer's failure to complete the public facilities, the Government could use the bank bond to pay for the construction of the public facilities.

We do not consider that additional measures, such as withholding occupation permits issued under the Buildings Ordinance, would be necessary to further regulate the construction of public facilities by developers. To withhold the issue of occupation permit because of the late completion of public facilities would penalize not only the developer but also upset the housing arrangements of flat buyers. The Government will continue to keep the existing arrangements under review and will consider appropriate improvement measures as and when necessary.

Annex

Property Developments in the Past Three Years
Involving Late Completion of Public Facilities

<i>Development</i>	<i>Developer</i>	<i>Public facilities required</i>	<i>Completion and handover of public facilities</i>	
			<i>Date specified in land lease</i>	<i>Actual date</i>
Kai Tak Garden, Choi Hung Road	Hong Kong Housing Society	Social centre for the elderly and home help centre	30 September 2000	31 October 2001
Cayman Rise, Ka Wai Man Road	Hong Kong Housing Society	Day care centre for the elderly	30 September 2000	18 January 2001
Nob Hill, Lai King Hill Road	Central More Limited	Public transport terminus	1 November 2000	6 December 2000
Broadview Court, Shum Wan Road	Century Metro Development Limited	Public transport terminus	29 June 2000 (extended* to 29 January 2001)	8 November 2001
Island Resort, Siu Sai Wan Road	SilverLink Investment Limited	Public transport terminus	31 March 2001	11 April 2001
Leighton Hill, Wong Nai Chung Road	Harsco Limited	Community hall	30 September 2001	June 2002#
Grand Regentville, Wo Mun Street	Apex Speed Limited	Market, cooked food centre, indoor recreation centre, government offices and other community-related facilities	31 December 2001	22 January 2002

* A seven-month extension was granted to the developer on account of geotechnical constraint which could not have been foreseen by the developer.

Procedure for the handover of the community hall to the Government is expected to be completed by the end of June 2002.

Erecting Barriers to Divide Two-way Expressways

12. **MR LAU KONG-WAH** (in Chinese) *Madam President, will the Government inform this Council whether it has considered following the Mainland's practice of erecting barriers or planting trees to divide two-way expressways to prevent the headlamps of vehicles from dazzling the drivers of vehicles moving in opposite directions, so as to reduce the occurrence of traffic accidents; if not, of the reasons for that?*

SECRETARY FOR TRANSPORT (in Chinese): Madam President, in line with the Transport Planning and Design Manual published by the Transport Department, all expressways in Hong Kong are provided with central dividers of about 800 mm high and 675 mm wide. Such installations help ensure that motorists will not be dazzled by headlamps of vehicles moving in opposite directions. The planting of trees in the central reserves requires much more space and site conditions normally preclude such provision in Hong Kong.

As a further safeguard, the Road Traffic (Traffic Control) Regulations specify that where a system of street lights is in operation or in the face of approaching traffic, vehicle headlamps shall be dipped to an angle that is incapable of dazzling any other road users. Contravention of the provisions under the Regulations will be liable to a maximum fine of \$10,000 and six months' imprisonment.

Reception Quality of Radio Broadcasts in Tunnels

13. **MISS EMILY LAU** (in Chinese): *Madam President, some members of the public have complained about the difficulty in listening clearly to radio broadcasts inside some of the road tunnels. In this connection, will the executive authorities inform this Council whether:*

- (a) *they know the causes of the above problem; and*
- (b) *they have measures to improve the above situation?*

SECRETARY FOR TRANSPORT (in Chinese): Madam President, all road tunnels in Hong Kong are installed with Radio Re-broadcasting Systems (RRS) which transmit radio signals from broadcasting stations into the tunnel tubes enabling motorists to listen to different radio channels. The quality of radio reception in some tunnels is affected by the existence of natural physical barriers nearby, the location of the broadcasting stations or the deteriorating performance of the RRS.

Improvement measures are being undertaken to address the radio reception problems in individual tunnels. For the Shing Mun Tunnel and Tseung Kwan O Tunnel, the radio signals received are relatively weak due to interference from the local landscape. After consulting the Telecommunications Authority, we have installed amplifiers in these tunnels to enhance the radio signals from the relevant broadcasting stations. Subject to further testing of the system, the installation work will be completed within the next few months.

For the Airport Tunnel and Aberdeen Tunnel, the radio signals received at either ends of the tunnels come from different repeater broadcasting stations, hence affects the quality of radio reception as motorists drive through the tunnel. Action is in hand to upgrade the RRS of these tunnels with the provision of a Radio Data System to enable automatic tracking of radio signals inside tunnel tubes. The upgrading works at the Aberdeen Tunnel will be completed by mid-2003, whilst those at the Airport Tunnel will be carried out as part of the tunnel radio communication system replacement project scheduled for completion by mid-2004.

For the Cross-Harbour Tunnel, its RRS was designed some 30 years ago and is reaching the end of its serviceable life. Action is in hand to upgrade the existing RRS with a new state-of-the-art system as part of the tunnel radio communication system replacement project. The whole project will be completed by mid-2004.

Air Quality Standards Adopted for Air Quality Objectives

14. **MISS CYD HO:** *Madam President, at present, the respirable suspended particulates (RSP) concentration, in respect of which an Air Quality Objective (AQO) has been set, is measured by the total weight of particulates with an aerodynamic diameter of less than 10 micrometres (known as "PM10") in every*

cubic metre of air. Regarding the air quality standards adopted for AQOs, will the Government inform this Council whether it will:

- (a) replace the existing AQO for RSP concentration with one which is based on PM_{2.5}; if it will, of the implementation timetable; if not, the reasons for that; and*
- (b) raise the air quality standards adopted for AQOs with reference to the tolerance concentrations for pollutants set by the World Health Organization (WHO) in its Air Quality Guidelines (the Guidelines); if it will, of the implementation timetable; if not, the reasons for that?*

SECRETARY FOR THE ENVIRONMENT AND FOOD: Madam President,

- (a) According to information available to us, the United States has decided to add PM_{2.5} to its AQOs for measurement of the concentrations of particulates. The original PM₁₀ AQO will be kept and will continue to be used. Up to now, the United States has yet to draw up any specific plan or timetable for achieving the new PM_{2.5} objective. The European Union (EU) is also reviewing its AQOs, including the question of whether a PM_{2.5} objective should be added. The review is expected to be completed within 2003. We will closely monitor the developments in the United States, the EU and other places and organizations in this regard and consider whether PM_{2.5} should be added to Hong Kong's AQOs.
- (b) The Guidelines issued by the WHO aim to provide information for the reference of governments for setting their AQOs. The WHO recommends that, other than making reference to the Guidelines, governments should consider local factors such as population structure, the correlation between air pollutant concentrations and their effects on public health, and the cost-effectiveness of air pollution controls when setting their own AQOs. We will monitor from time to time developments of AQOs in the United States, the EU and other places and organizations (including the WHO) and

assess whether there is a need to make any change to our current AQOs.

Supply and Demand for Secondary One Places

15. **MR YEUNG YIU-CHUNG** (in Chinese): *Madam President, regarding the supply and demand for Secondary One places, will the Government inform this Council of:*

- (a) *the respective numbers of Secondary One school places in each secondary school net in the past two, the current and the next school years; and*
- (b) *the respective numbers of Primary Six school boys and girls in each secondary school net in the current school year?*

SECRETARY FOR EDUCATION AND MANPOWER (in Chinese): Madam President, under the Secondary School Places Allocation (SSPA) system, the whole territory of Hong Kong is divided into 18 school nets according to the administration districts. The school net to which a Primary Six student belongs is determined by the location of the primary school which he/she attends. In addition to the secondary schools in the district, a school net usually also includes places from secondary schools in other districts in order to meet the demand arising from the changing number of students and to provide parents with more choices.

- (a) The number of Secondary One school places (include both discretionary places and places for central allocation) provided by secondary schools in each district for the SSPA system in the 1999-2000, 2000-01, 2001-02 and 2002-03 school years are:

<i>District</i>	<i>No. of Places</i>			
	<i>1999-2000</i>	<i>2000-01</i>	<i>2001-02</i>	<i>2002-03</i>
	<i>School Year</i>	<i>School Year</i>	<i>School Year</i>	<i>School Year</i>
Central and Western	2 623	2 649	2 702	2 558
Wan Chai	3 686	3 531	3 413	3 193

<i>District</i>	<i>No. of Places</i>			
	<i>1999-2000</i>	<i>2000-01</i>	<i>2001-02</i>	<i>2002-03</i>
	<i>School Year</i>	<i>School Year</i>	<i>School Year</i>	<i>School Year</i>
Eastern	5 804	6 339	6 048	5 834
Southern	2 444	2 584	2 498	2 548
Yau Tsim Mong	2 693	3 367	3 140	3 150
Sham Shui Po	3 149	4 069	4 112	4 102
Kowloon City	6 114	6 465	6 273	6 628
Wong Tai Sin	4 143	4 445	4 542	4 447
Kwun Tong	5 309	6 551	6 478	6 398
Kwai Tsing	5 890	6 561	6 260	6 230
Tsuen Wan	2 492	2 726	2 512	2 512
Tuen Mun	6 702	7 222	7 151	7 332
Yuen Long	5 407	6 004	6 611	7 497
North	4 048	4 473	4 522	4 531
Tai Po	4 729	4 904	4 778	4 911
Sha Tin	7 559	8 265	8 055	8 166
Sai Kung	3 354	4 202	3 955	3 813
Islands	722	828	1 016	1 370

- (b) The number of Primary Six students participating in the SSPA system in each district in the 2001-02 school year are:

<i>District</i>	<i>No. of Boys</i>	<i>No. of Girls</i>	<i>Total</i>
Central and Western	1 590	1 404	2 994
Wan Chai	1 366	1 486	2 852
Eastern	2 722	2 369	5 091
Southern	1 113	1 017	2 130
Yau Tsim Mong	2 322	2 121	4 443
Sham Shui Po	2 366	2 110	4 476
Kowloon City	3 495	3 315	6 810
Wong Tai Sin	2 326	2 433	4 759
Kwun Tong	3 101	2 739	5 840
Kwai Tsing	2 564	2 418	4 982
Tsuen Wan	1 847	1 674	3 521
Tuen Mun	3 674	3 329	7 003
Yuen Long	3 464	3 389	6 853

<i>District</i>	<i>No. of Boys</i>	<i>No. of Girls</i>	<i>Total</i>
North	2 340	2 256	4 596
Tai Po	2 385	2 237	4 622
Sha Tin	3 356	3 117	6 473
Sai Kung	1 698	1 680	3 378
Islands	496	510	1 006

Housing Authority Attracting Operators with Innovative Business Practices

16. **MR HENRY WU** (in Chinese): *Madam President, regarding measures to attract operators with innovative business practices to operate in the Housing Authority's (HA) shop premises, will the Government inform this Council whether it knows if the HA:*

- (a) *has measures to encourage such operators to operate in its shop premises; if it has, of the details; if not, the reasons for that;*
- (b) *will consider ways other than tendering to let out shop premises to such operators; and*
- (c) *has measures to ensure that the innovative business practices will not be divulged to outsiders during the tenancy negotiation process?*

SECRETARY FOR HOUSING (in Chinese): Madam President,

- (a) the HA welcomes innovative business proposals and practices for its commercial premises. The Housing Department (HD) approaches the retail industry from time to time for new business proposals through advertisements and regular contacts with retailers. For example, in response to proposals by operators, an Internet centre has been set up in Lok Fu. The HD is now inviting suggestions from the trade on ideas for theme malls. Business operators with ideas and suggestions other than established arrangements can also approach the HD any time. Their suggestions will be considered carefully in the light of the latest retail trend, residents' shopping needs and any effects on the shopping centres in question.

- (b) In converting a new concept into a lease, the HA, as custodian of public assets, has to be seen to be fair and transparent. The HA would therefore normally proceed by inviting proposals for operation of the proposed concept, without disclosing the precise nature or details of the initial proposal. For innovative proposals with a beneficial impact on the shopping centre, the HA may consider direct negotiations in order to give proper consideration to all relevant factors.
- (c) Negotiation procedures allow the HA to consider innovative business proposals or practices without divulging details to outsiders or potential competitors. The HA takes the greatest care to ensure that there is no leakage of commercial confidence during the process.

Minimizing Intervention in Tenancy Matters of Private Properties

17. **MR TAM YIU-CHUNG** (in Chinese): *Madam President, given that all rent control measures were abolished with effect from 1 January 1999, will the Government inform this Council whether it will consider taking measures to minimize its intervention in tenancy matters of private properties, such as:*

- (a) *reviewing the provision which gives tenants security of tenure; and*
- (b) *removing the stipulation which requires landlords of non-domestic premises who do not intend to renew the tenancy agreements with their tenants to serve a Notice of Termination of Tenancies not less than six months before the day on which the Notice is to take effect?*

SECRETARY FOR HOUSING (in Chinese): Madam President, it is the Government's policy for the private property market to operate as freely as possible without unwarranted government intervention. Security of tenure was introduced in 1981 under Part IV of the Landlord and Tenant (Consolidation) Ordinance (LTO) (Cap. 7) against the background of a serious shortfall of accommodation leading to significant rental increases on renewal of tenancies.

Circumstances in the residential housing market have changed significantly since Part IV of the LTO was introduced:

- (i) The supply of private sector residential flats is stable and sufficient.
- (ii) Average rentals for private housing have fallen by about 37% as compared to the peak in October 1997.
- (iii) With an adequate supply of public housing, the average waiting time for public rental housing has been reduced significantly from nine years in 1990 to three years now.

Currently, the Landlord and Tenant (Consolidation) (Amendment) Bill 2001 is being scrutinized by a Legislative Council Bills Committee. The main purposes of the Bill are:

- (i) to streamline statutory repossession procedures;
- (ii) to improve the operation of the LTO;
- (iii) to improve the basis of calculating compensation for tenant and sub-tenant occupying small premises repossessed by the landlord for redevelopment; and
- (iv) to increase penalties for harassment of the tenant and unlawful eviction.

In line with the Government's policy to allow the property market to operate as freely as possible in Hong Kong's circumstances, the Administration plans to conduct a comprehensive review of the security of tenure provisions under the LTO. The review is intended to cover all provisions of the LTO which are still in force. This includes Part IV of the Ordinance which provides security of tenure to most domestic tenancies in Hong Kong and Part V of the Ordinance which requires a minimum notice period to be given by landlords of non-domestic premises in terminating a tenancy on the expiry of the tenancy term. The Administration plans to consult the Legislative Council Panel on Housing and all relevant professional bodies after the passage of the Landlord and Tenant (Consolidation) (Amendment) Bill 2001.

Plan to Build Sewage Treatment Plant at Ngong Ping

18. **MR LAW CHI-KWONG** (in Chinese): *Madam President, regarding the Drainage Services Department's (DSD) plan to build a sewage treatment plant (STP) at Ngong Ping on Lantau Island and to discharge the treated effluent into the sea via Tai O, will the Government inform this Council:*

- (a) *whether it has widely consulted residents in Tai O and the Islands District Council (Island DC) on the plan; if so, of the details of the consultations;*
- (b) *of the chemicals used in the tertiary treatment of the sewage; whether it has estimated the concentrations of such chemicals in the treated effluent before it is discharged into the sea; and*
- (c) *as the Administration has stated that, according to the environmental impact assessment (EIA) report on the plan, the potential impacts arising from various aspects of the project will be within the established environmental targets, of the relevant details of the report?*

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

- (a) The Government has maintained contact with the Islands DC and the residents of Tai O since the planning stages of the Ngong Ping sewage collection and treatment scheme. The Environmental Protection Department (EPD) first consulted the Islands DC on the scheme in May 2000. Then the DSD briefed the Islands DC, the Tai O Rural Committee and residents of Tai O on the details of the project at three different meetings in April and May 2002. Residents and the Rural Committee of Tai O and some Islands DC members are opposed to the proposal of conveying the effluent to Tai O for discharge after it has undergone tertiary treatment and disinfection at the Ngong Ping STP. We will continue to discuss the matter with Tai O residents and the relevant bodies to work out a solution.

- (b) The proposed Ngong Ping STP will adopt biological treatment to remove the pollutants in the effluent which will then undergo further filtration and ultra-violet disinfection. No chemical substance will be added to the effluent throughout the entire treatment process.

However, we will add a small amount of polymer or lime to the sludge to facilitate its dewatering. Hence, it is possible that traces of these chemical substances may enter the sewage treatment system during the dewatering process. Since these chemicals are not toxic, they will not cause environmental or health impacts.

- (c) The findings of the EIA recently completed by the DSD indicate that both the construction works and operation of the scheme will be able to meet the standards for air quality, water quality, noise, waste management, ecology and fishery, landscape and visual impacts as well as cultural heritage stipulated in the Technical Memorandum on Environmental Impact Assessment Process by the EPD. These standards are set by making reference to different Ordinances. Details are as follows:

- (i) air quality objectives and other relevant standards stipulated under the Air Pollution Control Ordinance;
- (ii) noise criteria stipulated by the relevant technical memoranda promulgated under the Noise Control Ordinance and in the Technical Memorandum on Environmental Impact Assessment Process;
- (iii) water quality objectives for the relevant water control zone stipulated under the Water Pollution Control Ordinance;
- (iv) the criteria for effluent discharge stipulated in the Technical Memorandum on Effluent Standards issued under the Water Pollution Control Ordinance; and
- (v) the waste disposal requirements set out in the Waste Disposal Ordinance.

The EIA findings indicate that the Ngong Ping sewage collection and treatment scheme will not have any adverse environmental or health effects during its construction and operation phases. Subject to the EPD's agreement, the DSD will release the EIA report on this project for public inspection in accordance with the Environmental Impact Assessment Ordinance in July or August this year. After examining the EIA report and taking into account comments of the Advisory Council on the Environment and the public, the EPD will consider whether Environmental Permit (EP) should be issued for the scheme and if any special conditions should be attached to the EP to ensure that the scheme will not create unacceptable impacts on the environment.

Cases of Burst Water Mains

19. **MR TAM YIU-CHUNG** (in Chinese): *Madam President, in view of the several cases of burst potable water mains and salt water mains recently, will the Government inform this Council of:*

- (a) *the number of cases of burst water mains, and the respective numbers of them which resulted in disruption of water supply and traffic congestion, in each of the past three years;*
- (b)
 - (i) *the total length of underground water mains replaced by the Water Supplies Department (WSD) for preventing pipe-burst; and*
 - (ii) *to prevent road excavation works from endangering the water mains nearby, the respective numbers of times the WSD issued instructions and warnings to the contractors concerned before the works commenced and during the progress of the works,*
in each of the past three years; and
- (c) *the specific measures, apart from the proposed plan to replace and repair aged water mains of about 3 050 km in length by phases within 20 years, to prevent the pipe-burst problem from getting worse?*

SECRETARY FOR WORKS (in Chinese): Madam President,

- (a) In the past three years, there were a total of 5 618 cases of burst water mains, among which 4 825 cases resulted in interruption of water supply to the affected premises, and 1 519 cases led to traffic congestion. The number of cases by financial year is as follows:

	<i>1999-2000</i>	<i>2000-01</i>	<i>2001-02</i>	<i>Total</i>
Burst Cases	1 813	1 924	1 881	5 618
Cases Resulting in Interruption of Water Supply	1 577	1 652	1 596	4 825
Cases Leading to Traffic Congestion	462	484	573	1 519

- (b) (i) To prevent main bursts, the WSD replaced 77 km, 66 km and 83 km of aged water mains in the 1999-2000, 2000-01 and 2001-02 financial years respectively.
- (ii) To prevent road excavation works from endangering the water mains nearby, the WSD has published and distributed the booklet — Guidelines for Excavation near Water Mains, which explains in detail the points to note when undertaking such works. The Guidelines are also available on the WSD website for reference by contractors, organizations concerned and the public. In fact, before the works commence, the contractors or utility undertakers will generally approach the WSD for the latest information on the existing water mains near the site of the proposed works. Apart from providing the required information, the WSD will repeatedly remind them to implement suitable precautionary measures before carrying out the works. In the 1999-2000, 2000-01 and 2001-02 financial years, the WSD issued 891, 782 and 700 warnings respectively to the contractors concerned during the progress of the works.

- (c) In addition to the long-term Water Main Rehabilitation Scheme, the WSD has put in place the following measures to reduce the number of main bursts:
 - (i) Using stronger and better quality pipe materials, such as ductile iron pipes, mild steel pipes and polyethylene pipes to replace the cast iron pipes, asbestos cement pipes, galvanized iron pipes and uPVC pipes in new water main works.
 - (ii) Setting up Roadwork Inspection Teams to step up the surveillance of roadwork activities which may affect water mains, and giving advice to the contractors on the proper protection of water mains. Warnings will be issued if necessary.
 - (iii) Undertaking territory-wide leak detection tests regularly to identify leaks in water mains at an early stage so as to prevent them from developing into bursts.
 - (iv) Enhancing the knowledge and awareness of contractors and all parties concerned, including government departments, large organization, utility undertakers and consultants, on the importance of avoiding damage to water mains by issuing to them various publicity materials.
 - (v) Converting existing water mains record plans to digital format and making full use of the computerized mapping system to facilitate the updating of and access to information, as well as information exchange with other utility undertakers and government departments.

STATEMENT

PRESIDENT (in Cantonese): Statement. Chief Secretary for Administration will make a statement on "Review of Remuneration of Senior Executives of Major Statutory and Other Bodies".

In accordance with the Rules of Procedure, no debate may arise on the statement but I may in my discretion allow short questions to be put to the Chief Secretary for Administration for the purpose of elucidating it.

Review of Remuneration of Senior Executives of Major Statutory and Other Bodies

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Madam President, with your permission, I would like to say a few words on the consultancy study of remunerations of senior executives of 10 selected statutory and other bodies. We have sent a Legislative Council Brief on the subject to Members of this Council earlier today. At the outset, I hope Members would understand that most of the selected bodies are statutory organizations and some are listed bodies. These bodies are required under the relevant laws to operate independently and effectively. Financially, the bodies under review are in general not government departments or subvented organizations and they are not under the Government's direct control. Furthermore, most are required to operate on commercial principles.

Given the importance of the exercise, I would first recapitulate the background to the study, before I explain the consultant's key findings and proposals, and set out the Administration's position on the recommendations.

Members would no doubt recall the intense public discussion on the remunerations of senior executives of statutory and other bodies. We had a motion debate on this subject in this Council in December last year. From these discussions, there was a clear demand for the Government to look into this subject matter, with a view to drawing up some consistent and reasonable principles and guidelines to enable these bodies to safeguard both the propriety and general competitiveness of the remuneration arrangements for their senior executives.

First, there is general perception that senior executives of some major and other statutory bodies are grossly overpaid. Second, adjustments to their remuneration packages do not appear to be in line with the prevalent pay cuts in the private sector. Last but not least, there is little transparency in this whole issue; most of these bodies do not allow for public disclosure of details of their senior executives' remuneration packages or the adjustment mechanism, making effective public monitoring difficult.

To take account of these expressed concerns, I announced in January this year the Administration's decision to commission a consultancy study to look at remunerations of senior executives of selected bodies. In approaching this

subject, the Administration has a clear position — that we must undertake the study sensibly and responsibly, and look at the remuneration policies and practices of these bodies in an objective manner.

In this regard, we have appointed a consultant pursuant to our established tendering procedures and laid down five main tasks. First, to examine whether existing remuneration arrangements of the bodies under review are in line with their comparable counterparts in the private sector. Second, the consultant should put forward his recommended remuneration packages for senior executives of each of the bodies under review, making reference to current practices applicable to those holding comparable positions in the analogue companies. Third, the consultant should draw up some consistent and reasonable guidelines for each of the governing boards or the management tiers of these bodies. Nevertheless, the new guidelines or recommended packages should not affect current employment contracts but take effect for new recruits or upon renewal of existing contracts only. Fourth, to enhance transparency of the remuneration arrangements of these bodies, the consultant should also come up with an effective adjustment mechanism to enable the community to monitor the long-term comparability between the remuneration packages of these bodies and their private sector counterparts. As the last study objective, the consultant's recommendations must also include a general framework for regular "disclosure" of the organizations' remuneration arrangements to the responsible Directors of Bureaux and the community in general.

I am pleased to inform this Council that we have now completed the five main tasks of the study. The study report, as distributed to Members earlier, contains a full range of findings and recommendations of the consultant. I would like to highlight the more pertinent findings or proposals in the report for Members' easy reference.

The study findings and recommendations are made based on the most up-to-date data collected from 80 private companies that took part in the consultant's survey in March this year. Different comparison groups were drawn up for the bodies under review. The number of private companies chosen for comparison with each of these bodies varied from 10 to 25. We have decided to use the median of the collected data as a reasonable benchmark for measuring market comparability of remunerations of each tier of senior positions in the bodies under review. The consultant has also applied qualitative adjustments to the

market median to reflect the unique mode of operation and prestige attached to some of the top executive positions.

In compliance with the requirements for protecting personal and privacy data, the consultant cannot disclose the current remuneration packages of senior executives serving in the bodies under review without the data subjects' consent. Nevertheless, the consultant has made general comparisons between the senior executives' existing packages with the market medians and the proposed remuneration packages respectively. Let me give a brief introduction on the major recommendations of the consultant. The findings reveal that 70% of the CEO positions under review have their current remunerations within a range of 15% of the market medians. When the comparison is made with the consultant's proposed remuneration packages, the percentage figure becomes 60%, still presenting a large majority of the CEO reviewed. Generally speaking, similar findings apply to the second and third tier executives covered in the consultancy study.

On the remuneration mix, the consultant considers that there is a common need for these bodies to have a more significant performance-based component and a larger variable pay element under their remuneration policy.

To achieve greater consistency and transparency in the organizations' remuneration arrangements, the consultant has proposed that each organization should designate a special committee to objectively deal with its remuneration policies and arrangements. That committee should review the performance and remuneration particularly of the CEO, and formulate its recommendation to the relevant governing board or approving authority. Each organization should also track the remuneration levels and trends in the relevant human resource market in accordance with a prescribed and consistent methodology.

As regards disclosure arrangements, the consultant proposes the bodies under review to follow in the meantime the disclosure practice of companies listed in the Hong Kong Stock Exchange. In the longer run, the consultant further proposes that the practice of developed countries of more complete disclosure of the pay packages at the CEO level should be followed. At other levels, these bodies should disclose the aggregate or average remuneration data for the second and third tier executives.

Now, I would like to talk about the Government's response to the consultancy study. The Administration considers the consultant's methodology, analyses and recommendations reasonable and on the right track. But we also recognize that the consultant has, exercised his professional judgement in a number of important areas. For example, after taking into account the qualitative adjustment factors attributable to the senior positions in the bodies under review, the consultant has come up with a net downward adjustment of 10% for prestige identified with two CEO positions. And this is quite subjective. Another example concerns the consultant's recommended conversion factor of 1.5 for translating a variable pay into its equivalent fixed pay component. These professional judgement may contain elements of subjectivity but the Administration considers them reasonable. However, neither the consultant nor the Administration can claim to have full knowledge of the competence and performance of individual post-holders. This is, however, a pertinent and essential consideration when one tries to establish the general comparability or compliance of a senior executive's remuneration with the market median or the consultant's proposed package.

Indeed, it is for this reason that we see the study recommendations as an authoritative reference tool rather than prescriptive or mandatory provisions. In other words, the recommendations are for the governing boards or committees to consider. Taking into account the qualifications, competence and performance of a particular individual, the responsible governing board or committee should decide whether and how an incumbent should justify a higher or lower pay than the market medians. Before arriving at its decision, we would expect the governing board or committee to take into account all relevant factors including the market pay conditions and the diverse job functions and requirements for different positions.

Regarding the recommendations on transparency or disclosure arrangements we agree that, in accordance with the general requirement to protect privacy data, we cannot disclose in the study report full packages of the senior executives. Nevertheless, we accept the consultant's recommendation that these bodies should, with immediate effect, follow the disclosure practice of companies listed in the Hong Kong Stock Exchange. This will require the disclosure of remunerations of the top five executives, showing the amount that they receive in different bands without identifying the individuals. With effect from next year, we will require these bodies to disclose the full remuneration packages of their CEO. The information should include the CEO's base salary,

allowances, variable remuneration targets, major benefits and perquisites, and any adjustments to the CEO's remuneration. At other levels, we agree that disclosure of the aggregate or average remuneration data for the second and third tier executives would suffice.

Madam President, the Government understands and shares the community's expectation of these organizations. Insofar as remuneration policies and practices are concerned, we also expect the governing boards to be vigilant on cost control, and to conduct periodic efficiency studies as well as aim at a higher level of transparency and disclosure. Nevertheless, we must also recognize and pay regard to the fact that many of these organizations were established as statutory bodies with independent governing boards or committees to oversee their management and operations. It would not be appropriate for the Government to prescribe or mandate the salary levels for their senior staff on behalf of the governing boards. After all, the governing boards know much better than we do as to the qualification, experience, competence and performance of their top executives, and hence would be able to make fair and proper judgement on remuneration issues pertaining to the respective organizations. I would like to reiterate that paying due respect to the rule of law the Government has no intention to interfere with existing contractual arrangements. Any new guidelines or recommended packages should not affect current employment contracts but take effect for new recruits or upon renewal of existing contracts only.

Madam President, we have invited the respective governing boards of these bodies to carefully study the consultant's recommendations and inform their responsible Director of Bureaux the outcome of their deliberations and the implementation programme in six months. At the same time, we will establish a mechanism to require each of these bodies to report annually to its Director of Bureau the detailed remuneration arrangements for each of the three layers of its senior executives, the compliance of the remuneration arrangements with the established principles set out in the consultancy report, any deviations from the principles with justifications, together with a full list of comparison companies used in coming up with the remuneration packages. The Director of Bureau should also be kept informed whenever adjustments to the remuneration policy or packages are made. We believe such arrangements strike a proper balance between the need to preserve the independent and effective management of the statutory and other bodies by the governing boards and public expectation of these bodies to achieve greater transparency and accountability.

In the meantime, the Administration stands ready to brief the relevant panel of the Council on the detailed findings and recommendations of the consultancy study.

Thank you, Madam President.

MISS EMILY LAU (in Cantonese): *Madam President, first of all, we have not yet received the report mentioned by the Chief Secretary for Administration earlier on, and I wonder when we will receive it. The Secretary General of the Legislative Council Secretariat is also shaking his head to show that he has not received it. I hope we can receive it very soon.*

Madam President, can the Chief Secretary for Administration clarify whether any of the consultant's recommendations suggests a pay reduction for senior staff or downgrading of their ranking in some statutory bodies, in particular the Equal Opportunities Commission which is rather controversial now? Are there such recommendations in the report, and does the Government accept them?

PRESIDENT (in Cantonese): Chief Secretary for Administration, your elucidation please.

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Madam President, the consultancy report should have been sent to the Legislative Council Secretariat, and it can reach Members this afternoon. My colleagues told me that the report has already been sent to the Legislative Council Secretariat. I hope Members can receive it very soon, and I believe some Members have already got it.

Our review this time covers a total of 10 organizations. In accordance with the statutory procedures, the 10 organizations all operate on prudent commercial principles and are not government-subsidized bodies and so, the Equal Opportunities Commission is not included. This report only seeks to point out, on the basis of the consultancy studies, the general remuneration levels of the senior staff of these bodies in the market, rather than looking into the remuneration of individual staff currently working in these bodies and whether

their remuneration have deviated from the market levels. I think this is something that should be further followed up by their respective governing boards or committees.

MR LEE CHEUK-YAN (in Cantonese): *Madam President, I would like the Chief Secretary for Administration to clarify the Government's position. Does the Government think that the remuneration of the Chief Executive Officer rank does not necessarily have to follow the consultant's recommendations, and that a deviation within the range of plus or minus 25% is acceptable for the remuneration of the second and third tier executives? Is this the position of the Government? Why does the Government take this position?*

PRESIDENT (in Cantonese): Chief Secretary for Administration, you only have to elucidate in relation to the relevant bodies and the relevant parts mentioned in your statement earlier.

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Madam President, as I said in my statement earlier on, we see the recommendations of the study as an authoritative reference tool, rather than prescriptive or mandatory provisions. In other words, the governing boards or committees concerned must use them as a standard. But if they wish to deviate from these recommendations, say, if an individual executive is particularly competent and outstanding, with particularly good qualification and experience, they will have to justify such deviation; or if they consider that an individual executive cannot meet the general qualifications required in the market and will therefore remunerate him at a lower level, they will also have to give justifications.

For the second and third tier executives, their situation is different. It is found in the consultancy study that the range of the average remuneration for executives on these levels in the market is very wide. In some cases, the market remuneration level is very high given the complex nature of the work concerned; and for work that is less complex, the market level is lower. It may not be fair to make it mandatory that these bodies must handle the remuneration issues of these executives in accordance with the average level recommended by the consultant. The consultant is of the view that the range of variation should be extended, and it should be extended to 25% under its proposal.

MR SIN CHUNG-KAI (in Cantonese): *Madam President, I would like to ask the Chief Secretary for Administration, who is the former Financial Secretary this: During his five years of office, the percentage of deviation in the remuneration of the Chief Executive of the Hong Kong Monetary Authority (HKMA) as endorsed by him is found to be the largest in the consultancy study. It is easier for the Government to control the remuneration of the Chief Executive of the HKMA, since the HKMA does not have a so-called governing board and the controlling officer is the Financial Secretary. May I ask the Government whether the Chief Executive of the HKMA should be given a pay cut?*

PRESIDENT (in Cantonese): Mr SIN Chung-kai, your question should seek an elucidation by the Chief Secretary for Administration on the contents of his statement. But your question is outside the scope of the statement made by the Chief Secretary for Administration earlier on. Can you try to put another question to the Chief Secretary for Administration for an elucidation of the contents of his statement?

MR SIN CHUNG-KAI (in Cantonese): *Madam President, the Chief Secretary for Administration mentioned in his speech earlier that whether a pay cut will be effected is for the consideration of the governing board or committee of the organization. As far as I understand it, there is only an advisory committee for the HKMA but not a governing board. Can the Chief Secretary for Administration clarify which authority is responsible for handling this case and what actions it will take?*

PRESIDENT (in Cantonese): Chief Secretary for Administration, as the statement made by you earlier is rather long, I cannot remember each and every word in your statement. So, can you elucidate within the parameters of your statement as far as possible. If the question is not related to the contents of your statement, you can choose not to answer it.

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Madam President, I did not mention the HKMA at all in my speech earlier and the report did not specifically point out whether the current remuneration of the Chief Executive of the HKMA has deviated from the market standard. I have said

clearly that the consultant only stated the market remuneration levels of the Chief Executive Officers of individual bodies as well as their senior executives on the second and third tiers. If the governing boards or committees of these bodies consider there is any deviation, they will conduct studies and report to the relevant Policy Bureaux in six months. As the case of the HKMA was not mentioned, I do not quite catch the question raised by the Member. However, insofar as the HKMA is concerned, although it is not mentioned in the report, I can still add a point or two. We are prepared to present the views of the consultant to the Exchange Fund Advisory Committee. The Committee, which is chaired by the Financial Secretary, will follow up the recommendations of this consultancy report.

MISS EMILY LAU (in Cantonese): *Madam President, as mentioned by the Chief Secretary for Administration earlier, the consultant has suggested setting up a special committee to handle the remuneration issues of these bodies. What is the composition of this special committee? Will there be members who represent public interest, so that in determining the remuneration levels, value for money can be achieved and senior executives will not be given overly extravagant remuneration packages?*

PRESIDENT (in Cantonese): I am sorry, Miss Emily LAU. I think this is not a question seeking elucidation, because what the Chief Secretary for Administration mentioned in the statement is the consultancy report.

MISS EMILY LAU (in Cantonese): *But he did mention a special committee.*

PRESIDENT (in Cantonese): Miss LAU, the Chief Secretary for Administration did mention a committee. But your question now is on the composition of the committee, and I think this is beyond the scope of the statement made by the Chief Secretary for Administration earlier on. So, this is not part of the statement made by the Chief Secretary for Administration.

Any other questions?

(No Member responded)

PRESIDENT (in Cantonese): If there are no further questions, we will now proceed to Bills.

BILLS

Second Reading of Bills

Resumption of Second Reading Debate on Bill

PRESIDENT (in Cantonese): Bills. We will resume the Second Reading debate on the Revenue Bill 2002.

REVENUE BILL 2002

Resumption of debate on Second Reading which was moved on 17 April 2002

PRESIDENT (in Cantonese): Miss Margaret NG, Chairman of the Bills Committee to study Bills including the above, will now address the Council on the Committee's Report in respect of this Bill.

MISS MARGARET NG (in Cantonese): Madam President, in my capacity as Chairman of the Bills Committee on Revenue Bill 2002 and Revenue (No. 2) Bill 2002, I report on the deliberations of the Bills Committee on Revenue Bill 2002.

The Bill seeks to amend the Dutiable Commodities Ordinance to increase the *ad valorem* duty on wine from the existing rate of 60% to 80%. During the deliberations of the Bills Committee, the Bills Committee noted the strong opposition to the proposed increase on wine duty expressed by industry deputations of the wine trade, catering industry and hotel industry.

The Bills Committee noted the deputations' concern that the proposed duty increase would push up the retail prices of wine, hence affecting the people's livelihood, affect the overall consumption of wine, lead to a rise in smuggling

activities and under-declaration on duty by unscrupulous importers. In the end, this will defeat the Government's purpose of raising revenue. In addition, deputations from the catering and hotel industries are concerned that the proposed duty increase would add to their operating costs and their existing burden. The increase in wine duty will further harm Hong Kong's image as an affordable tourist destination and a "shopping paradise". Some deputations expressed concern for the negative effect of the increase in wine duty on wine trade. As the existing wine duty of 60% in Hong Kong is higher than the rate in other parts of the world, some deputations are concerned that increasing the duty rate will seriously affect Hong Kong's competitiveness and deter investors.

In response to the above concerns, the Government has pointed out that wine duty is levied on the ex-factory rather than retail price. The proposed rate of increase in wine duty is mild and the actual effect on retail price is hence minimal. Therefore, the effect on the overall consumption of wine, the people's livelihood, the catering and hotel industries and trade is small. As we have a simple tax regime and low tax rates, a mild increase in wine duty should not be affecting our overall competitiveness. The Government has also stressed that in view of the present deficits, there is a need to increase revenue from the existing sources, and so a mild upward adjustment of the duty rate on wine is appropriate.

The Bills Committee has examined the Bill with great care and noted the views expressed by some members. They are of the view that raising the wine duty will only generate an extra revenue of \$70 million annually, but it will also trigger off a knock-on effect on the economy that will impede its recovery. Therefore, the Bills Committee does not support the proposal to raise wine duty.

If the Bill is voted down in the Council, the Public Revenue Protection (Revenue) Order 2002 will cease to be effective and the duty rate on wine will revert to 60%. The Bills Committee notes the pledge made by the Government that if this happens, the Government will act according to the Public Revenue Protection Ordinance and make a rebate of the extra duty collected during the effective period of the Order to those who have paid the duty.

The Bills Committee will not move any Committee stage amendment to the Bill. I now propose the resumption of the Second Reading debate on the Bill.

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

MR TOMMY CHEUNG (in Cantonese): Madam President, the Financial Secretary announced in his Budget speech on 6 March to raise the duty on wine from the existing 60% to 80%. The Liberal Party is of the view that the Government should not say on the one hand that it is endeavouring to improve the business environment in Hong Kong while on the other raise the duty on wine.

The increase in the duty on wine is meant to generate extra revenue to ease the financial deficit. However, I think that the Government's proposal to increase the duty on wine in the Revenue Bill 2002 is not likely to generate the extra revenue of \$70 million per year as expected. A decrease in revenue may even happen as many consumers will switch to lower-priced products or even drink less wine. The result will be an adverse effect on tax revenue.

Government officials may argue that despite the increase in the duty on beer last year, the consumption of beer has not been affected. But this is due to the soccer mania in connection with the World Cup Finals and the booming business of the bars has boosted the consumption of beer. So this increase in beer sales in the short term will not reflect the market situation accurately. Moreover, wine sales have been on the decline in the last few years and the proposal to raise wine duty will fuel the shrinking of the wine market.

An increase in wine duty would deal a severe blow to hotels and restaurants, especially those in the tourist districts like Lan Kwai Fong, the Soho, Wan Chai, Tsim Sha Tsui and Causeway Bay. At times of a sluggish economy, the profit margin in the catering industry has been greatly eroded and many operators are just keeping their business floating for as long as they can endure. Gone were the days when they could make big money. Many operators say that they dare not transfer the tax burden as a result of the increase in wine duty onto consumers. They have to bear this all by themselves so as to minimize the effect on the market.

The Government has made a vote-count long beforehand and it knows perfectly well that no matter how hard a fight the Liberal Party will put up, the

proposal to increase wine duty will be passed. What I feel to be most indignant is that despite this certainty, the Government still sought to smear the catering industry. On 22 May, that is, the day before the Bills Committee formed to deliberate on the Revenue Bill 2002 was due to hold a meeting, a story appeared in the newspapers on the "true story of how retailers make staggering profits by selling wine at exorbitant prices". The story pointed out that the price of wines sold at restaurants was more than 100 times that of the ex-factory price. I am sure the newspapers got their information from the Government and nowhere else.

The information supplied by the Government only lists out the difference between the ex-factory prices of wines and their retail prices, in particular that in the restaurants. The report in the media does not show how expensive are the overheads of selling wines in hotels and restaurants in Hong Kong.

Restaurants can never sell wines at their ex-factory prices, unless the restaurants operate in the winery itself. When setting the retail price, one has to add in a lot of costs other than the ex-factory price, like transportation fees, import duty, and the profits of importers and wholesalers. On top of these are the costs for advertisements, rentals for business premises which are among the highest in the world, staff salaries, decoration and furnishing expenses, electricity, gas, water, trade effluent surcharge and sewage charges, marketing and promotion expenses, and so on and so forth. And when a customer breaks a wine glass which may worth more than \$100, that goes to the costs as well. All these items have to be added into the costs borne by operators. Since the Government has got enough votes, then why does it have to smear the catering industry like this?

I would not try to speculate on the motives behind the Government's spreading of such inaccurate information for the moment, but if we just look at the report made by the Government, it is easy to find out that the data and analyses made are open to question. The Government reached a conclusion that the increase of wine duty would have only minimal effect on the retail price of wine. The conclusion was based on a survey conducted by a relevant department. But the Liberal Party has great reservations about that.

In the first survey conducted by the Government in April after the announcement of the Budget, the 21 brands of wine chosen for the survey were all lower-priced wines with a price of up to \$100 or so. They are found in supermarkets. Thirteen of these brands of wine did see an increase in their retail price. When the prices in April are compared with those in February, the rate of increase ranges from 2% to 25%. But the price of seven brands has remained at the February level and the price of one brand has even dropped. The argument presented by the Government that the increase in wine duty has not much effect on the retail price of wine during a deflation is not justified.

I hope Honourable Members will note that the survey was conducted only a few weeks after the Budget had been announced and many supermarkets were still selling wines in April which they had bought before the duty on wine was raised. Thus the retail price of wines did not show any great fluctuation. If the authorities conduct another survey this October, I would expect the findings to be totally different. The prices would be much higher then, for the wines on sale at that time will mostly be wines imported after the increase in wine duty.

I would also like to point out that the price survey conducted by the Government should be based on the retail prices of wines sold on the shelves of the supermarkets. That would be more reliable and would directly reflect the impact of the increase in wine duty on the price of wine. If the prices of wines sold in hotels, Chinese and western restaurants are used for comparison, then other factors should be discounted. For the prices of wine will be different in various restaurants located at various places, and different furnishings and services provided would all affect the prices of wine.

The impact of the government proposal to increase the duty on wine by as much as 20% on many eating establishments in Hong Kong which rely on the sale of wines is disastrous during such difficult times. It is not surprising to see the catering industry is the hardest hit in respect of the problem of unemployment. When the business conditions are so bad and there is no government policy in place to help the catering industry, how can investments be attracted to the catering industry? As I said in the Budget debate, any increase in duty on red wine would not help make Hong Kong as an ideal tourist destination in Asia.

Madam President, I very much hope that I can succeed in my last-ditch attempt to persuade Honourable Members to oppose this increase in wine duty

which is so detrimental to our economy and business. But if all things come to the worst and we cannot get the support of the majority of Honourable Members, we would not give up. In the coming year we will continue to keep a close watch on this item of duty which has brought such an adverse impact on our business. We would spare no efforts to seek to repeal this taxation measure next year which imposes such an exorbitant wine duty.

With these remarks, Madam President, the Liberal Party opposes the Revenue Bill 2002.

MR HUI CHEUNG-CHING (in Cantonese): Madam President, on behalf of the import and export sector, I request the Government to withdraw its proposal to increase the duty on wine from 60% to 80%.

The Government claims that since wine duty is levied on the ex-factory price and as the increase is mild, the retail price of wine is expected only to go up slightly and that there will not be any substantial impact on the overall wine sales. The question is, however, the Government is on the one hand saying that the factor of employment should be given prime attention and that the tourist industry should be rigorously promoted, but on the other it is adding to the operating costs of the catering and retail industries which employ a lot of low-skilled workers. How can people find it attractive to invest in the catering and retail industries any more? Even if some employers wish to respond to the Government's call to hire more people, but when the wine duty is increased, the employers will postpone or abandon the idea of hiring some more staff. Also, when tourists patronize a restaurant to order some wine, the boss of the restaurant cannot say to the tourists that good wines are sold at attractive prices, but worse still he has to say reluctantly that the price of wines will be raised. So how can tourists spend more in our restaurants? The catering and retail industries have remained sluggish for many years, the Government should try to give more assistance to these industries instead of finding excuses to raise the taxes. Any increase in tax would only defeat the Government's efforts in stimulate consumption and in the end, the revenue generated will not be able to compensate for the damage done to the economy.

The increase in the duty on wine by 20% will only generate an additional revenue of \$70 million. However, if only the Government can make some

efforts to economize and avoid making unnecessary spendings, it will more than make up for this amount. So why does it have to strike home a wrong message, at a time when the local community economy and the tourist industry are poised to embark on vigorous development, that the Government is trying to turn Hong Kong from a free and fun-filled society into a sober and puritan one?

Admittedly, wine is no necessity, but it is an important beverage for the middle class and an increasing number of the general public in their leisure time. In future if there is any plan to revise any tax item, the Government should consult the industries likely to be affected beforehand and get to understand their difficulties and prospects, while not violating the principle of confidentiality. That will prevent the industries from being caught unprepared and avoid any disruption to their business plans the proposal to increase wine duty is announced. Madam President, I so submit.

MR CHAN KAM-LAM (in Cantonese): Madam President, despite the fact that the drinking of wine has become the vogue in Hong Kong in recent years, it is not a necessity in life after all. For the Chinese people, wine is not one of the seven daily necessities. It can be seen that although wine may perhaps be a means to break the ice on social occasions, it is definitely not a necessity of life. Therefore, the increase in wine duty would only have a very slight impact on the people's livelihood. Even for some shops which sell wine, the impact of the increase in wine duty is minimal.

Madam President, in anticipation of the next amendment Bill, I would like to mention in passing the question of duty-free tobacco. We are of the view that the proposal to reduce the quantities of duty-free tobacco and still wine which Hong Kong residents may bring on return to Hong Kong is reasonable, for these are not related to the people's livelihood. So we would lend these proposals our support.

As the duty on wine in Hong Kong is levied at the ex-factory price rather than the retail price, the increase in the *ad valorem* duty on wine from the existing rate of 60% to 80% will in actual terms mean a very small increase in the amount of duty payable as a share of the retail price of wine. It is very mild indeed. From the findings of a recent survey conducted by the Treasury, it can be seen that a bottle of wine at an ex-factory price of only \$175 is sold at an exorbitant price of over \$2,000 in a hotel or in a bar. Another relatively

lower-priced wine, for example, a table wine with an ex-factory price of about \$60, is sold at more than \$500 in some restaurants in the Soho district in Central. It can be said that no matter whether one is talking about the export price, the import price or the ex-factory price, it is very much different from the retail price. The difference is not a few times, but dozens of times. We understand that the costs of operating a hotel, a bar or any other business in the catering industry is very high, but we are talking about the issue of duty rates, and not about whether the operators are making a staggering profit or that their operating costs are high or low. What will be the impact of the increase in wine duty on the retail price? The actual impact would be minimal. So I think what the Honourable Tommy CHEUNG or his friends in the catering business should consider is what in fact is the impact of this increase in wine duty. When the wine duty is increased, the retail price can be raised and that is definite. And if some operating costs can be reduced, I think the problem of an increase in costs or retail prices as a result of the increase in wine duty can be solved. So I hope that the industries concerned will not do anything to affect the tax increase proposals contained in the Budget just because the duty to be collected is increased by such a small amount, and in fact it is just a matter of paying about \$10 or so more for a bottle of wine. In addition, we can find only a very small number of tax increase proposals in the Budget, so it would be unfair if we do not even let the Government adjust such a small amount of tax. Even if the wine duty is not increased, there will be increases in other items. Another thing we should consider is that the deficit problem we have this year is very serious and if we try to impose restraints on the Government and say no to such a modest tax increase which would only mean a matter of a few tens of million dollars, then we think the situation will be even more difficult when it comes to other proposals to increase government fees or taxes.

I very much hope that Honourable colleagues will consider these tax increase proposals in a rational manner. Thank you, Madam President.

MR HOWARD YOUNG (in Cantonese): Madam President, I would like to say something on this issue from the point of view of the tourist industry. As far as I know, my Honourable colleague, Mrs Selina CHOW, Chairman of the Hong Kong Tourism Board, also shares my views.

I have received some comments on this issue from some trades in the tourist industry, in particular from the hotel industry. Travel agencies and

airlines have not made any comments on the issue, but hotel industry has expressed some very strong views on the issue. They are of the view that it is very unreasonable to propose an increase on wine duty while duties on other items are not increased. What is their main concern? Currently China is the largest market of the tourist industry of Hong Kong, while Taiwan ranks second. But tourists from these two places seldom consume wines. Then who are the major consumers of wines then? Those tourists from Europe and America. In recent years, there has been a decrease in the number of in-bound tourists from these places, that especially applies to tourists from the United States after the outbreak of the September 11 incident.

From the observations made by practitioners the hotel industry on the habits of tourists, it is found that the first thing that westerners do when they sit down in a restaurant is to ask for the wines list. It is only after they have read the wines list that they will ask for the menu. So they will pay a lot of attention to the names of the wines, the vintage and price. After comparing our wine prices with other places, it is likely that they would think that our wines are much more expensive than those in other places. So they will get an impression that things are expensive in Hong Kong. That is an objective reality.

Why? It is because wines are different from food. For example, if someone goes to a restaurant, he may choose many kinds of steak there. There may be steaks from different places, with varied of thickness and so different prices. But the make, vintage and quantity (that is, 750 ml) of wine are standardized throughout the world. So it is easy for tourists to know the price of wines they drink in Singapore, Thailand, Hong Kong and in their home country. When they compare the prices, they will tell whether Hong Kong is an affordable place or not. That is why the hotel industry is so strongly opposed to this proposed increase in wine duty.

The tourist industry is being very sensible with the deficit problem faced by the Government. For example, the Financial Secretary suggested that a Boundary Facilities Improvement Tax, or commonly known as departure tax, would be introduced in the following year and it was proposed that \$18 be collected for each person departing from the territory. I had asked many people in the tourist industry and they said that even if the departure tax was levied at \$20 per head, they would not oppose it and they might even support it. If two dollars more are collected from each person in the departure tax or the Boundary Facilities Improvement Tax, the effect will almost be the same as, if not more

than, the tens of million dollars of extra revenue generated by this proposed increase in wine duty. With every dollar's increase in the Boundary Facilities Improvement Tax, it would mean an extra revenue of tens of million dollars for the Government. So the industry is really being sensible with every tax proposal because they know that the Government has a deficit problem. For even the travel agencies are not opposed to the introduction of a departure tax, despite the fact that most of them are doing out-bound not in-bound travel business. However, they do not oppose the introduction of a Boundary Facilities Improvement Tax and they have even expressed support for it.

Then why does the sector oppose the increase in wine duty? It is because they think that it would deal a great blow to the image of Hong Kong as a popular tourist destination. A few years ago when the Government slashed the wine duty, the first ones who came forth to support the proposal were people from the tourist sector. It was because they were convinced that it was an action by the Financial Secretary to support the tourist sector. Now the impression which the Government is giving the public is that it is undoing what it has done with its own hands, or put it in another way, it is undoing what other people have done. The tourist sector is opposed to the proposal made by the Government to single out wine duty as the only item for tax increase precisely due to the above reasons.

With these remarks, I oppose this proposal.

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

MR SIN CHUNG-KAI (in Cantonese): Madam President, the Democratic Party supports the amendment proposed in this Bill.

Over each of the past two years, the Government revised the duty on some types of alcoholic beverages in its revenue bills, that on beer was revised last year and this year it is on wine. I think a problem would arise with this manner of revising the duty rate. The problem does not come purely as a result of the revision of the existing duty on wine from 60% to 80%. The problem is that there is a possibility of replacement of one type of alcoholic beverages by another. By this I mean, when the duty on one type is raised, some people may be induced to switch to another type of alcoholic beverage as they will not stop drinking alcoholic beverages. Last year, it was suggested that the duty on beer not be

raised or that it should be raised slightly and instead the duty on wine should be raised to 80% in the following year. Can the Government therefore make a review of the duty on all kinds of alcoholic beverages in due course?

The Democratic Party supports the Government's proposal to raise the duty on wine from 60% to 80%. It is because, having considered the revenue position of the Government, we are of the view that there is room for adjustment in the wine duty. In fact, I recall a few years ago when the Government reduced the duty on wine, the Democratic Party made the criticism that the rich were drinking wine while the poor were drinking water. The adjustment made to the duty on wine this time may only be an attempt to recover the amount of wine duty reduced some years ago. Although I am aware of the fact that what I am going to say is not related to the Revenue Bill 2002 under discussion, I think the Government might consider making an appropriate adjustment to the duty on certain types of beverages with a lower alcoholic content, for example beer, as suggested by some Honourable Members last year. It is because beer is commonly consumed by the grassroots. Thank you, Madam President.

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

MRS SELINA CHOW: Madam President, I am going to deliver my speech in English.

I stand to oppose the Second Reading of the Revenue Bill 2002. I do not want to repeat what I said during the Budget debate, but since then, I think that there have been some developments. I have heard from the trade that the main supermarket retail outlets have reported a 10% drop in the sale of wine as a result of the increase in duty. One outlet has even reported the first drop in 18 months. In other words, before the duty was increased, the sale was on an upward trend, but now, it has become history. This is the situation which we have said would happen. Some Members have been given information and materials from the related trades which depend quite a lot on the sale and the consumption of wine, namely the catering trade (such as restaurants), hotel and tourism industries. I

think all of them have actually made the point that Hong Kong's reputation and standing would suffer.

I would just like to respond to what was covered in the Question Time earlier on. I just cannot imagine how the Government could argue that Hong Kong could gain a position as a distribution centre while it, at the same time, enjoys the negative reputation of being the most expensive place for wine sale and consumption. In fact, I have been supplied with some correspondence from persons who are not just engaged in local trade but international trade. They have come here for conferences before to discuss and to exchange information on the trade itself in the region. And they were very shocked to hear that we were following this rule of increasing the duty to even higher level, when our previous level was already very high. They made the point that while they were hoping to come back another time for this international meeting, they now have second thoughts because they feel that Hong Kong, perhaps, can no longer be living up to its reputation as a wine centre in the region. I think that this increase in the duty has got the negative effect on our image, as if this is the sort of image that the Government wants to promote. This is certainly the opposite direction of where we are trying to go. It would be rather naive to hope that we could still go along that line when, at the same time, we are presenting this rather awkward and negative image of being the most expensive wine city in Asia.

Nowadays, we can no longer just think of ourselves when it comes to such an activity as wine consumption, because it is a very cosmopolitan, international and global type of activity, particularly when we are talking about people crossing boundaries and visiting main cities in the world. Just look at the region itself, even at the rate of 60%, we compare quite badly with other cities and now, climbing up to 80%, we are even worse. If we are conscious of competition, we should be looking at decreases but not increases in duty, because for our neighbours, Thailand has a rate of 55.8%, Japan 30%, Korea 52%, the Philippines 5%, and Malaysia has none.

On top of that, China, which is presently imposing a duty at 34.4%, is about to drop its duty to 14% by 2004; and in Macao, the current rate is 15%. What are we thinking if we really are talking about promoting Hong Kong as an Asian world city and, at the same time, promoting Hong Kong as a wine centre? How can we afford to give the signal to the rest of the world that we are, in fact, the most expensive city to consume wine? We have received a lot of representations. But of course, the Government would dismiss all these,

because it would think that they are from those who import wine into Hong Kong or those who try to sell wine in Hong Kong.

If we urge the Government to facilitate the development of the economy, particularly at such a difficult time, we should note that it is hardly the time to increase duty on wine as this is not going to net us very much revenue, but is going to damage our reputation instead. Is it worthwhile? In our view, we are not going to achieve the \$70 million, because the consumption and the sale will drop (因加得減). We are going to end up as we were before. This has been proven by history. When the duty was increased last time, it actually caused quite a damage in the sale. But when the duty was dropped, it actually encouraged sale and consumption.

When we are talking about alcohol, health comes into it. But we all know that wine is supposed to be very good for our health. So that is why a lot of people have switched to wine nowadays. Thus, we just cannot understand the rationale for increasing the duty on wine.

Of course, we hope very much that other Members would support us in opposing the increase in duty. We know, of course, that Members have more or less made up their minds, and it is not very optimistic that we are going to get the majority for this. I think that we, as Legislative Council Members, really ought to be watching this very very closely. We, in the Liberal Party, will be watching this very very closely. If we do not get the support this year, we will continue this campaign next year. We are quite confident that what we are asserting now will be proved right, and that we would probably have to pay a price for having to learn that lesson yet again.

Thank you, Madam President.

MR ANDREW WONG (in Cantonese): Madam President, when the Financial Secretary announced that the duty on wine would be raised from the existing 60% to 80%, some reporters asked me for comments and the answer I gave was it did not matter very much, for at most I would switch to some more affordable wine. Moreover, as I made it clear in the Budget debate, that is not my personal concern. The proposal made by the Government would have a very great impact on the trades concerned, including the tourist industry, the catering industry, the bars, and so on.

Mr Tommy CHEUNG presented a lot of arguments on this issue earlier in his speech and I would not repeat them here, for it would be pointless at all if I read out the same set of figures again. However, there is one point which I must stress, and that is, the existing tax regime on wine was introduced in 1994 and before that, the duty on wine was divided into two parts, one was specific to the quantity and the other *ad valorem*. So wine duty was not levied entirely on an *ad valorem* basis. However, with the change made to the tax regime in 1994, wine duty is levied entirely on an *ad valorem* basis and the result is that there is a possibility that lower-priced wine may be sold at even lower prices and the higher-priced wines may be sold at far higher prices. At that time, the duty rate on wine was set at 90%. However, in 1997, the Government acceded to public demand and revised the duty rate on wine. At that time, there was someone who was very keen on this issue and he will soon become an accountable Bureau Director. The person is Mr Henry TANG. At that time, Mr TANG was a Member of the Legislative Council and thanks to his efforts, the then Financial Secretary agreed to increase the duty on wine to 60% only. That increase led to an unexpected increase in public revenue. I must stress that what I have been saying was revenue from wine, not the revenue from all kinds of alcoholic beverages. I hope Honourable Members can have a full picture of the situation.

Obviously, the Democratic Alliance for Betterment of Hong Kong (DAB) must support the Government now, for the DAB has become part of the ruling coalition. So the DAB is saying that Members should not care too much about this, for the Government is not getting enough tax revenue. The Government has been very generous this year and is handing out money to the people. The sum, when all the tax concessions and rebates are counted, would amount to more than \$10 billion. Madam President, the raising of wine duty would only generate an additional revenue of \$70 million, that is, \$0.7 billion. But the Government is handing out more than \$10 billion and it is only recovering a meagre \$0.7 billion and when the two sums are compared, \$0.7 billion is only a drop in the bucket. Members do not want to do anything to harm the Government, but we only hope that the Government will not do anything to defeat the purpose of doing it. The increase in wine duty may on the contrary lead to a reduction in tax revenue. And not only will tax revenue be reduced, there would be enormous impact on the related trades. I am very surprised to note that even now the Liberal Party has become part of the ruling coalition, they

are opposing this proposal to increase the duty on wine. I hope they can persist to the very end.

However, I was also very surprised to learn of the stand of the Democratic Party. I am sorry that Mr SIN Chung-kai has left the Chamber, for I wish he could hear what I have to say on this issue, or he may like to look up the record of the proceedings. Just as I have explained, the former duty regimes on wine and tobacco were different. The tax regime on wine was two-part — specific and *ad valorem*. Later only the *ad valorem* basis was adopted. However, with regard to the duty on tobacco, it has been levied all along on the specific basis and there are two major categories of duty on tobacco, one is that of a higher duty rate and the other a lower duty rate. That is to say, the duty on tobacco for cigars and pipes is higher, while the duty on cigarettes is lower, the lowest being the uncured tobacco from China. Later on, the Government came to the view that this kind of classification was not practicable and so the duty on tobacco was made uniform. But then the question of discrimination was raised and it was said at that time that certain stipulations in the GATT Agreement were violated. We should understand that when duty on tobacco is levied, the idea behind it is to discourage people from smoking, for irrespective of whether the tobacco consumed is a famous and expensive brand or those at more affordable prices, the same rate of tobacco duty is levied specific to the quantity.

If this idea is also applied to alcoholic beverages, then irrespective of whether they are strong liquors, wines, or those which are not brewed from grapes and those wines or beers with an alcoholic content of less than 30%, a duty will be levied as long as these beverages have an alcoholic content. Beverages with a low alcoholic content are subject to a lower duty while those with a high alcoholic content are subject to a higher duty. If this approach is adopted, then the same basis for taxation can apply to tobacco and alcohol, or in other words, the levy of duty on tobacco and alcohol may also serve the purpose of discouraging consumption. Such an approach will not lead to an odd result, rather those wines sold at higher prices are sometimes even better and those sold at lower prices are sometimes not that bad. People do not have to consider whether they should switch from beer to wine or the other way round, since the duty on all alcoholic beverages is levied according to quantity. All such choices will become a matter of taste and there is a complete freedom of choice. I hope

that if the Democratic Party should want a comprehensive review of the duty on all kinds of alcoholic beverages, it would agree to my view.

Having said all the above, however, I not think the proposal made by the Government to raise the duty on wine from 60% to 80% is correct. I feel that, and I believe I keep an accurate tab on the public pulse, there is growing popularity of wine among the people of Hong Kong and the increase in the number of persons who drink red wine is particularly growing in large numbers. Figures show that the duty on as much as 90% of the more affordable wines, especially those priced at \$100 or below, is levied according to their quantity. These wines with a retail price of \$100 or below should obviously be regarded as daily necessities. Therefore, if there are people who wish to canvass more votes by supporting the proposal made by the Government to raise the wine duty may backfire in the end.

Finally, I would like to persuade Honourable colleagues from the DAB with the utmost sincerity to agree with me. I do not know what is the view of the Hong Kong Federation of Trade Unions (FTU) on this, for Honourable Members from the FTU have not yet spoken. In addition, I would like to give my advice to Honourable colleagues from the Democratic Party that they should vote to oppose the Revenue Bill 2002 at this critical moment. Thank you, Madam President.

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

(No Member responded)

PRESIDENT (in Cantonese): If not, then I will now invite the Secretary for the Treasury to speak in reply.

SECRETARY FOR THE TREASURY (in Cantonese): Madam President, I would like to thank all members of the Bills Committee responsible for scrutinizing the two Bills on revenue, in particular the Bills Committee Chairman, Miss Margaret NG, for their speedy completion of the scrutiny work and support for the resumption of debate on the Second Reading of the Bill today.

The Revenue Bill 2002 seeks to implement one of the two revenue proposals made in the 2002-03 Budget, that is, to increase the rate of duty on wine from the existing 60% of ex-factory price to 80%. The proposal is expected to bring the Government an additional income of \$70 million for the entire year. For the purpose of avoiding stock hoarding, the Chief Executive signed the Public Revenue Protection (Revenue) Order 2002 (the Order) to give the proposed duty increase temporary legal effect starting from 2.30 pm on 6 March 2002. Should the Order fail to be passed by this Council by 6 July, the proposal of raising duty will cease to be effective.

It was pointed out by some members of the trade and Honourable Members in the course of scrutiny that the proposed increase would push up retail prices of wine and subsequently affect wine sales. Restaurants, Chinese restaurants and other catering businesses will be hit too.

I would like to point out once again that the proposed rate of increase on wine duty is actually very mild. Wine duty is levied on the ex-factory price of wine, rather than the relatively higher retail price. According to the information furnished by the Customs and Excise Department on duty-paid wine in 2001, the average ex-factory price of a bottle of wine consumed in Hong Kong is just \$30. The duty on each bottle of wine will only rise slightly by \$6 after adjustment.

Furthermore, colleagues of the Customs and Excise Department visited supermarkets, restaurants, hotels, and so on, to gauge the impact of the proposed duty increase on the retail prices of wine, both before and after the implementation of the proposed increase (in early March and early May of 2002). The findings of the survey conducted by them show that, in most cases, the additional duty levied on a bottle of wine represents only 5%, or even lower than 5%, of its retail price. The small increase in duty has not imposed heavy pressure on the retail prices of wine.

Some Members pointed out earlier that wine duty in Hong Kong is higher than that in other parts of the world, thus undermining our competitiveness. I must point out that as different regions may use different stages of the supply chain as their assessment benchmarks, it is difficult for the Government to directly compare our duty rate with that in other parts of the world. However, there is a point which is very clear, that only one duty is levied on wine in Hong Kong, whereas different kinds of duty may be levied on wine elsewhere in the world. In many other places, import duty, excise, wine duty, sales duty, and so

on, may be levied on wine at the same time. Information has revealed that two to five items of duty are levied on wine in each of the 11 places located in Asia, America and Europe. Generally speaking, duty payable on wine in Hong Kong is not particularly high, when compared with other places outside the Region. I must stress that this proposed increase is actually very mild. Approximately 90% of wine has its duty raised by less than \$10 per bottle. The proposal will therefore not undermine Hong Kong's relative competitiveness in the wine market.

Some Members also opined that raising the duty on wine would affect Hong Kong's status as a wine distribution centre. We think this argument is untenable because no duty is levied on wine re-exported via Hong Kong.

Some other Members were of the opinion that while the increase proposal would not bring much additional income, consumers might switch to cheaper wine as a result. Subsequently, the overall tax revenue may incur more losses than gains. We are afraid we cannot concur with this view. This is because the increase is actually very mild. Its impact on retail prices will be negligible. Given that the Government is in financial difficulty, it is essential for us to boost existing tax revenue in addition to controlling expenditure. The increase in wine duty will not affect the people's livelihood. It is precisely a proper way of broadening tax income.

Just now, a Member suggested the Government to consider using specific duty instead of *ad valorem* duty so that the benchmark for levying duty on wine will be brought on par with that for tobacco. Tobacco and wine are indeed two different commodities with differing influence on health. I believe Honourable Members should have a consensus on this too. In addition to the fact that "smoking is hazardous to health", we are also faced with the problem of "passive smoking". The Government is therefore trying to discourage the public from smoking through different channels, including tax levy. Specific duty is levied on tobacco because we hope this can help encourage the public to smoke less, or even quit smoking gradually.

While views on whether wine is good or bad for health remain diverse, certainly there is no mainstream idea that proper consumption of wine will be hazardous to health. Neither will consumption of wine lead to the problem of "passive drinking". This is why the progressive *ad valorem* duty is imposed on wine instead.

By levying *ad valorem* duty, people consuming more expensive wine will be required to pay more in duty. This method is progressive in nature and more suitable for potable wine, in the light of the relationship between wine and health. It was precisely for this reason that the Government decided in 1994 to switch from the regressive specific duty to the *ad valorem* duty to achieve the goal of progressiveness and stabilizing revenue. We are of the view that the decision made in 1994 is correct. We will therefore continue using this benchmark for the purpose of levying wine duty.

It was pointed out by at least two Members that even though the wine duty was reduced from 90% to 60% in 1997, there was a substantial increase in revenue from wine duty in 1997 when compared to 1996. This proved that the Government could increase revenue through lowering duty. I believe Members should understand it very well that the year 1997 was unique. The economic situation in 1997, including the numerous jubilant celebrations to mark the reunification in 1997, pushed up the sales and duty revenue of wine in that year. Actually, we cannot simply rely on the single year of 1997 when a reduced duty rate caused a rise in duty revenue to jump to the conclusion that progressively lowering wine duty can push up revenue.

Lastly, Madam President, some Members blamed the Government earlier for smearing some members of the catering industry by providing information on direct comparison between the ex-factory prices and retail prices of wine, and neglecting the pricing strategies required to be taken by restaurants and hotels, as well as other cost considerations.

Madam President although clarification has been made in response to these criticisms at meetings held by the Bills Committee, I would like to take this opportunity to make further clarifications. The survey on wine prices submitted to the Bills Committee has set out the ex-factory price, duty, and additional duty after duty increase and retail price of each bottle of sample wine. Our aim is to show that the additional duty generally represents a very low percentage of the retail price, thus reflecting that the proposed duty increase is actually very mild. In our opinion, such information can help Members to consider whether they should support the revenue proposal. While the analysis was actually made by the Customs and Excise Department, all the data were based on accurate information gathered on duty from duty-paid wine consumed in Hong Kong and open sale prices of wine. We have no intention to make any comments or draw

any conclusions with respect to individual restaurants, Chinese restaurants or food premises in providing such information.

As for the media reports concerning restaurants and hotels, we have clarified to the Bills Committee that the Government has not made any special reports to the media with respect to such matters.

Madam President, considering the fact that the current deficit is huge and that we think wine will not affect the people's livelihood generally, and also it is correct for the Government to continue adopting the progressive *ad valorem* duty on wine, I implore Honourable Members to support the Bill. Thank you, Madam President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the Revenue 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 Tommy CHEUNG rose to claim a division.

PRESIDENT (in Cantonese): Mr Tommy CHEUNG has claimed a division. The division bell will ring for three minutes.

PRESIDENT (in Cantonese): Mr TAM Yiu-chung, do you wish to raise a question?

MR TAM YIU-CHUNG (in Cantonese): Madam President, before we cast our votes, could you repeat the question being put, for many Honourable Members were not in the Chamber earlier. *(Laughter)*

PRESIDENT (in Cantonese): The question now put is: That the Revenue Bill 2002 be read the Second time. The proposal is to raise the existing duty rate on wine from 60% to 80%.

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

PRESIDENT (in Cantonese): Mr Andrew WONG, please cast your 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.

Dr David CHU, Miss Cyd HO, Dr Raymond HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mr NG Leung-sing, Mr James TO, Mr CHEUNG Man-kwong, Miss CHAN Yuen-han, Mr Bernard CHAN, Mr CHAN Kam-lam, Mr SIN Chung-kai, Dr Philip WONG, Mr WONG Yung-kan, Mr Jasper TSANG, Dr YEUNG Sum, Mr YEUNG Yiu-chung, Mr Ambrose LAU, Miss Emily LAU, Miss CHOY So-yuk, Mr Andrew CHENG, Mr SZETO Wah, Mr LAW Chi-kwong, Mr TAM Yiu-chung, Dr TANG Siu-tong, Miss LI Fung-ying, Mr Henry WU, Mr Michael MAK, Mr Albert CHAN, Mr LEUNG Fu-wah, Dr LO Wing-lok, Mr WONG Sing-chi, Mr IP Kwok-him, Mr LAU Ping-cheung, Ms Audrey EU and Mr MA Fung-kwok voted for the motion.

Mr Kenneth TING, Miss Margaret NG, Mrs Selina CHOW, Mr HUI Cheung-ching, Mrs Sophie LEUNG, Mr Andrew WONG, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU and Mr Tommy CHEUNG voted against the motion.

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

THE PRESIDENT announced that there were 48 Members present, 37 were in favour of the motion and 10 against it. Since the question was agreed by a majority of the Members present, she therefore declared that the motion was carried.

CLERK (in Cantonese): Revenue Bill 2002.

Council went into Committee.

Committee Stage

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

REVENUE BILL 2002

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Revenue Bill 2002.

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.

(Members raised their hands)

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.

REVENUE BILL 2002

SECRETARY FOR THE TREASURY (in Cantonese): Madam President, the Revenue 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 propose the question to you and that is: That the Revenue Bill 2002 be read the Third time and do pass.

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

(Members raised their hands)

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

(Members raised their hands)

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

CLERK (in Cantonese): Revenue Bill 2002.

Resumption of Second Reading on Bill

PRESIDENT (in Cantonese): We will resume the Second Reading debate on the Revenue (No. 2) Bill 2002.

REVENUE (NO. 2) BILL 2002**Resumption of debate on Second Reading which was moved on 17 April 2002**

PRESIDENT (in Cantonese): Miss Margaret NG, Chairman of the Bills Committee to study Bills including the above, will now address the Council on the Committee's Report in respect of this Bill.

MISS MARGARET NG (in Cantonese): Madam President, in my capacity as Chairman of the Bills Committee on Revenue Bill 2002 and Revenue Bill (No. 2) Bill 2002, I now report on the deliberations made by the Bills Committee on Revenue Bill (No. 2) 2002.

The Bill seeks to amend the Dutiable Commodities (Exempted Quantities) Notice to reduce the quantity of duty-free still wine that a Hong Kong identity card holder may bring back on return to Hong Kong for his own use to 750 ml, and that of duty-free tobacco to 60 cigarettes or 15 cigars or 75 g of other manufactured tobacco. The Bills Committee notes from the Government that the proposed reduction in the quantities of duty-free tobacco and alcoholic liquor will bring about an additional revenue of \$330 million in a full year.

The Bills Committee is of the view that the revenue proposal made in Revenue (No. 2) Bill 2002 has minimal effect on the people's livelihood and will not impede economic recovery. The Bills Committee therefore supports the proposal. I now recommend that the Second Reading debate on the Bill be resumed.

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

MR HOWARD YOUNG (in Cantonese): Madam President, this Bill is different from the previous Bill and the Liberal Party supports this Bill. However, I would like to make a proposal to the Government, or it can be considered an inquiry.

There are times that people do not deliberately bring in a quantity of duty-free tobacco in excess of the permitted quantity. And they may have brought back to Hong Kong a couple of packets more cigarettes than permitted. I recall a number of years ago my friend brought two more packets of cigarettes than the permitted quantity and as we cleared the Customs at Lo Wu, he was found out by the customs. The customs officer asked him to go to a place to deal with some formalities and pay the tobacco duty. At that time, my friend said that the two packets of cigarettes were trivial and he might just as well discard them. But he found out that this could not be done.

Another thing is that I doubt whether the Government should waste such a great amount of manpower and efforts to recover the tobacco duty for one or two packets of cigarettes and to hold up members of the public. If the person concerned is willing to forgo these cigarettes, then the cigarettes should just be confiscated by the Customs. I think the authorities should consider this for that is beneficial to both parties. I do not know if this regulation is still in place, and if it does, the Government should consider using some simpler means to enforce it.

I support the passage of this Bill.

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

(No Member responded)

PRESIDENT (in Cantonese): If not, then I will now invite the Secretary for the Treasury to speak in reply.

SECRETARY FOR THE TREASURY (in Cantonese): Madam President, I thank Miss Margaret NG and the other members of the Bills Committee for their expeditious the scrutiny of the Bill. I am also grateful to them for their support of the Bill.

As Miss Margaret NG already pointed out earlier, the objective of the Bill is to reduce the duty-free quantities of tobacco and alcoholic liquor that a Hong Kong resident may bring into Hong Kong by 40% and 25% respectively. In other words, the new duty-free quantity proposed for tobacco is 60 cigarettes (or three packets, as there are normally 20 cigarettes in a packet), 15 cigars or 75 g of other manufactured tobacco. As for still wine, the duty-free quantity is 750 ml, which is equivalent to a standard-sized bottle of still wine. I am glad to learn that Honourable Members, including Members affiliated to the Liberal Party, support this revenue proposal. The Bill will not affect economic development or the people's livelihood. We expect that some local residents will buy the duty-paid goods in Hong Kong because of the reduction in duty-free quantities. Hence, the sales of duty-paid goods may increase as a result. According to our estimation, if that should be the case, the Government could have \$330 million in additional tax revenue annually.

It is exactly because we appreciate the problem mentioned by Mr Howard YOUNG just now that, subject to the passage of the Bill by this Council today, the new duty-free quantities will come into effect on 5 July when the relevant Ordinance is published in the Gazette. Before the Ordinance comes into effect, we will try our best to remind the public of the new duty-free quantities by way of different kinds of publicity measures, including putting up posters at the various departure points, so that they will not unwittingly bring in excessive quantities of duty-free tobacco and wine. Just now Mr YOUNG asked whether Customs officers would be allowed to, upon seeking the consent of the relevant returning Hong Kong residents, confiscate the excessive quantities of duty-free tobacco or wine brought into the territory. According to my understanding, they are not allowed to do so under the existing legislation. If Members consider that the Customs should be allowed to take such action, we would need to amend the relevant legislation. I will consider this matter very carefully with our legal advisors. However, we will certainly follow up the other suggestion raised by Mr YOUNG just now, that is, whether we would adopt the simplest measures possible if members of the public should be fined for the excessive quantities of duty-free tobacco or wine brought into the territory, so that they would not be delayed just because they have to pay a very small amount of additional tax. I will look into the possibility of formulating a simpler and more efficient measure with the Customs later on. Thank you, Madam President.

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

(No hands raised)

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

CLERK (in Cantonese): Revenue (No. 2) Bill 2002.

Council went into Committee.

Committee Stage

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

REVENUE (NO. 2) BILL 2002

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Revenue (No. 2) Bill 2002.

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.

REVENUE (NO. 2) BILL 2002

SECRETARY FOR THE TREASURY (in Cantonese): Madam President, the

Revenue (No. 2) 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 propose the question to you and that is: That the Revenue (No. 2) Bill 2002 be read the Third time and do pass.

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Revenue (No. 2) Bill 2002.

Resumption of Second Reading on Bill

PRESIDENT (in Cantonese): We will resume the Second Reading debate on the Noise Control (Amendment) Bill 2001.

NOISE CONTROL (AMENDMENT) BILL 2001

Resumption of debate on Second Reading which was moved on 27 June 2001

PRESIDENT (in Cantonese): Mr IP Kwok-him, Chairman of the Bills Committee on the above Bill, will now address the Council on the Committee's Report.

MR IP KWOK-HIM (in Cantonese): Madam President, in my capacity as Chairman of the Bills Committee on Noise Control (Amendment) Bill 2001 (the Bills Committee), I would like to report on the deliberations of the Bills Committee.

The Noise Control (Amendment) Bill 2001 (the Bill) seeks to provide that where an offence specified under the Noise Control Ordinance (NCO) has been committed by a body corporate, certain directors and officers of the body corporate shall be guilty of the like offence where the body corporate commits a further offence at the same site. Furthermore, the Bill seeks to empower the Noise Control Authority (the Authority) to issue codes of practice to various industries.

In the course of scrutiny, some members indicated that they supported the Bill in general. Some other members of the Bills Committee however queried the appropriateness of imposing personal criminal liability on the corporate management. The Bills Committee has also examined the warning system proposed in the Bill. Regarding public consultation, the Bills Committee notes that the Advisory Council on the Environment, on which a number of green groups are represented, fully supports the Bill. The Bills Committee has also exchanged views with industry/trade associations, public utilities, law firms and concern groups to gain an understanding of their objection and concerns.

Some members of the Bills Committee are gravely concerned about the possible unfairness and abuse caused by the imposition of criminal liability on the corporate management. In particular, the Hong Kong Construction Association Limited has pointed out the practical difficulty of the management in exercising absolute control over on-site compliance with the legal requirements under a multi-tier subcontracting system. As a safeguard against abuse, the Administration has explained that a due diligence defence can be raised under the Bill if the corporate management concerned can prove that a proper system has been established and its effective operation assured to prevent the offences.

Members of the Bills Committee are concerned about some deputations' submission that the relevant proposals may have human rights implications. This is because the prosecution will not be required to prove the consent, connivance, negligence or omission of a director as in the case of other environmental legislation on water and air pollution control. It was pointed out by the Government in response that violation of the NCO is much more serious than water and air pollution offences, the imposition of personal liability on the corporate management can effectively encourage greater vigilance to deter bodies corporate from repeating noise offences. Furthermore, the persons charged can submit due diligence defence. The proposed provision is therefore consistent with the Bill of Rights requirements.

The Bills Committee has also cautioned the Government of the necessity of the legislation to identify the right person to be liable. The Administration has clarified that the intent is to impose liability on those senior officers who have management responsibility, and who are in a position to make decisions or influence the operation of the body corporate. However, it is not possible to provide an exhaustive list of post titles in the legislation as they vary between organizations. Nevertheless, the Bills Committee was also told that the

provision specifying "officers concerned in the management of the body corporate" shall be liable to criminal offence also appears in the offence provisions of some existing ordinances.

After modifying the original legislative proposal put forward in 2000, the Administration has included a warning system in the Bill in order to allay the fears of the trade. After proceedings have been instituted against a body corporate, the Authority may issue a written notice to the director/officers concerned to warn them of their liability to prosecution if the body corporate commits a further like offence at the same site. Some members of the Bills Committee urged the Administration to seriously consider imposing a reasonable time limit on the written warning. A number of deputations considered it unfair to hold the directors/officers liable for an indefinite period of time. The Administration however maintained that strictly from the point of view of protecting the public at large from excessive noise, imposing a validity period on the warning system would be inappropriate. However, to strike a balance between the interests of the industry and the community at large, the Administration has proposed to introduce a validity period of two years for the warning. The Bills Committee has no objection to the proposal. The Administration will move the necessary Committee stage amendment to the Bill.

Some members remained concerned that the deterrence of the legislation would be undermined as result of a validity period for the warning. To address the concerns, the Administration has undertaken to monitor the regulatory environment and the implementation of the legislation. The 24-month validity period will be reviewed if necessary. At the same time, the Administration has agreed to give the relevant undertaking during the Second Reading debate on the Bill.

In response to concerns about the practicability of the Code of Practice and how far it can be of assistance to the industry, the Administration has assured members that the industry and professional organizations concerned, as well as the Legislative Council Panel on Environmental Affairs, will be consulted on the Code of Practice before its finalization.

In the course of deliberation, members of the Bills Committee noted a number of concerns which are outside the scope of the Bill but which merit further study. Such concerns include exemption given to public officers from criminal liability arising from their contravention of legislative provisions while

performing official duties, the deterrent effect and compliance of existing environmental legislation, the impact of legislation governing the environment on the trade, and so on. The Bills Committee has agreed to forward such policy issues to the Panel on Environmental Affairs for follow-up.

The Administration will impose a two-year validity period for the warning notice and introduce Committee stage amendments. In addition, it will move a consequential Committee stage amendment to reflect the new nomenclature of the Head of the Bureau in the light of the reorganization of the Environment and Food Bureau to tie in with the implementation of the accountability system for principal officials. These views were shared by the Bills Committee.

Madam President, I have presented this report on behalf of the Bills Committee.

Now I would like to speak on the Bill on behalf of the Democratic Alliance for Betterment of Hong Kong (DAB). Though noise nuisance is inevitable in such a highly developed city as Hong Kong, we must strive to enable the general public to enjoy some quiet moment in rest. The enactment of the NCO is therefore essential. The current amendment exercise seeks to ensure that management staff with solid powers will endeavour to monitor the operation of bodies corporate to prevent repeated violation of a NCO offence at the same site. Otherwise, they will be deemed as violating the same offence and be prosecuted.

From the figures provided by the Environmental Protection Department, it can be noted that the number of noise offences repeatedly committed by bodies corporate is far greater than that committed by firms owned by individuals. This reflects that the existing Ordinances does not have sufficient deterrence on bodies corporate. Therefore, the DAB supports the introduction of amendments to the NCO. It is also hoped that the Bill can enhance the deterrent effect on noise offences. With respect to the prosecution of the management of bodies corporate, clear defence provisions must be made to prevent the management from being implicated in circumstances beyond their control and subsequently committing an offence. Therefore, the DAB supports setting up the warning system so as to enhance the vigilance of the management of the first offence and improve its management work. At the same time, we agree that a due diligence defence provision be provided in the Bill. The chances of the

management committing offences in circumstances beyond their control should be reduced through the rendering of such double safeguard.

The DAB is also supportive of the Government's acceptance of the industry proposal to impose a two-year validity on the written warning. First, this can allay the worries of the industry. Second, construction works should in general near completion towards the end of two years and repeated violation is therefore unlikely. The imposition of the two-year validity will not compromise the protection accorded the public under the Bill. This measure should be able to balance the interests of all parties.

The Bill is in effect widely supported by the community. I am also aware that the Secretary, Mrs Lily YAM, will attend the Council meeting for the last time if the Second Reading debate on the Bill is resumed today. I would like to take this opportunity to thank her for her past contribution in protecting the environment. Thank you, Madam President.

With these remarks, Madam President, I support the Bill on behalf of the DAB.

MRS SOPHIE LEUNG (in Cantonese): Madam President, owing to the seriousness of the construction and industrial noise problems, the Government has proposed to tighten the existing legislation to enhance its deterrence. While the Liberal Party shares the goal of ameliorating noise pollution and has no objection to introducing legislative amendments, it would like to urge the Government to seriously review its means of realizing this goal.

At present, a person who commits a noise offence is liable to a maximum fine of \$100,000 for the first conviction, and \$200,000 for subsequent convictions. According to the Government, 18 companies were convicted more than 10 times during the three years from 1999 to 2001. This shows that the existing penalties have failed to achieve deterrent effect. It is therefore essential to strengthen the law to combat such violations.

The Liberal Party is of the view that the Government should first of all examine the causes of this problem. Actually, if a company has to pay a fine of nearly \$200,000 for each conviction, it will cost the company nearly \$2 million for 10 convictions. This is not a small number indeed. Were these 10-odd

companies deliberate in defying the law in a stubborn manner? Or was it because the companies could not help committing repeated offences because the construction works practically required them to do so?

Moreover, if the Government is determined to stop the same company from violating noise legislation repeatedly, it may consider revising the maximum fine or raising the progressive margin of fine. However, the Government has not sought to impose a heavier penalty through the proposed amendment. Instead, it seeks to impose criminal liability on the directors and officers of bodies corporate for the violation of noise legislation by the bodies corporate.

What is more worrying is that the legal liability imposed on directors/officers for the commission of offences under the Bill by a body corporate is the so-called strict liability. In other words, an accused has to prove his innocence. The Government will definitely say it is necessary for this provision to be added because of the difficulty of adducing evidence. Where does this difficulty really lie? Is it because there is a lack of measuring instruments or prosecution manpower? Or is it purely because the Government is lazy, and as a result, the onus of proof is forcibly shifted onto proprietors? Introducing such provisions too casually will not only put enormous pressure on people in the business sector, but also dampen investment desire and injure the business environment. Members must not forget that many of the people in the industry are "employees". Not all of them are bosses.

The Liberal Party has actually pointed out repeatedly that such "strict liability" provisions have been included in a number of laws enacted recently. They include the Import and Export Ordinance, the Radiation Ordinance, the Occupational Safety and Health (Display Screen Equipment) Regulation, and so on. In the Liberal Party's view, the Government should prescribe the right medicine in introducing legislative amendment, rather than resorting to the use of its imperial sword easily. Otherwise, it will only kill the wrong targets. Worse still, it will give the public and the community the impression that the Government is acting in an illogical and high-handed manner.

It is fortunate that in the course of scrutiny, the Government has accepted the recommendation of members of the Bills Committee to set up a warning system. The Chairman of the Bills Committee has earlier mentioned the point that no prosecution will be initiated against the first offence. We consider this

compromise acceptable, though reluctantly. Nonetheless, the Liberal Party would still like to sincerely urge the Government to exercise great caution when considering whether strict liability should be imposed when enacting legislation or introducing legislative amendments in future. There are a number of Honourable Members among us who work in the legal field. They are also great supporters of common law. I hope they share my view. Otherwise, the presumption of innocence principle enshrined in common law whereby the onus of proof rests with the prosecution will gradually be eroded.

Madam President, I so submit.

MR HUI CHEUNG-CHING (in Cantonese): Madam President, I would like to speak on behalf of the Hong Kong Progressive Alliance (HKPA) in support of the Noise Control (Amendment) Bill 2001 and the Government's proposed amendments. The Bill seeks to encourage the management staff of a body corporate to comply with the environmental requirements and avoid a repeat of noise offences. We are of the view that the Bill can enhance the deterrence of the Noise Control Ordinance (NCO) and reduce the incidence of noise nuisances caused to the public by construction works. Nevertheless, the Government must not neglect the views of the trade lightly.

One of the areas of the Bill that give rise to concern is whether the imposition of criminal liability on the management staff is reasonable. A deputation has pointed out that, under the current subcontracting system, it is not fair to prosecute the corporate management. The HKPA is however of the view that a defence provision has been put in place by the Bill to prevent abuse of the Ordinance and corporate management staff has been provided with due protection. Though some people opine that no relevant definition has been given to the so-called "taking reasonable preventive measures or exercising due diligence", we think that proposed section 28A(3) and (4) have provided for a due diligence defence. Furthermore, the Government will propose Committee stage amendments to impose a two-year validity for the written warning for the purpose of balancing the interests of the trade and the need of protecting the environment.

Moreover, the Noise Control Authority (the Authority) will formulate codes of practice for various industries. In the opinion of the HKPA, it is essential for the authorities to take into account the reality and balance various

factors as far as possible when formulating the codes, so as to avoid affecting the business environment. The Government should, at the same time, strengthen communication and co-operation with people in the industry and consult their opinions when formulating the codes, so as to help their compliance with the environmental requirements.

Madam President, in order to effectively resolve the noise pollution problem, it is necessary for the Government to, in addition to introducing punitive measures, encourage industry compliance by enhancing their noise control awareness through education and training. The construction sector has been hit by the economic slump in recent years. To promote its prosperous development, it is necessary for the Government to expeditiously implement the recommendations made by the Construction Industry Review Committee into implementation. I so submit.

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

MR LAW CHI-KWONG (in Cantonese): Madam President, I would like to speak on behalf of the Democratic Party in support of the Bill. Actually, it has always been the hope of the Democratic Party that the Bill can be expeditiously submitted to this Council for endorsement.

A number of Honourable Members mentioned earlier in the debate that one of the controversies arisen in the course of scrutiny was associated with the so-called "record clearing". The Democratic Party has always held the view that if certain construction works generated excessive noise and a company was thus punished, there should not be a repeat of the offence. Basically, there should not be any problems related to "record clearing". But since the industry has raised many suggestions and expressed some worries, the Democratic Party is willing to accept the proposed arrangement.

We initially thought that this so-called "record clearing" arrangement should be consistent with other arrangements applicable to general crimes whereby the relevant records will be cleared after three years. However, after examining some objective statistics on the average construction period, the

Democratic Party has decided to accept the Government's proposed arrangement of "clearing the record" after two years. Thank you, Madam President.

MISS EMILY LAU (in Cantonese): Madam President, I rise to speak in full support of the resumption of the debate on the Second Reading of the Noise Control (Amendment) Bill 2001 (the Bill). Madam President, I am afraid the Bill has come a bit too late. The Secretary, Mrs Lily YAM, has done so much during her tenure. I believe the Secretary and Members of this Council, as well as the public in general, will be delighted if the Bill can be passed before her departure.

The Bill was once submitted to this Council in February 2000. Due to the heated debate conducted at the time, this Council was not able to complete its scrutiny of the Bill when the Legislative Session drew to its end. In June 2001, the Bill was submitted to this Council by the Secretary again. One of the added provisions is associated with the warning system mentioned by a number of Honourable colleagues earlier. I personally support this system. I also note the worry expressed by the Honourable Mrs Sophie LEUNG earlier that members of the business sector represented by her would feel that the Bill was unfair to them. I believe Mrs LEUNG is aware that the Bills Committee has held discussions about this.

Madam President, it was mentioned by Honourable colleagues that 85% of the conviction cases related to construction over the past three years involved bodies corporate. In addition, there were many similar violations. Mrs Sophie LEUNG queried whether any studies had been made to examine the causes of this phenomenon. I definitely support such studies. In addition to conducting studies, however, we must address the problem squarely. I believe many people in Hong Kong detest air pollution, for the situation has become so terrible that it is obvious. Even the Chief Executive has paid extra attention to tackling this problem as a result of heated discussions in the business sector. An eight-party coalition in this Council has also expressed its support for Mrs YAM to endeavour to ameliorate the situation.

The response to noise pollution, however, appears to be completely different. I did talk to many trade associations about noise pollution. However, it appeared as if they were completely deaf for they were unconcerned

with noise pollution. They can surely feel air pollution because every one of us has to breathe. Moreover, air pollution is visible. However, they are apparently immune from noise pollution. First, their offices are free of noise nuisance. Second, members of the trade associations are mostly rich and usually live in quiet places. One exceptional case is the large influx complaints about noise when the Foreign and Commonwealth Office constructed its office in Kennedy Road a few years ago.

Doubtless the noise pollution problem has been neglected. However, this is a very serious problem because the peace enjoyed by the public will be affected. I wonder whether the Secretary will, in her response, provide us with figures on the number of people whose health has been affected by noise (road noise or industrial noise as being discussed at the moment) and thus need to be inhospitalized or seek treatment, and figures on the amount of expenses thus incurred, and so on. Given the very high price we may possibly pay, I greatly support the submission of the Bill.

Some members of the Hong Kong Construction Association Limited (HKCA) doubted whether it was fair for the Bill to forcibly shift the responsibility onto the directors and officers of bodies corporate. In this aspect, we should note that the Government has proposed a defence provision. The management of bodies corporate should be able to raise its defence in court if sufficient diligence has been exercised. Though some people might consider the legislation too stringent, Members should understand that we cannot help it even if the legislation becomes even more stringent if they can see that Hong Kong has become such a terrible place to live because of noise pollution.

Actually, we are now affected not only by noise, but also by air pollution. I was told that the incoming accountability Bureau Director is very much concerned about air pollution and will address the problem. Despite the enormous effort made by Mrs YAM, we can still find passers-by covering their noses whenever we go outside to take a look. In particular, we often urge the vulnerable not to venture to Causeway Bay and places affected by air pollution. There is much to be done to ameliorate air pollution, noise, waste and water quality. I hope the passage of the Bill can make the industry realize what has been done is fair to them. Most importantly, we should let the public see for themselves that the number of prosecutions is actually declining. This will go to show that (as we were told by the authorities during the deliberations on the Bill) the Bill is very effective in combating these offences.

I have also noted from the information submitted by the authorities that relatively few individual proprietors have violated the legislation, and the offenders are mostly bodies corporate. At present, individual proprietors are required to bear the responsibility, while bodies corporate are not required to do so. This is why I see it necessary for a more stringent law to be enacted. For the time being, there is nothing we can do about this. I do hope a fair mechanism can be put in place in future for enforcement of the law. Mrs Sophie LEUNG also remarked earlier that we had to act fairly because we were not trying to target anyone. We were only trying to target noise pollution cases which had caused so much disturbance to the public.

Madam President, the Bills Committee was quite puzzled by the question of violation by public officers. What I mean is the Government is apparently immune from punishment. When this issue was brought up in the Bills Committee to members' attention, it was decided among Honourable colleagues that the passage of the Bill should not be impeded as a result of this. They just hoped the Government would know how to handle the matter. Nevertheless, we should note that discussions on the Land (Miscellaneous Provisions) (Amendment) Bill will begin on 5 July. This Bill is related to road excavation works. Madam President, the issue has been discussed by the Public Accounts Committee for at least six or seven years. Just as the Director of Audit said, it has taken the Government more than two decades to deal with the problems brought about by road excavation works. The remark made by Premier ZHU Rongji with respect to "discussion without decision" really fits this case. Though there are many disputes about this, I do not want to talk about them today. I only wish to point out that whenever members of the industry approached this Council to express their views, they would say the legislation was apparently trying to penalize them. This is because they will be jailed if found to have no licence when carrying out road excavation works, whereas only a fine is imposed under the Noise Control Ordinance.

Despite such a strict penalty is to be imposed on excavation works that cause problems, what will happen if the Government commits the same offence? It seems that all that is required is only a report on the case to the Chief Secretary for Administration. After being dealt with by the Chief Secretary for Administration behind closed doors, the case will then be considered settled. I believe both the industry and the general public are not convinced. During the discussion held by the Bills Committee, most colleagues actually did not support the existing arrangement. However, it was subsequently decided that no further

action should be taken because of the extensive scope involved. The Bills Committee simply did not want the passage of the Bill to be impeded by this extensive (though very important) issue. However, it was decided that the matter be returned to the Panel on Environmental Affairs for detailed discussion. I believe the Bills Committee will conduct detailed discussions on the Land (Miscellaneous Provisions) (Amendment) Bill because the industry is not going to sit easy with it. If we fail to deal with the legislation properly and the provision concerning the imprisonment sentence is passed eventually, there will definitely be strong repercussions.

Madam President, we also raised one point in the report and it was also discussed during the meetings. I do not know what the Secretary will tell us today in addition to the information provided to us earlier. The point we raised is, even if the existing mechanism remains unchanged, the public should at least see that the Government is operating in a transparent manner. We must not let the public see that the industry will be brought before the Court when prosecution action is taken against it. When the Government violates the law, however, government officials will simply defend one another behind closed doors and bring the matter to an end hastily. The Government has never been prosecuted because of its infringement of law. How can the public be convinced? In particular, the industry is very unhappy at the moment. We must therefore let them know stringent laws are essential to protecting the environment. We must also tell them adequate safeguards will be provided. However, the public would still think that the responsible civil servants should be treated equally when they make a mistake. I feel extremely sorry that we have been unable to achieve this goal. At the same time, we should not put the entire responsibility onto Mrs YAM. However, I hope she can give a satisfactory response to the public, explaining why the Government should have allowed such unfairness to exist in the past several decades. Even though the legislation is now amended, it is still impossible to resolve the matter and no improvement can be made. This is really problematic.

Moreover, Madam President, I note that the HKCA has requested the Government to appreciate the difficulties encountered by the industry and examine how a so-called user-friendly regulatory framework can be set up. A similar request has also been made by the Hong Kong Environmental Law Association. I am aware that the authorities are examining some proposals presently. A committee chaired by Mr Henry TANG several years ago also made some recommendations. I would also like to say a few words on this

topic. Very often, there is a lack of communication. During recent discussions on environmental protection, liquefied petroleum gas public light buses, landfill charges, and so on, members of the industries often complained that the authorities simply did not listen to their suggestions. Even though meetings were held, the authorities would still not fully listen to their suggestions.

Madam President, Hong Kong is actually not a very radical society. The majority of the public are reasonable people, though they might voice their demands and grievances from their standpoint and angle. I hope the Government can put in place a framework to listen to the voices of all industries and deal with them. I believe the Government will say the matter is being dealt with. I only hope efforts can be made in this aspect expeditiously. I was told that some members of the industry were preparing to complain against the Environmental Protection Department (EPD). They said there were a lot of so-called scientists in the EPD who often failed to appreciate the concerns of engineers and other people. I hope improvement can be made in the future so that what we say will not fall on deaf ears. However, I must also say that I hope the voices of the EPD will not be drowned out in future.

Lastly, Madam President, on behalf of the Frontier and myself, I would like to express our thanks to the Secretary, Mrs YAM, for what she has done for Hong Kong over the years. Just now, I told her not to cry. We are good friends. We are also grateful to her for her hard work. We are also expecting more and more senior officials to, like Mrs YAM, attend to their business personally, work diligently, as well as fearing no criticisms and censure. When it comes to political views, though we do not see eye to eye with TUNG Chee-hwa in many aspects, we still hope senior officials can really act in the interest of the public, rather than indulging in empty talks. When they come before us, they should let us see that they are well prepared and ready to deliver. When encountering thorny problems from time to time, they should approach this Council promptly to give explanation. Accountability officials must make great efforts to convince not only Honourable Members, but also the industry. At the same time, they have to convince people being affected or in great difficulties to let them know their problems are being dealt with by relevant officials. Only in doing so can they give us an impression that they are responsible Bureau Directors.

With these remarks, I support the Second Reading of the Bill.

DR RAYMOND HO (in Cantonese): Madam President, noise is indeed a serious problem in Hong Kong. Although Hong Kong is often described as an advanced international city, we often feel not enough has been done on the environmental front. Noise pollution is part of it. The Noise Control (Amendment) Bill 2001 (the Bill) has actually been discussed for a long time. In-depth discussions on the Bill have also been carried out by the Bills Committee. We have listened to many views expressed by the industry too.

Construction works contractors have expressed the operational difficulties they have encountered. Over the years, they have been complaining of the declining number of works projects. While the Government has been slow in awarding works contracts, private construction works have shrunk to only 20% or 30%. They feel that not enough projects are available for them to bid, and workers do not have enough work to do. The majority of the 200 000-odd construction workers are essentially underemployed or have been jobless for a prolonged period of time. We were told that it is not that they do not want to comply with the law. They actually support the Government in enforcement of the law. However, it is not necessarily the best option if the Government invariably resorts to imposing heavier penalties to achieve its goal. Even the EPD has recently proposed to increase the amount of fines imposed on firms contravening the Buildings Ordinance by four to six times, or even more. At the same time, imprisonment terms will be raised to three years. In my opinion, the punishment imposed on the management of certain bodies corporate or firms may be excessively heavy because not everything is under their direct control. The ones who err might be contractors or workers working on the site, or even workers hired by sub-contractors, yet the management might be subject to severe penalties. The Bills Committee has indeed spent much time discussing this crucial point.

After detailed discussions, we have now reached a consensus that the validity of the written warning notice should be two years. Of course, contractors would like it to be shortened to one and a half year. I am delighted to note that Honourable colleagues in this Council have finally managed to reach a consensus on this issue of such complexity and far-reaching implications.

I will also be very delighted if this Bill can be passed today before the departure of the outgoing Secretary, Mrs Lily YAM. I have known Mrs YAM

for years. When I was Chairman of the Transport Advisory Committee, she was Commissioner for Transport. I greatly admire her work performance and ability. She was extremely devoted, particularly in handling such significant issues as the serious traffic jam on Tuen Mun Highway. I recall clearly I asked Mrs YAM a lot of questions during an oral question time in this Council. Some of the questions were so difficult that she had requested me not to put them to her. An example is the one concerning boilers in hospitals. This is the reply I gave her at that time: "I cannot help asking this question since it is about Dioxin!" In spite of that, Mrs YAM would try her very best to answer the questions raised by Honourable colleagues on each occasion. Mrs YAM's performance has impressed me as a good official, a very devoted one too. I would like to take this opportunity to wish Mrs YAM a happy retirement, and I also hope Honourable colleagues can support the Bill tabled by the Government today. Thank you, Madam President.

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

MR MARTIN LEE: Madam President, I still remember quite a few years ago, when it was first suggested to the Panel on Environmental Affairs of the last Session of the Legislative Council that there should be personal liability imposed on directors of companies which produced excessive noise pollution, there was fiery objection from the Panel, so much so that I found it necessary to say at the end of the meeting to the Administration that they must not think that the entire Panel was against the idea because the Democratic Party, for one, would be interested to hear more on that issue.

After the meeting, I had meetings myself with the Administration and I made certain suggestions to them as to how the fears of the people concerned might be allayed. I am glad that after numerous subsequent meetings, today, we have finally reached a stage when this Bill, which represents a balance of interests of different parties involved, would be supported by, I believe, most Members of this Council.

Madam President, lily is a flower the fragrance of which is faint, gentle and subtle, and it is only appreciated by discerning souls. It is symbolic of the patience and total dedication of the outgoing Secretary for the Environment and

Food who will be sadly missed by many Members in this Council. On behalf of the Democratic Party, I wish her a happy retirement and, hopefully, after a short stay overseas, she will be returning to a quieter Hong Kong to live in.

Thank you.

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

(No Member responded)

PRESIDENT (in Cantonese): If not, I will now call upon the Secretary for the Environment and Food to speak in reply.

SECRETARY FOR THE ENVIRONMENT AND FOOD (in Cantonese): Madam President, the Noise Control (Amendment) Bill 2001 (the Bill) seeks mainly to provide clearly that where an offence under the Noise Control Ordinance (NCO) has been committed by a body corporate, the management of the body corporate shall be held liable where the body corporate commits a further offence at the same site. We believe the relevant amendment can enhance the sense of responsibility of the management and deter the body corporate from repeating the offence.

I would like to express my gratitude to Mr IP Kwok-him, Chairman of the Bills Committee, and members of the Bills Committee. In the course of deliberations, members have put forward a lot of valuable opinions and finally reached a consensus on the Bill.

The three major areas of concern of the Bills Committee are as follows:

- (1) the appropriateness and effectiveness of holding the management of the body corporate liable;
- (2) the possibility of government abuse of the amended provisions and unfairness;
- (3) the practicability of the proposed warning system and the Code of Practice.

Regarding the first point, we consider it appropriate and effective to hold the management of a body corporate liable for criminal offences. As the deterrence of the existing NCO is not sufficient, repeated contraventions of noise offences by bodies corporate are common.

Although the authorities have endeavoured to encourage the trade to employ best management practice and strengthen enforcement, the numbers of convictions and noise complaints lodged by the public remain high. Furthermore, contraventions by bodies corporate are considerably more serious than individual proprietors. Between 1999 and 2001, over 85% of convicted cases related to construction and commercial/industrial noise involved bodies corporate. During these three years, a total of 51 companies had been convicted five times or more and among them, 18 had more than 10 convictions, and two others more than 22 convictions. Under the existing legislation, offenders will only be fined. Some Members doubted whether the proposed amendments can provide the right remedy. They consider it possible to achieve the same goal by raising the maximum fines. I would like to point out that, according to the records of the Environmental Protection Department (EPD), it is still impossible to deter bodies corporate from repeating noise offences even if a recurrent noise offence is liable to a maximum fine of \$150,000, or even the maximum fine imposed under the NCO, that is, \$200,000. On the contrary, the number of convicted individual proprietors is far fewer than that of bodies corporate. This shows that individual proprietors will try their best to avoid contravention because they will otherwise be held liable. We therefore believe the proposed amendments are appropriate and should be effective.

As regards the second point, the proposed amendments will not alter the scope of the existing legislation which has been enforced by the Director of Environmental Protection in a fair and serious manner. The amended provisions will therefore not be abused by the Government or give rise to unfairness. Under the existing NCO, the Director of Environmental Protection, or the Noise Control Authority, may prosecute anyone who commits a noise offence. The proposed amendments seek only to stipulate in express terms the responsibility to be borne by the management of bodies corporate originally covered by the NCO. Innocent people will therefore not be prosecuted unjustifiably as a result of the proposed amendments.

In order to prevent the management of a body corporate from being prosecuted because of inadvertent violation of the NCO by the body corporate, a warning provision has been included in the Bill to enable the Director of Environmental Protection to issue warning notices to the directors/officers of the body corporate committing a noise offence. If a repeated offence is committed by the body corporate at the same site, the Director may take prompt action to prosecute the relevant directors/officers without issuing a warning notice again. A due diligence defence has also been included in the proposed amendments. The defence can be raised if the management can prove that a proper system has been established and has been in effective operation to prevent the offences.

As regards the third point, the proposed warning system and Code of Practice are practicable. The issue of warning notice can alert the management to the need to pay early attention to the problems and make rectification to prevent continued violation of the NCO. In the course of scrutiny, the construction industry and the Bills Committee have expressed concern about this warning provision and proposed a validity to be fixed for the warning notice. After thoroughly considering their views, we have agreed to amend the relevant provision and to impose a two-year validity on the warning notice. I will move a Committee stage amendment to this effect later. On the one hand, the two-year validity can achieve deterrent effect during the construction period of general projects and deter contractors from recurrent offences on the same site. On the other hand, it can enable us to give the contractors a chance of "rehabilitation" in projects with a longer construction period. We believe the Committee stage amendment can strike a balance between the interests of the industry and the community at large. Nevertheless, some members remained concerned that the deterrence of the legislation would be undermined as a result of the imposition of the validity period on the warning. To address their concern, we have agreed to give an undertaking to monitor the regulatory environment and the implementation of the legislation. If necessary, we will review whether it is necessary to extend the two-year validity of the warning notice.

To assist the management of bodies corporate to establish a proper system and prevent violation of the NCO, the EPD will issue a Code of Practice and provide guidance on best management practices. The industry and professional organizations concerned have been extensively consulted by the EPD in the

course of drafting the Code of Practice. In order to provide comprehensive and clear practical guidance for the industry, the relevant sector and the relevant panels of this Council will be consulted again before the implementation and gazettal of the Code of Practice.

The EPD will keep close contact with the trade through different channels and explain to the construction industry the requirements of the NCO. It will also promote best operational practices in a bid to resolve the noise problem in collaboration with the industry, so as to provide the public with a quieter living environment.

Some Members were concerned about the human rights implications of the proposed amendments. Based on the following reasons, the Department of Justice opined the offence provisions contained in the proposed amendment is consistent with the human rights provisions in the Basic Law. First, offences related to noise control have a direct bearing on public interest. They should therefore be considered social concerns. Second, to hold the management of bodies corporate strictly liable can effectively achieve the goal of legislative amendment because this can effectively raise the vigilance of the management and to ensure compliance by bodies corporate. Third, the proposed "due diligence defence" is consistent with the strict liability provision because the proposed objective of the Bill can thus be achieved and innocent people will not be convicted as a result. The practice of holding the management liable for acts of its body corporate can be found in Hong Kong and other developed places. In Hong Kong, similar provisions can be found in at least 15 pieces of legislation. Examples are the Electricity Ordinance, Lifts and Escalators (Safety) Ordinance, Criminal Procedures Ordinance, Air Pollution Control Ordinance, Waste Disposal Ordinance, and so on. We have also studied environmental protection laws enforced in foreign countries. It was found that there were legislative provisions in Australia, Canada and the United Kingdom holding directors/officers liable for the environmental offences committed by their bodies corporate.

Some Members suggested that public officers should be held criminally liable for contravening the NCO while performing public duty. As explained to the Bills Committee, all public officers must observe the NCO. Section 38 of the Ordinance has provided for the setting up of a mechanism for dealing with

contravention by public officers. Should a public officer fail to terminate the contravention or fail to satisfy the Director of Environmental Protection, the Director will report the case to the Chief Secretary for Administration. After investigating the relevant case, the Chief Secretary for Administration will, if necessary, take the best step to terminate the contravention or prevent its recurrence.

Actually, this mechanism has never been triggered as a result of contravention of the Ordinance by any government department. This shows that the relevant mechanism is effective. Nevertheless, in order to raise its transparency, we have undertaken during the scrutiny of the Bill that this Council will be informed in cases of contravention of the NCO by government departments in future, which make it necessary for the Director of Environmental Protection to report to the Chief Secretary for Administration.

Regarding the query raised by a Member with respect to the impact of noise on public health, a detailed study is now being conducted by the EPD. The findings of the study will be submitted to Honourable Members for reference.

I hope Honourable Members can support the passage of the Bill and the proposed amendments to be moved by me later.

Madam President, this is the last time I attend the Council meeting. Before concluding my speech, I hope you, Madam President, can allow me to take this opportunity to express my sincere gratitude to Honourable Members for their support for the work on environmental protection and food safety over the past two years and a half. In such a short span of time, Members have made many constructive suggestions on matters within my portfolio. This has enabled us to, when formulating and implementing relevant policies, understand the aspirations of people in various strata of society in a more comprehensive manner and, in most cases, identify solutions that can better balance the interests of all parties.

Thank you, Honourable Members. Thank you, Madam President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the Noise Control (Amendment) Bill 2001 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.

(No hands raised)

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

CLERK (in Cantonese): Noise Control (Amendment) Bill 2001.

Council went into Committee.

Committee Stage

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

NOISE CONTROL (AMENDMENT) BILL 2001

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Noise Control (Amendment) Bill 2001.

CLERK (in Cantonese): Clauses 1, 2 and 3.

SECRETARY FOR THE ENVIRONMENT AND FOOD (in Cantonese):
Madam Chairman, I move the amendments to clauses 1, 2 and 3, as set out in the paper circularized to Members.

I will now explain briefly the rationale behind the proposed amendments. Firstly, regarding the proposed change of the Secretary's title, clause 1(2) of the Bill provides that the relevant Ordinance shall come into operation on a day to be appointed by the Secretary for the Environment and Food by notice published in the Gazette. On 19 June 2002, the Legislative Council passed a resolution proposed under section 54A of the Interpretation and General Clauses Ordinance to effect the transfer of statutory functions. In this connection, the statutory functions of the Secretary for the Environment and Food under the Noise Control Ordinance will be transferred to the Secretary for the Environment, Transport and Works with effect from 1 July 2002. As such, I have to move an amendment to clause 1(2) to change the title of the Secretary for the Environment and Food to Secretary for the Environment, Transport and Works.

Secondly, the amendments to provide for a two-year validity period for the warning system. I also propose to amend the provisions under clauses 2 and 3 of the Bill concerning the warning system, so as to provide for a two-year validity period for the warning notice. Under the amended provisions, if a body corporate has committed a noise offence at a particular site and caused the Director of Environmental Protection to serve a warning notice on its directors/officers, the relevant directors/officers will be held liable if the body corporate commits further offence at the same site within two years. In my reply speech for the Second Reading debate, I have already explained our rationale for imposing a validity period on the warning notice. I hope Members will vote in support of the passage of the aforesaid amendments, to which the Bills Committee has raised no objection. Thank you, Madam Chairman.

Proposed amendments

Clause 1 (see Annex III)

Clause 2 (see Annex III)

Clause 3 (see Annex III)

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 amendments moved by the Secretary for the Environment and Food be passed. 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): Clauses 1, 2 and 3 as amended.

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.

NOISE CONTROL (AMENDMENT) BILL 2001

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

Noise Control (Amendment) Bill 2001

has passed through Committee with amendments. I move that this Bill be read the Third time and do pass.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Noise Control (Amendment) Bill 2001 be read the Third time and do pass.

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Noise Control (Amendment) Bill 2001.

Resumption of Second Reading Debate on Bill

PRESIDENT (in Cantonese): We will resume the Second Reading debate on the Employees Compensation Assistance (Amendment) Bill 2002.

EMPLOYEES COMPENSATION ASSISTANCE (AMENDMENT) BILL 2002

Resumption of debate on Second Reading which was moved on 27 February 2002

PRESIDENT (in Cantonese): Ms Audrey EU, Chairman of the Bills Committee on the above Bill, will now address the Council on the Committee's Report.

MS AUDREY EU: Madam President, in my capacity as Chairman of the Bills Committee on Employees Compensation Assistance (Amendment) Bill 2002, I would like to report on the main deliberations of the Bills Committee.

The Bill seeks to introduce a package of measures with a view to improving the financial stability and viability of the Employees Compensation Assistance Fund (the Fund).

One of the major proposals in the Bill is the introduction of relief payment in lieu of common law damages for injured employees. At present, the Employees Compensation Assistance Scheme (the Scheme) covers liabilities relating to common law damages in respect of employment-related injuries. For injured employees who are unable to recover common law damages after exhausting all other legal means of recovery, the Administration proposes that a relief payment be payable under the Scheme in lieu of common law damages.

Under the Bill, the relief payment shall not exceed the aggregate sum of damages as awarded by the Court, and shall not cover any costs arising from proceedings in respect of damages. Where the amount does not exceed \$1.5

million, the relief payment shall be paid in full in a lump sum. If it exceeds \$1.5 million, a first payment of \$1.5 million shall be paid, and then followed by monthly payments at the rate of the monthly earnings of the injured employee at the time of the accident, or a prescribed monthly amount currently set at \$10,000, whichever is the higher.

Some Members are concerned that the amount of monthly payment of the relief payment may not be sufficient to meet the needs of those employees who have been seriously injured and require long-term care by other persons. These Members have suggested that the amount of monthly payment for these employees should be increased.

Having regard to Members' views, the Administration has consulted the Labour Advisory Board (LAB) on the provision of further assistance to those seriously injured employees who require long-term care and attention. According to the Administration, there was no majority view among the LAB members on the issue. The Administration has also stated that it does not support any proposal which has not been agreed by the LAB.

The Honourable LEE Cheuk-yan proposes that the prescribed monthly amount for injured employees who have, as a result of the injury, suffered from permanent incapacity and are unable to perform the essential actions of life without the care of another person should be increased from \$10,000 to \$30,000. The Bills Committee decided by a majority vote that the Bills Committee should move the amendments.

However, the Administration has subsequently informed Members that the LAB has re-visited the issue and reached a consensus to provide an enhanced monthly payment to seriously injured employees who require long-term care and attention. The new proposal is that: an enhanced amount of monthly payment at \$10,000 shall be payable to an injured employee who has, as a result of the injury, suffered from total paralysis (quadriplegia) or paraplegia and is unable to perform the essential actions of life without the care and attention of another person. This enhanced payment should be made to the injured employee until the balance of the relief payment has been fully paid or the death of the injured employee, whichever is the earlier.

The majority of members of the Bills Committee express support for the Administration's new proposal. As the Administration will move amendments

to provide for the enhanced monthly payment, the Bills Committee, after a new round of voting, has decided that it will not pursue the amendments as originally proposed by Mr LEE Cheuk-yan.

The Bill also provides that in a non-fatal employment-related injury, the relief payment shall be payable to the injured employee. If the injured employee dies before the amount of the relief payment has been exhausted, his or her surviving spouse or cohabitee, and any surviving child who is under the age of 21 at the time of the death of the injured employee will be eligible for the relief payment. Where the injured employee is not survived by a spouse or cohabitee, any child under the age of 21, then his or her surviving parents will be eligible for the relief payment.

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

Some Members consider that dependant brothers and sisters under the age of 21 should be eligible for relief payment, if the deceased employee does not leave any surviving spouse or cohabitee, child or parent. Some other Members and the Administration do not support the proposal to expand the scope of eligible persons. Mr LEE Cheuk-yan proposes that the Bills Committee should move amendments to allow these dependant siblings to be eligible for relief payment. The Bills Committee has taken a vote on the matter, and the majority view is that I should move the amendments on behalf of the Bills Committee.

I also wish to report that the Bills Committee has not specifically discussed when the relief payment to dependant siblings should cease. However, in line with the principle that dependant brothers and sisters should not be treated in any way better than surviving children, I consider that these dependant siblings should similarly cease to be entitled to a relief payment when they attain the age of 21. That is why amendments to be moved on behalf of the Bills Committee will include such a provision.

Under the Bill, an employer who fails to comply with the compulsory insurance requirement under the Employees' Compensation Ordinance (the Ordinance) will be liable to pay a surcharge to the Employees Compensation Assistance Fund Board (the Board). The surcharge will be set at three times the

levy payable on the premium paid on the employees' compensation insurance policy taken after the offence has been detected.

Some Members have expressed concern whether the level of surcharge would have sufficient deterrent effect, and suggested that the level of surcharge should be increased. At the request of the Bills Committee, the Administration has consulted the LAB. The Administration has informed Members that the majority of LAB members consider the level as proposed in the Bill appropriate. The Administration, therefore, has no plan to increase the level of surcharge at this stage, but would keep the position under review and consider revising the level when the circumstances warrant.

The Administration has taken on board Members' suggestion to impose a higher surcharge on those employers who are convicted for a second time for failing to take out an employees' compensation insurance policy within a certain period. The Administration will move amendments to require those employers, who are convicted again for failure to comply with the compulsory insurance requirement within two years as from the last contravention of the compulsory insurance provisions, to pay a surcharge at six times the levy payable to the Board when the second offence is detected.

Concerns have been raised on whether the Bill would have retrospective effect to enable the principal contractors in the case of HIH insolvency to apply for assistance. For the avoidance of doubt, the Administration has agreed to move an amendment to the Bill to make it clear that a principal contractor who has taken out a policy of insurance in accordance with the Ordinance shall be eligible to make application from the Board, irrespective of whether a notice of insurer insolvency is issued by the Board before, on or after the commencement of the Bill.

An employer is required under the Bill to make an application to the Board for payment within 180 days after the date on which he is entitled to make such application. Some Members have expressed reservations about the limitation of 180 days, as they consider that employers should not be deprived of the right to seek remedy from the Fund.

According to the Administration, the imposition of such limitation is to enable the Board to exercise the right transferred to and vested in it under section 37 of the Ordinance as early as possible so as to protect the interests of the Board.

The Administration will take steps to notify the affected employers in the event of insurer insolvency, so that they would be aware of the timeframe for making applications. In the view of the Administration, the 180 days limit is reasonable.

Madam Deputy, as illustrated by the experience of the insolvency of the HIH Group, the Administration considers it appropriate that protection against insurer insolvency should be excluded from the scope of the Scheme and dealt with separately. The Administration, therefore, proposes that a separate employees compensation insurer insolvency scheme be set up to deal with any future insolvency of insurers underwriting employees' compensation business. As the insurance industry currently objects to the proposed scheme, the Administration has advised that it will continue to discuss the matter with the insurance industry.

The Administration has also confirmed that the provisions in the Bill to repeal those sections of the Ordinance relating to insurer insolvency will not come into effect unless and until the proposed insurer insolvency scheme is in place.

The Committee stage amendments to be moved by the Secretary for Education and Manpower later on have the support of the Bills Committee.

Madam Deputy, I would now like to submit my own views on the Bill.

In the past, the Board merely has to pay the common law damages to the applicant. In case of death, the damages are paid in one lump sum to the personal representative. There is only one person concerned and there is no question of any doubt. However, in future, the relief payment under the proposed Bill will be payable to various eligible persons as defined in the Bill. Yet they are not the same as those entitled to the estate, whether under the will or by way of the Intestates' Estates Ordinance. This may lead to confusion and complications. Further, the relief payment, in case it exceeds the minimum \$1.5 million, has to be paid on a monthly basis. This will add to the administrative costs of the Board. It will also increase the likelihood of mistakes or disputes and may well add to the legal costs as well.

In case the award by the Court is apportioned, the relief payment will only cover the amount of the dependency payable to each eligible person and will not

include the amount payable to the estate. Yet, very often, those entitled to the estate are in fact the same dependants and they will be deprived of a large portion of their common law entitlement under this new relief payment proposal.

In case the award by the Court is not apportioned, the Board will simply apportion the relief payment equally among those entitled. This may lead to anomaly and unfairness. For example, a widow's monthly payment will be the same as the mother-in-law's or a step child's when the extent or even though the extent of their dependency or their needs will be quite different.

The Bills Committee has also looked at past cases of severe injuries where the employee is in need of long-term care. The monthly amount awarded by the Court in these cases under common law ranges from \$30,000 to \$70,000. Hence, the Government's recent counter proposal of an extra \$10,000 a month in response to the proposal from Mr LEE Cheuk-yan may not be sufficient to cover the monthly needs of a severely injured employee.

Having said all that, I realize that the present proposal on the table is very much a compromise in the light of the limited financial resources available to the Board. The present common law damages have to be replaced by a limited statutory relief payment of prescribed maximum and also monthly amounts. The scheme as proposed by the Government, despite all the problems that I have highlighted above, does present a compromise. For those reasons, I, too, support the Bill subject to the amendments to be proposed.

Finally, I would just like to say that I am very grateful to the government officials and to Members for their timely assistance and contributions towards the Bills Committee's deliberations. As we all know, there is a premium on legislative time every year as it gets nearer to July. The closer it gets to July, the greater is the workload and the pressure to finish all outstanding business before the summer recess. This year, in particular, we have extras such as the accountability system and the last minute bill on public officers' pay adjustment and, of course, others as well. Therefore, it is a great relief, Madam Deputy, that we manage to finish in time for this Bill to resume its Second Reading today.

With these words, I support the Second Reading of the Bill.

MR LAU CHIN-SHEK (in Cantonese): Madam Deputy, I have participated in the work of this Council for nearly 10 years. Whenever legislative amendments regarding labour welfare were made in the past, they tended to grant more protection to the interest of wage earners. The increase could be on the amount of compensation or the scope covered, so that protection for wage earners was enhanced and bettered. Regrettably, the legislation before us today seeks to undermine the legal protection that wage earners may enjoy. I would not oppose the Bill, but I very much feel sorry and uncomfortable with the proposal by the Government.

The existing Employees Compensation Assistance Ordinance was enacted in 1991 and took effect in the same year. When I looked up the Official Record of Proceedings, I found the following speech made by the then Secretary for Education and Manpower in the Legislative Council during the Second Reading debate of the Bill, and I quote:

"Under the Employees' Compensation Ordinance, a comprehensive range of employment-related compensation is available to protect workers and their families against loss of income in the event of injury and death. Since 1984, employers have been required by law to insure themselves against their liabilities to compensate their employees. Despite this provision, some workers still fail to receive compensation because of defaulting employers or insolvent insurers. Between January 1984 and July 1990, there were 86 such cases known to us involving about \$4 million of unsettled compensation claims.

"To protect the full entitlement of workers under the Ordinance, the Government has decided to establish an Employees Compensation Assistance Scheme The Employees Compensation Assistance Scheme is an important landmark in our labour legislation. It increases the level of protection for employees against the unforeseen contingencies of their working lives and guarantees their entitlement to compensation under the law."

Madam Deputy, from the above quotation, it can be clearly seen that the setting up of the Scheme is meant to ensure protection of the full entitlement of workers under the Employees' Compensation Ordinance. That is to say, the Government then undertook to give injured workers and their families full protection by way of legislation and that protection is their entitlement.

The Scheme covers legal liability for common law damages in employment-related injuries. However, the Bill before us proposes a relief payment made under the Scheme in lieu of compensation for common law damages, that is, the full entitlement of injured or deceased workers and their families are now changed to reduced *ex gratia* payments. At any rate, the amendment today is a retrogression in labour protection. It is already a sad thing when workers are injured or killed at work. It is even sadder if they or their families fail to receive the full amount of the compensations stipulated by the law or awarded by the Court. I hope the amendment is only a temporary arrangement implemented at a time when the economy is poor and the Government should review the issue from time to time. When the economy improves and when it is financially viable to do so, the Government should amend the law as soon as possible and restore full protection for workers.

Madam Deputy, another issue that I deem necessary to raise here is the current phenomenon of more and more wage earners being forced to become "self-employed". The development may have certain influence on the Scheme.

The implementation of the Mandatory Provident Fund System, coupled with rising unemployment, has undermined the bargaining power of wage earners in the labour market. More and more "employed" workers are being forced to become "self-employed". Employer-employee relations have changed to bogus self-employment subject to no employment contract. Employers of workers will naturally refrain from taking out insurance for "self-employed" workers. When the bogus self-employed workers are injured at work and when the Court later rules that they are not really self-employed but are *de facto* employed workers, the employers may not be able to pay the required compensation for a lack of insurance cover. In the circumstances, I trust the financial pressure on the Scheme will not decrease but will increase instead.

Therefore, I must urge the Government to face squarely the resultant problems from bogus self-employment and make improvements as soon as possible.

Lastly, I must point out again the problem of insufficient compensation paid to workers who are injured or killed at work or to their families in the event of employers having failed to take out labour insurance or insolvency of the

insurer. I think the most effective solution is to implement a "centralized employees' compensation scheme" under which the Government is responsible for collecting premia from employers having taken out insurance and for administration of compensations. This may eradicate the various shortcomings facing us now. I hope the Government may conduct a review to perfect the protection for wage earners.

Thank you, Madam Deputy.

MR LEUNG FU-WAH (in Cantonese): Madam Deputy, the Employees Compensation Assistance Scheme was set up in July 1991 with the objective of giving assistance to employees injured at work who are unable to recover damages after exhausting all other legal means of recovery. The Employees Compensation Assistance Fund (the Fund) is financed by levy on the premium payable under employees compensation insurance policies. The initial stage of operation of the Fund coincided with the peak of the infrastructure projects in Hong Kong. The levy from employees compensation insurance from the construction industry was therefore very substantial and hence the Fund managed to accumulate a great amount of reserves. Later the financial stability of the Fund was greatly undermined after paying out substantial assistance in a few major compensation cases. Adding to this the reduction in the levy collected, deficit began to appear in the Fund. The most unfortunate thing is that the insurance company under the HIH Group became insolvent as it was affected by the liquidation of its holding company in Australia. The expenses of the Fund therefore increased greatly and it is now on the verge of financial difficulty.

THE PRESIDENT resumed the Chair.

The objective of the Bill is to improve the financial situation of the Fund. Reform measures proposed include revising the rate of levy, enhancing the regulation of insurance companies, examining the feasibility of an employees compensation insurer insolvency scheme, and the adoption of relief payment in lieu of common law damages. In the course of the deliberations of the Bills Committee, members found out that the discussion paper submitted by the Government to the LAB was lacking in details. These include the revised

proposals on the amount of surcharge to be collected from employers having failed to take out employees compensation insurance, the monthly amount of relief assistance payable to seriously injured employees who need long-term care, and so on. After members had proposed the relevant amendments, the Administration returned the proposals to the LAB for discussion and after a consensus was reached in the LAB, the proposals were referred to the Bills Committee again for deliberation. In the end, the Bills Committee agreed to the consensus reached in the LAB by a majority vote and it was agreed that employers convicted for a second time for failing to take out an employees' compensation insurance policy would be required to pay a surcharge at six times the levy payable, and \$20,000 of relief payment would be made monthly to a seriously injured employee in need of long-term care. I would like to point out that this kind of interactive relationship between the Bills Committee and the LAB has served to make the amendments of the Bill more suited to the realistic needs. It is because the LAB is the most representative organization comprising of employers and employees and that a consensus acceptable to both parties can be reached through consultation. Such commonly agreed proposals would then be submitted to the Bills Committee and this Council for deliberation. Ms Audrey EU has spoken earlier on behalf of the Bills Committee. However, I would like to add that the proposal was accepted by the Bills Committee as a result of the influence of Miss LI Fung-ying. She has made a lot of suggestions on this issue.

Madam President, a stable and harmonious labour relationship has always been one of the key factors in attracting inward investments. At this time of an economic downturn, we urge the Government to foster a business-friendly environment to attract both local and foreign investments and create more job opportunities. The major concern of both the labour sector and the community as a whole is how to strike a balance between safeguarding the legitimate rights and interests of employees and the vitality of employers. For employers who have violated the labour legislation, the FTU strongly demands that they be punished according to the law. We oppose any acts in sympathy with employers which may develop into connivance. We are grateful to the Labour Department for acting as a bridge for the Bills Committee and the LAB in the course of deliberations on the Bill, for that has made possible an exchange of views between both parties. We hope that in future deliberations on labour legislation, the Labour Department will play a more active role so that the Legislative Council can fully gauge the opinions of the LAB.

On the setting up of the employees' compensation insurer insolvency scheme as suggested in a proposed amendment, both the insurance sector and employers' groups attended the meetings of the Bills Committee and presented their views. In general, the insurance sector has reservations about the scheme which may lead to an increase in the insurance levy. However, I would like to point out that the liquidation of the HIH insurance group has led to the paying out of the shortfall amount from the Fund and that is a deviation from the original legislative intent at the time when the Fund was set up. The insurance sector should therefore treat commercial acts and employees' rights as two separate issues and conduct early discussions about the introduction of such a scheme, as this will minimize the uncertainties faced by the Fund.

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

MR ANDREW CHENG (in Cantonese): Madam President, since the Employees Compensation Assistance Scheme (the Scheme) was set up in mid-1991, employees who have been injured at work and unable to recover common law damages after exhausting all other legal means of recovery have managed to obtain their entitled reasonable compensation. However, the Employees Compensation Assistance Fund (the Fund) has almost depleted all its funds in 10 years' time, evident of the enormous compensations paid out. During the five-year period from 1997-98 to 2001-02, the amount of compensation for damages paid out is as much as \$106,300,000, inclusive of interest. On average, the amount of assistance paid out in each case is \$1.64 million.

Applications for assistance by employees who are injured at work and are in need of long-term care, employees who are not fatally injured and family members of those who are fatally injured must be vetted by the departments concerned before they are awarded any compensation. However, no compensation in money terms can make up for the mental and physical damages suffered by employees and their families experience. When legislation is to be enacted for this matter, the Government should make the provision of assistance to the injured employees and their family members the primary concern. All unnecessary red tape should be removed to enable them to obtain compensation. Therefore, the Bills Committee made some proper and reasonable amendment to the definition of "eligible persons" under the existing legislation who are entitled

to receiving relief assistance when an injured employee passes away. Doubtless Hong Kong is an advanced city, but our welfare system still leaves much to be desired. Very often when an injured employee passes away, the financial burden of the family will fall on other family members. So even if that employee leaves no surviving spouse, cohabitant, child or parent, it is very likely that the deceased may have dependent siblings. The amended provisions aim at plugging the loophole of the above realistic situation by revising the definition of "eligible persons". This will ensure that when an injured employee passes away, any surviving dependent sibling aged under 21 will not have his or her basic living affected. The Democratic Party supports this amendment.

Madam President, both employers and employees do not wish to see work injuries happen and so the Government should also consider adopting measures which will solve the problem at root instead of merely imposing some remedial measures. That is to say, enhanced efforts should be made convince the employers of the importance of taking out employee compensation insurance policy. Therefore, the Labour Department should step up its publicity and educational efforts in respect of occupational safety and health among employers and employees.

The law requires employers to take out employees' compensation insurance policy and this is in fact one of the most fundamental obligation and financial protection which employers should give their employees. This is also a kind of entitled benefit of employees and this applies especially to those working in high-risk occupations. It is precisely for this reason that it is necessary to impose heavier penalties on employers who fail to take out employees compensation insurance policy and hence contravene the statutory requirements. Any attempt to transfer the liabilities arising from the negligence of employers who fail to comply with the insurance requirement to other compliant employers should definitely not be condoned in law. Mr LEE Cheuk-yan proposed in the course of discussions in the Bills Committee that those employers who are convicted again for failure to comply with the compulsory insurance requirement within a specific period of time should be required to pay a surcharge 10 times the levy payable in the employees' compensation insurance policy. The proposal should be able to enhance the deterrent effect. Unfortunately, the proposal was not accepted as it did not have the support of the Government and other Honourable colleagues. I hope that

the Government should make frequent reviews of the number of cases of second offence by employers and make an amendment to this.

Madam President, the compensation paid out in employees compensation cases mentioned above often involve sums of more than \$1 million. From this it can be seen that it is not surprising for the Fund to have a cashflow problem. In addition, information provided by the Fund shows that the amount of levy collected has dropped after the completion of many infrastructure projects. On the question of finding more sources of income for the Fund, it appears the only option is to increase the levy and to borrow from the Government. The Government should indeed learn a lesson from the cases of insurers becoming insolvent due to various reasons such as the bankruptcy of the holding companies and make a review of the insurance funds in operation and find ways to recover expeditiously the compensation payable by the HIH insurance group.

With these remarks, Madam President, I support the resumption of the Second Reading of the Bill.

MR BERNARD CHAN: Madam President, the insurance industry generally supports this Bill. We believe that it will largely result in the better management of the Employees Compensation Assistance Scheme (the Scheme).

However, we have one major problem with it. We strongly disagree with the idea of scrapping the current system for protecting employers and employees in the event of the insolvency of an insurer. And we are particularly opposed to replacing it with a new and separate insolvency fund.

Since it seems that we have to accept the establishment of a new fund, we are very concerned about how this will actually be done. This Bill does not address this matter, but I must warn Members and the community that the way this fund is set up and managed could lead to serious problems in the future. It could lead to employers and employees being badly exposed in the event of an insurer becoming insolvent.

If the fund has no lender of last resort, there is a real danger that employers would have to wait years to receive reimbursement for compensation

they have had to pay the employees if their insurer has become insolvent. In theory, we could be talking about companies going bankrupt because of this. There is, therefore, also a real danger that a company with insufficient funds will simply be unable to pay the claims of injured employees. So the employees themselves will have to wait years before they are paid.

I hope that the Government and the Insurance Commission pay heed to this, and consult my industry closely about this new fund. At the very least, they should ensure that this separate fund does not result in different standards of claims assessment, which could be extremely unfair to the claimants.

And they should ensure that the management of the new fund does not lead to duplication of efforts or higher management costs. Indeed, it is important that the insurance industry itself should be given the responsibility of running it. The Motor Insurers' Bureau of Hong Kong is a very good model.

I must make one last point. Madam President, the Government claims in paragraph 14 of the explanatory memorandum of this Bill that the insurance industry is in the process of establishing a scheme to replace the insolvency protection under the Scheme. I have not a clue why this statement is there, because it is simply untrue.

Thank you.

MR CHAN KWOK-KEUNG (in Cantonese): Madam President, at present, the Employees Compensation Assistance Fund (the Fund) has a reserve of \$18 million only and it still has to pay out at least an estimated \$300 million in the next four years as a result of the insolvency of the Australian HIH Group of insurance companies. To restore the financial stability of the Fund, the Bill under debate today has introduced certain reforms to the Employees' Compensation Assistance Scheme.

First of all, a relief payment would be payable under the Scheme in lieu of common law damages. The maximum amount is \$4 million, and a first payment of \$1.5 million shall be paid, followed by monthly payments at the rate of the monthly earnings of the injured employee or a prescribed monthly amount currently set at \$10,000, whichever is the higher.

In the course of deliberations on the Bill, I have expressed much reservations about the above amount of monthly payment. For those employees who have been seriously injured and require long-term care and attention, a monthly relief payment of \$10,000 is simply insufficient to meet the financial needs of these employees and their family members.

When members of the Bills Committee urged the Government to increase the amount, the Government initially dismissed the proposal, saying that the new mode of assistance had taken the comprehensive needs of an injured employee into account. Besides, it indicated that it would not support any proposal that had not been endorsed by the Labour Advisory Board (LAB).

However, with the persistence of Members who expressed their views time and again at the meetings of the Bills Committee, the Government finally agreed to reconsider the matter with the LAB. Eventually, the Government proposed an additional amount of \$10,000 to supplement the original monthly relief payment. In other words, an injured employee can get a total relief payment of \$20,000 monthly.

The information given by the Government shows that the monthly lodging fees of private convalescent home is around \$7,000, I believe the additional amount would make the injured employee financially better-off and he would be able to afford the lodging expenses of a convalescent home or employ a servant to take care of him.

Thanks to the efforts of Members of this Council, the employer and employee sides finally reached a consensus to make the Scheme better, more reasonable and sensible.

With these remarks, Madam President, I support the Bill.

MR KENNETH TING (in Cantonese): Madam President, after dozens of discussion sessions on the Employees Compensation Assistance (Amendment) Bill 2002, the Bills Committee has reached a consensus on the contents and provisions of the Bill. During the Second Reading today, the Liberal Party would like to express its views on the Bill.

In view of the fact that the Employees Compensation Assistance Fund (the Fund) has incurred serious deficits in recent years, the Liberal Party agrees with the remedial measure of making relief payment under the Scheme in order to alleviate the effects of the financial instability arising from common law damages and provide injured employees with reasonable compensation. With the amendment, the deficit position would be alleviated and employees would continue to be given assistance.

However, the Fund is limited after all and we must prudently consider the eligibility for relief payment.

First of all, the objective of the Fund is to help employees who have sustained work-related injuries and his family members. To make the most effective use of resources, priority has to be set for compensation and consideration should be given to the next of kin first.

Yet, if the dependent siblings of the injured employee who are the age of 21 should be eligible as stated in the Committee stage amendment, then should other dependents under 21 years of age of the injured employee be included, too? Has the eligibility been set too extensive to be unrealistic? Even so, if the amendment is passed, we can consider the proposal if the dependent siblings of the injured employee who are under the age of 21 are required to prove their dependence before they can be eligible. Nevertheless, the existing amendment does not meet our requirement, so we would not support it.

In fact, the Government has pointed out in the survey in 2001 that, among 85 accidents in which employees died as a result of work-related injuries and against which relief payment was applied for, there is not a single case in which the deceased only had surviving siblings rather than a spouse, children or parents. Thus, we should all the more not support the amendment.

From the insurance perspective, if the amendment is passed, the premium payable on employees' compensation insurance would increase, which would definitely put a heavier burden on employers. Let us consider the above example again, not a single case like this was found among the 85 accident cases. The premium is increased for this reason but there is no expansion in the actual beneficiaries, I believe the insurance sector would not refuse to accept insurance like this. Yet, it would be unrealistic because the costs would consequently

increase. Thus, the Liberal Party does not agree to changing the provisions on the eligible persons casually.

After the September 11 incident, the business environment of insurance companies has become grim and we can hardly ensure that there would not be another closure of an insurance company, leading to a substantial increase in applications by employers for assistance from the fund. But now, an injured employee can still apply for compensation more than 180 days after an accident, but an employer is not given the same treatment. But the Government refuses to make amendments in this regard, which cannot be justified. How can the Government improve the business environment? To enable the passage of the Bill, we would not go on discussing the matter. However, the Government must enhance publicity on the relevant legislation so that an employer would know the pertinent procedures and would not be deprived of the right to apply for assistance from the Fund. This way, employers and employees would be equally protected.

Lastly, as a member of the Bills Committee, I hope the authorities would consider the actual situation set out above so that the amended Ordinance would create a situation in which employers, employees and the Government would be winners.

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

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

MR LEE CHEUK-YAN (in Cantonese): Madam President, I really feel uneasy if I have to support this Bill today because it actually means a retrogression in respect of the interests of employees. With the closure of the HIH Insurance Group and its liabilities of \$300 million at the background, the Employees Compensation Assistance Fund (the Fund) has been caught in financial straits. The Fund was already inadequate and it has now become financially more stringent with the liabilities of \$300 million. But in the long run, insurance companies should definitely bear responsibilities for such cases as that of the HIH. Employers have often asked why good employers have to subsidize bad employers. Now, all employers are required to subsidize an insurance

company that has closed down. Insurance companies may say that they can effect insurance protection themselves but they would shift the premium onto employers. Certainly, it may lead to an increase in premium but it is at least fair. If employers do not want insurance companies to shift the premium onto them, it would be best for employers and employees to request the Government to establish a central employee's insurance fund to be directly co-ordinated by the Government. Then there would not be similar incidents any more and they do not have to worry even if any insurance company should close down.

Moreover, as I have just said, the entire Bill is regressive. It is mainly because the original full compensation would become a relief payment in the future. It has become an *ex gratia* payment in principle, different from its nature before. In the past, the compensation is based on the award by the Court, but now, regardless of the award by the Court, compensation is ultimately made in the form of *ex gratia* payment. In other words, the principle has changed and full compensation is no longer made. Since it is an *ex gratia* payment, full compensation is not a must. Thus, the original full compensation has been "discounted".

Let me briefly explain how full compensation has been "discounted". A very obvious method is to pay the compensation, especially compensation for common law damages of \$1.5 million in a lump sum first, and the remaining compensation will be made in monthly instalments of \$10,000 or on the basis of the monthly salary of the injured employee. At present, compensation is mostly made to low-income workers. Assuming that the worker concerned can get \$10,000 a month, the compensation payable to him is thus limited by his life span. If he lives longer, he can get full compensation, but if his life span is shorter or his children have grown up, he may get less compensation. With this method, the compensation that an injured employee can ultimately get is limited by his life span. This is the first method.

There has been little mention of the second method which has been extensively discussed in the Bills Committee. We intended to propose an amendment but I am not going to propose an amendment as I failed to work out an amendment. Normally, I will seldom admit defeat but I would admit it this time. However, in respect of the compensation for common law damages, the Court would rule that part of the compensation amount would go to the estate. For instance, \$500,000 of the compensation would be ruled as an estate, so the \$500,000 cannot be counted as compensation payable because no compensation

would be made to an estate according to the law. Since the estate belongs to the spouse or cohabitant of the injured employee, so the compensation should go to them. Now that it is called an estate, the injured employee cannot get the compensation; thus, the compensation has been discounted.

I intended to propose an amendment but since it involved a lot of technicalities, I could not do so. Honestly, the only method is to petition the Court on a case-by-case basis, asking the Court not to rule the relief payment as part of the estate, but award the compensation as a lump sum instead. Hence, in the future, we have to do so on a case-by-case basis and tell the representing lawyer to request the Judge not to award the relief payment as part of estate. As an alternative, the parties can agree upon a settlement. In that case, it is not necessary to specify which part of the compensation is estate and which part is compensation. This is the second cause of discounted compensation.

Therefore, there would be limitations to the compensation for an employee but I welcome what the Government has done. The Bills Committee has suggested that the paralyzed who need long-term care and attention should be given better care and attention. We proposed to increase the monthly payment for an injured employee from \$10,000 to \$30,000 and we welcomed the Government's discussion of the issue with the LAB, and they finally reached a consensus in \$20,000. Would \$20,000 be enough? Sometimes, we do not have to argue about numbers but, at least, we have not let the employees concerned down. We uphold the principle that we should not let them down. Though a monthly payment of \$20,000 is not good enough, I would at least have an easy conscience, as I have not let them down.

Yet, I felt sorry for the siblings of the injured employee who are aged under 21. They are the target of the amendment mentioned by me earlier, and the Bills Committee ought to make amendments.

Mr TING said earlier that he would vote against the amendment, so I would make a last-ditch attempt to lobby Members who intend to vote against the amendment to vote in support of it. Perhaps I should explain my point here. Firstly, if an injured employee in a non-fatal case is not dead, and is given compensation in the form of relief payment after the injury. But if he passes away in the course of receiving the relief payment, who should be the recipient of the relief payment? The problem lies here. According to the law, the recipient should be the surviving spouse or cohabitant. If there is no surviving

spouse or cohabitant, the recipients should be the surviving parents. However, if there were no surviving spouse, cohabitant or parents, nobody would receive the relief payment.

It leads to the problem of the siblings of the injured employee aged under 21. They would be eligible only if all the persons mentioned above cannot be found or are dead. If the injured employee is not dead, or his spouse, cohabitant or parents are not dead, the siblings problem would not emerge. Members have to be clear about this point. Having heard Mr TING's remarks, I am afraid he may have certain misunderstandings. Certainly, there is rarely any case in which the brother or sister of the injured employee aged under 21 is eligible because all the persons concerned are dead. There was not one single case among the 85 cases in the past. Yet, I am only asking Members to go after an easy conscience. Should such a case really arise in the future, the persons concerned (that is, the siblings of the injured employee aged under 21) may query how we voted and why they could not receive the relief payment. We cannot rule out the possibility that an injured employee might have to support his brother or sister. He might not have a surviving parent, but he had to support his brother or sister. Would the existing practice do justice to his brother or sister? What should we do if there is such a case in the future? It is true that none of the 85 cases in the past was like that but we cannot rule out the possibility in the future. Some may say that the number of cases would be negligible, but I do not think that it is so. A case is a case and I do not want anybody to be influenced by the voting result today.

Mr TING has mentioned the case of increase in premium, but I think we need not worry at all. Now that none of the 85 cases in the past was like that, it would be highly improbable for there to be such a case and even the actuaries who calculate the premium would not do the calculation that way. It would involve another layer of calculation and an insurance company cannot directly calculate the risks. In the event of an insurance company closing down or an employer has not taken out insurance, the levy would only be indirectly affected. Therefore, an increase in premium should not be factored into the consideration at all.

Therefore, I hope that Members would have an easy conscience when they press the button to vote today. In the future, if a victim asked why we had voted that way, we would be able to give an explanation. I have made the last effort and I hope that the voting result would be able to address such rare cases

that may emerge. It is also our responsibility to do so. Thank you, Madam President.

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

(No Member responded)

PRESIDENT (in Cantonese): Secretary for Education and Manpower, please reply.

SECRETARY FOR EDUCATION AND MANPOWER: Madam President, the Employees Compensation Assistance (Amendment) Bill 2002 was introduced into the Legislative Council on 27 February 2002. The objective of the Bill is to reform the Employees Compensation Assistance Scheme (the Scheme) so as to restore its long-term financial viability.

I am most grateful to the Honourable Audrey EU and members of the Bills Committee for their efficiency in scrutinizing the Bill. I would also like to thank members of the Bills Committee for their constructive and pragmatic views. In response to their suggestions, I shall move several amendments at the Committee stage.

I am pleased to note that the Finance Committee of the Legislative Council has approved an additional loan of \$220 million to the Employees Compensation Assistance Fund Board (the Board) last Friday. This loan is an essential component of the set of financial arrangements that aims to tide over the cash flow problem faced by the Board in meeting the liabilities that arise from the insolvency of two local subsidiaries of the HHH group of insurers.

In moving the Second Reading of the Bill, I pointed out that the Bill would repeal relevant sections of the principal Ordinance relating to insurer insolvency. I also informed Members that the Commissioner of Insurance had been discussing with the insurance industry on a separate scheme to cover insurer insolvency. I understand that the Bills Committee had a thorough discussion on

this issue and received submissions from concerned parties, in particular the insurance sector.

The Honourable Bernard CHAN makes reference to paragraph 14 of the explanatory memorandum of the Amendment Bill. I have to make it clear that this explanatory memorandum does not form part of the Amendment Bill. It is only intended to put in plain words the effect of clause 30 of the Amendment Bill, which seeks to repeal the relevant sections of the principal Ordinance. Notwithstanding the reservations which the Honourable Bernard CHAN has expressed on behalf of the insurance industry regarding the establishment of an industry-based scheme to cover insurer insolvency in relation to employees' compensation insurance, I am pleased to note that the insurance industry is now prepared to commence work on the establishment of a fund. This is on condition that the insurance authority will step up its regulatory control on insolvency that the fund should be modelled on the Motor Insurers' Bureau of Hong Kong and be formed as a limited company by guarantee, and that there shall be an additional member of the Board who is a person having expertise in the practice of insurance. The Administration has agreed to these conditions.

As I pledged when moving the Second Reading of the Bill, we will not put into effect those provisions that remove insurer insolvency from the principal Ordinance unless and until the separate scheme is in place.

Ms Audrey EU and some members of the Bills Committee have expressed concern about the complexity involved in administering the relief payment and the increased workload on the Board in processing applications from eligible persons. The Labour Department will liaise with the Board to help work out the necessary procedural changes to implement the amendments. The aim will be to streamline procedures as far as possible so as to expedite the payment of relief and at the same time to build in sufficient safeguards to minimize disputes and avoid inadvertent mistakes.

Madam President, the Employees Compensation Assistance (Amendment) Bill 2002 is the outcome of protracted negotiations between employer and employee representatives with a view to restoring the long-term viability of the Scheme. The agreed financial package provides reasonable protection for injured employees and family members of deceased employees on the one hand, and on the other hand, more prudently manages the financial exposure of the

Employees Compensation Assistance Fund (the Fund) with the introduction of a monthly relief payment. The intention of the Bill is not, as the Honourable LAU Chin-shek suggested, to reduce the entitlement of injured employees, but rather to even out the cash flow of the Fund by replacing lump sum payment of common law damages with monthly relief payment. Indeed, the initial payment of \$1.5 million was fixed after taking into account the amount of common law damages assisted by the Board since its inception in 1991. Under the proposed level, the vast majority of injured employees receiving assistance from the Scheme shall be able to receive full entitlement of the relief payment within a reasonable period of time. The Honourable LEE Cheuk-yan suggested the establishment of a central employees' compensation bureau. I must say that the Administration objects to this idea. The existing employees' compensation system works well. We do not see sufficient grounds to introduce fundamental change to replace the existing market-oriented system. A central bureau working under a monopolistic environment is unlikely to operate in an efficient and cost-effective manner.

Madam President, this exercise has involved prolonged discussions in the Labour Advisory Board (LAB) and an iterate process between the Bills Committee and the LAB through the intermediary of the Labour Department. Throughout these discussions, we fully appreciate the goodwill on both sides to accommodate each other. The consensual spirit is commendable and I appeal to Honourable Members to support the Bill and the amendments which I shall propose at the Committee stage.

Thank you.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the Employees Compensation Assistance (Amendment) 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.

(No hands raised)

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

CLERK (in Cantonese): Employees Compensation Assistance (Amendment) Bill 2002.

Council went into Committee.

Committee Stage

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

EMPLOYEES COMPENSATION ASSISTANCE (AMENDMENT) BILL 2002

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Employees Compensation Assistance (Amendment) Bill 2002.

CLERK (in Cantonese): Clauses 2, 4, 5, 6, 9, 10, 11, 13, 15, 16, 18, 20, 21, 22, 24 to 28, 31 and 33.

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.

CLERK (in Cantonese): Clauses 1, 7, 8, 14, 17, 19, 23, 29, 30 and 32.

SECRETARY FOR EDUCATION AND MANPOWER: Madam Chairman, I move the amendments to the clauses read out just now as set out in the paper circularized to Members.

The first amendment to clause 1 spells out clearly that the Amendment Ordinance, save for the provisions relating to insurer insolvency, shall come into operation on 1 July 2002. The second amendment to the same clause is consequential to the Legislative Council resolution passed on 19 June 2002 which transfers the statutory functions under the Employees Compensation Assistance Ordinance from the Secretary for Education and Manpower to the new principal official under the accountability system.

We also propose to amend clause 29 to update the reference to the new principal official who shall exercise the relevant statutory functions under the Ordinance.

The original clauses 7 and 8 have sought to amend sections 17 and 18 of the principal Ordinance so as to enable a principal contractor who has taken out an insurance policy in accordance with section 40(1B) of the Employees' Compensation Ordinance (ECO) to apply for assistance from the Employees Compensation Assistance Fund (the Fund). During the deliberations of the Bills Committee, the Hong Kong Construction Association sought clarification over the protection to principal contractors affected by the insolvency of two local subsidiaries of the HHH group of insurers. To address this concern, we have decided to make it clear that the right to apply for assistance by virtue of the amended sections 17 and 18 shall be applicable to all eligible claims irrespective of whether the notice of insurer insolvency is issued by the Employees Compensation Assistance Fund Board (the Board) before, on or after the commencement of the Amendment Ordinance.

Clause 17 adds section 25A so that the Board may join in the proceedings at the High Court with a view to protecting the interests of the Fund. It is proposed to make a number of minor amendments to section 25A by clarifying that the Board may also apply for joining in the proceedings at the District Court in accordance with the Rules of District Court, as the case may require.

Clause 17 also adds section 25B(1) so that a potential applicant is required to notify the Board when he initiates proceedings to claim compensation or damages. Section 25B(3) further requires such applicants to notify the Board within a stipulated time period when he proposes to reach a settlement or obtain a judgement against the other party. Any applicant who fails to comply with the provisions shall not be entitled to any assistance under the Employees Compensation Assistance Scheme. However, it is considered that there might be practical difficulty in ascertaining the date on which a proposal is made by the applicant. Therefore, we propose to amend section 25B(3) so that the applicant is required to notify the Board not less than 10 days before the date of the agreement or judgement as the case may be.

Some members of the Bills Committee also considered that the Board should be given the discretion to allow applicants, in appropriate cases, to give a shorter notice under section 25B(3). After careful consideration, we agree to add section 25(3A) so as to allow the Board to shorten the 10-day period if it is satisfied that the applicant has good reasons for failing to comply with the notice requirement.

Clause 23 adds section 36A to provide that uninsured employers shall be liable to pay a surcharge to the Board at three times the levy payable to the Board in respect of the insurance policy taken out afterwards. During the deliberations at the Bills Committee, it was suggested that employers who repeatedly contravened the compulsory insurance requirement under the ECO should be required to pay a higher level of surcharge to the Board. With the support of the Labour Advisory Board, we now propose to amend the clause to require that employers who contravened the compulsory insurance provisions again within a period of two years shall be liable to pay a surcharge at twice the amount of the normal rate of surcharge.

On the advice of the Judiciary Administrator, we also propose to refine those provisions under section 36A on appeals by employers if they are not satisfied with the determination by the Board in relation to the surcharge.

Clause 32 adds a Schedule 4 to prescribe the amounts of relief payment or surcharge. This is to reflect the agreement reached in the Bills Committee to provide an enhanced amount of monthly payment to severely injured employees who are in need of long-term care and attention.

The rest of the amendments relating to clauses 14, 19 and 30 are textual in nature.

The above-mentioned Committee stage amendments have been agreed with the Bills Committee after detailed discussion. I commend them to Honourable Members.

Proposed amendments

Clause 1 (see Annex IV)

Clause 7 (see Annex IV)

Clause 8 (see Annex IV)

Clause 14 (see Annex IV)

Clause 17 (see Annex IV)

Clause 19 (see Annex IV)

Clause 23 (see Annex IV)

Clause 29 (see Annex IV)

Clause 30 (see Annex IV)

Clause 32 (see Annex IV)

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 amendments moved by the Secretary for Education and Manpower be passed. 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): Clauses 1, 7, 8, 14, 17, 19, 23, 29, 30 and 32 as amended.

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.

CLERK (in Cantonese): Clauses 3 and 12.

SECRETARY FOR EDUCATION AND MANPOWER: Madam Chairman, I move the amendments to clauses 3 and 12 as set out in the paper circularized to Members.

During the deliberations by the Bills Committee, some members considered that the proposed minimum amount of the monthly relief payment at \$10,000 would not be sufficient to meet the needs of severely injured employees

who need long-term care and attention of other persons. Having regard to such concern, the Administration consulted the Labour Advisory Board (LAB) on the proposal to provide further assistance to these severely injured employees.

After careful consideration, the LAB agreed to the Government's proposal that an enhanced monthly payment at \$10,000 shall be payable to a severely injured employee who suffers from quadriplegia or paraplegia resulting from the injury as a result of which is unable to perform the essential actions of life without the care and attention of another person, and who is awarded expenses for such care and attention by the Court. This enhanced amount of monthly payment shall be payable until the death of the injured employee or the aggregate amount of the relief payment has been exhausted, whichever is the earlier.

In order to give effect to the proposal, it is necessary to add relevant definitions under clause 3 and amend sections 20C and 20D under clause 12 to provide for the details of the proposal.

Under clause 12, we also propose to introduce technical amendments to sections 20A and 20B so as to make it clear that in a non-fatal work injury, the injured employee's surviving spouse or cohabitee, children under the age of 21 and parents shall be entitled to relief payment even though the injured employee dies for a cause not relating to the employment-related injury before the Court passes down the award of damages.

I urge Members to vote in support of these amendments.

Proposed amendments

Clause 3 (see Annex IV)

Clause 12 (see Annex IV)

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 amendments moved by the Secretary for Education and Manpower be passed. 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.

MS AUDREY EU (in Cantonese): Madam Chairman, on behalf of the Bills Committee on Employees Compensation Assistance (Amendment) Bill 2002 (the Bills Committee), I move that clauses 3 and 12 be further amended, as set out in the paper circularized to Members. Madam Chairman, the amendments are related to non-fatal cases, meaning cases in which workers are injured in the course of employment but the injuries do not result in death. In general, relief payments are paid to the worker. However, the injured worker may then unfortunately die due to other accidents such as a traffic accident, a heart attack, or other causes. The problem is: After his death, who is entitled to receive the balance of the payment?

Some relief payments are made in a lump sum, while others are made on a monthly basis. The Employees Compensation Assistance (Amendment) Bill 2002 proposes that relief payment be made to eligible persons, as defined in the Bill. In order of priority, they are a spouse or cohabitant, failing whom, his or her children under 21, and if he or she has no children under 21, his or her surviving parents. A line is drawn here. Even if there is still relief payment outstanding, no other eligible persons will be available to receive payment. As Mr LEE Cheuk-yan said a short time ago, the injured worker's relief payment receivable is dependent on his life span, meaning that if all of the said families have passed away, no other persons will be eligible to receive payment even if the payment awarded by the Court has not been fully paid.

Some members suggested that under such circumstances, though the deceased worker may not have families as mentioned above, he or she may have dependent brothers or sisters attending school. The Bill should then include one more category of persons. In other words, if there are no families as mentioned, that is, spouses, cohabitants, children under 21 or surviving parents, we should add a category, which are dependent brothers or sisters below 21 years of age. In general, they are younger brothers or sisters.

The proposal this time is limited to this part and stipulates that when the dependent brothers or sisters reach the age of 21, the monthly relief payment should be discontinued. The Government rejected the proposal mainly because in the 85 cases in the past, no such a scenario arose. Another reason for its rejection is that the Labour Advisory Board (LAB) would not agree to the proposal. Mr Kenneth TING, on behalf of the commercial sector has stated his reasons for objection in his speech earlier. He indicated that if relief payment were made to dependent brothers or sisters below 21 years of age, the levy on insurance would increase. But from what we can see, this has not happened so far. Even if the levy had to be increased, it would not be a large increase. Without prejudicing our major principles and for the sake of fairness, we voted on this part of the Bill in the Bills Committee. The result was that most of the members expressed support for this. Thus, I am proposing the amendment on behalf of the Bills Committee.

Madam Chairman, I was Chairman of the Bills Committee and naturally I did not cast my vote at the time. But I do not think there will be many such cases and the amendment should therefore not affect any of our major principles. Nor will it lead to an increase in insurance levy as a result. I do understand that the Government wants to respect the agreement reached in the LAB. However, the Legislative Council has to perform its duties, that is, dealing with the matter in a fair and humane manner. Though such cases have not happened before, no one can guarantee they will not appear in future. Hence if an injured worker unfortunately dies and he or she has no other families than some dependent brothers or sisters below 21 years of age, then, these brothers or sisters should be allowed to draw the monthly relief payment or to share the relief payment in a lump sum. Thus, Madam Chairman, I support the amendments.

Proposed amendments

Clause 3 (see Annex IV)

Clause 12 (see Annex IV)

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

MR KENNETH TING (in Cantonese): Madam Chairman, I would like to clarify one point. At the Bills Committee on Employees Compensation Assistance (Amendment) Bill 2002 (the Bills Committee), I mentioned that if the injured worker who subsequently died had to support his or her brothers or sisters while he or she was living, and there was proof of that, the Liberal Party could consider accepting the proposal. However, the Government regarded it necessary for the sake of fairness to require proof from all parents and children as well. In the circumstances, the Bills Committee did not agree that such proof should be demanded. As I said, the Liberal Party rejected the amendments because we did not think it is right for the necessary proof to be waived.

MR LEUNG YIU-CHUNG (in Cantonese): Madam Chairman, I would like to thank Ms Audrey EU for having proposed the amendments in her capacity as Chairman of the Bills Committee on the Employees Compensation Assistance (Amendment) Bill 2002 (the Bills Committee). She led the proposition. But in fact it was I who proposed the idea. The point raised by Mr Kenneth TING was not necessary because I think Ms EU has stated clearly that the Bill stipulates that it is in the absence of a surviving spouse, cohabitant, parents or children under 21 years of age that relief payment can be made to the dependent brothers or sisters aged under 21. This is the last step. Even if the injured worker may not have to support his or her parents, or he or she has no surviving parents or brothers or sisters before his or her death, he or she still has to be responsible for his or her own living expenses and it is at the last moment that the money reaches him or her. So, at any rate, I think it must be real dependent brothers or sisters of the injured who can benefit from the relief payment. Those brothers or sisters with other sources of support will not claim the relief payment. This is my major view, which I hope Mr TING can reconsider. I cannot think of any situation in which brothers or sisters not really dependent on the injured worker may claim the payment. I hope Mr TING can cite examples to explain his point, but I do not think it is easy. I hope Mr TING may reconsider this.

Regarding the possibility of the levy being increased, I hope Members can agree that the injured worker is entitled to the payment but it is because of his or her death that he or she cannot receive it. So, I think it is untenable to use the

possibility of an increase in levy to oppose the amendment. I hope Members may approach the issue from many angles. If teenagers — I call them teenagers — under 21 years of age are not allowed to receive the payment, how can they live on? They may have to rely on Comprehensive Social Security Assistance, which would mean a burden to the community. What good is it? Since the payment is their entitlement, why not give it to them rightfully?

Though the Labour Advisory Board (LAB) did not endorse the proposal, I do not know whether the LAB had considered the matter in such detail. This is indeed a very small amendment that seeks to grant entitlement to dependent brothers and sisters aged under 21. The amendment would involve a very small amount. Even the Government said that in the 85 cases, no such situation had arisen. So, the LAB may have overlooked this point. I think it is very unfair to those affected by the decision if the amendment is opposed on the reason that the LAB has not endorsed it. I hope Members can think the issue over: If the major breadwinner of the family is gone, with several teenagers aged under 21 surviving, why do we not care for them? How can we be so apathetic? I hope Members may be more sympathetic. I support the amendments.

MR LEE CHEUK-YAN (in Cantonese): Madam Chairman, I have stated my rationale and I think it is time we talk about sympathy. This is the last time the Secretary for Education and Manpower attends the Council meeting. Would she please agree to the amendments? The Secretary has rejected my views many times. Since this is the last time she may speak for the workers, I hope she may do them a favour by endorsing the amendment.

MR FREDERICK FUNG (in Cantonese): Madam Chairman, basically, I support the speeches made by several Members in favour of the amendments.

I would like to speak on three points. Though the first two have already been covered by some Members, I would like to reiterate: First, the money has been granted and become an entitlement of the injured worker. It is due to other reasons that the worker dies before procedures for receipt of the money are completed. So, this should not be linked to insurance because the money has been granted.

Secondly, the payment is expected to be received by the injured, rather than something that the injured is not entitled to, and so insurance is not going to be affected.

Thirdly, people can claim deductions for dependent brothers and sisters now. Do I remember it correctly? If I am wrong, I hope the Secretary may correct me later. I recall the proposal was made by Mr Donald TSANG, the former Financial Secretary. Certainly, brothers and sisters refer to those who are under age and have to rely on their elder brothers and sisters for support. Or are they brothers and sisters still attending school so that their elder brothers and sisters may claim tax deductions? We seem to have discussed this three or four years ago. I recall we had a discussion and some deliberation on family members who are major breadwinners, being responsible for the livelihood of other young family members. For the same rationale and values, I hope the Secretary may consider accepting the amendments.

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

(No Member responded)

SECRETARY FOR EDUCATION AND MANPOWER: Madam Chairman, the Administration is against the amendments proposed by the Honourable Audrey EU on behalf of the Bills Committee.

The Amendment Bill provides that in a non-fatal accident, a relief payment shall be payable to an injured employee who has been awarded common law damages for the employment-related injury by the Court. In the situation where the injured employee dies before exhausting the full amount of the relief payment to which he is entitled, the payment would be made to the surviving spouse, cohabitee and children under the age of 21. Where the employee does not leave any such family member, his surviving parents would be entitled to the relief payment.

We do not agree with the Bills Committee's proposal to include the dependant brother and sister under the age of 21 as eligible persons for relief payment upon the death of the injured employee for the following reasons.

First, the relief payment is *ex-gratia* in nature. In principle, damages should only be paid to the injured employee and should terminate in the situation where the injured employee dies before exhausting the full amount of the relief payment to which he is entitled. Our proposal to extend the payment to the surviving spouse, cohabitee, children and parents of the injured employee enables the most closely related family member to continue to benefit from the remaining balance of the relief payment, and strikes a reasonable balance between the interests of the employer and the interests of the injured employee.

Second, the scope of the relief payment was discussed at length by the Labour Advisory Board (LAB) and a clear consensus was reached on the group of persons who should be entitled to the relief payment. Brothers and sisters were not included in the agreed categories. The Bills Committee's proposal would give rise to questions as to why other dependants of the injured employee should not be treated equally as brothers and sisters under the age of 21. To re-open the issue for further consultation with the LAB on the amendment of the Bills Committee will unscramble the agreed financial arrangements and delay implementation of the reformed package to the Employees Compensation Assistance Fund (the Fund) which is urgently in need of an injection of funds to meet recurrent commitment.

Third, the Bills Committee's proposal to include dependant brothers and sisters under the age of 21 as eligible persons for relief payment upon the death of the injured employees would introduce a dependency criterion. The existing provision of the Amendment Bill does not require the other family members such as the spouse, children or parents to prove their dependency on the injured employee before they are entitled to the relief payment. The Bills Committee's proposal would, therefore, create two different categories of eligible persons, those that do not need to prove dependency and those that do.

The Chairman of the Employees Compensation Assistance Fund Board (the Board) which is responsible for the administration of the Fund has also expressed serious reservations on the proposal because of the difficulty of determining "dependency". As a statutory body, the Board could only determine applications in accordance with clear guidelines under the law. In the absence of a clear definition of what constitutes "dependency" in the proposed amendment, the Board's executive decision and discretion will easily lead to arguments and appeals that may lead to protracted court proceedings.

Honourable Members may recall that the Employees' Compensation Ordinance was amended in August 2000. One of the major change was to replace "dependants" of the worker at the time of the accident as persons entitled to compensation for death by his family members. The reason for this change was that dependency had to be determined by the Court and the determination involved time-consuming processes. Many people had to wait for many months or even years before they could receive any compensation. The long time taken has inflicted hardship on the family members of the deceased worker. The new element introduced by the Bills Committee could be a retrograde step. Such delay in payment is contrary to the spirit of the Employees Compensation Assistance Scheme.

For the reasons which I have outlined, I am afraid that I have to disappoint the Honourable LEE Cheuk-yan again, despite the fact that this is my last meeting speaking on behalf of labour matters. I urge Honourable Members to vote against the amendments put forward under the name of the Bills Committee.

MS AUDREY EU (in Cantonese): Madam Chairman, I must give Mr Kenneth TING an assurance because he questioned how dependence of brothers and sisters could be proved. Must that be proved? In fact, the amendments already state that the injured employee's surviving brother or sister must be a *bona fide* dependent of the injured employee at the time of the death of the injured employee before he or she is eligible to receive relief payment.

Madam Chairman, I learned from the Secretary's reply that she thought it was not easy to prove dependence. I find this very strange. But I do not think this should constitute a reason for opposition. Before an injured employee can receive relief payment, he must be awarded compensation. If he passes away, the Court will award a proportion of dependence in respect of the compensation. However, we are now talking about non-fatal cases in which the Court will certainly not make a ruling on dependence. Nevertheless, let us think about this. The injured employee may not have a surviving spouse, surviving children or parents but he may be supporting a group of brothers and sisters under the age of 21 who live with him most of the time. They are certainly without income, and may be attending school. If it is not the injured employee who supports them, who will support them? Unless money falls from the sky, why can that support

not be proved? Why will there be any difficulty in proving that support? Why should their receipt of the relief payment be delayed?

We said earlier that if the amendments were passed, there would be more work for the Fund. We know this already because there will be many categories of eligible persons, including those eligible persons in non-fatal cases, and many more other eligible persons than those who are involved in non-fatal cases under our present discussion. So, no doubt, the Fund will face added workload, but the scope we are talking about is so narrow that it is impossible to say it would be difficult to prove that the injured employee was, before his death, supporting the brothers and sisters. We do understand there was an agreement in the Labour Advisory Board (LAB) but we should not refer the issue back to it for further consultation because this would delay the passage of the Bill.

Madam Chairman, you will remember that we had a discussion about compensation for seriously injured employees. At that time, Mr LEE Cheuk-yan considered \$10,000 was too small an amount and wanted to change it to \$30,000. After all meetings had been held, the Government approached the LAB again on the issue. It then indicated \$30,000 was not possible but \$20,000 was acceptable. However, the Government did not seem to intend to contact the LAB again regarding the issue of surviving brothers and sisters this time. We felt most sorry about this. If the other categories of persons such as spouse, cohabitant and children need no proof of dependence on the injured employee before they can receive the relief payment, we need only add an extra requirement for the brothers and sisters under the age of 21 in our present discussion. That requirement is that they must be dependent on the injured employee at the time the injury occurred. This will not lead to any conflict. Madam Chairman, for these reasons, I hope that colleagues, in particular, colleagues from the Liberal Party, can support the amendments for they involve just those brothers and sisters who are under the age of 21 and proved to be dependent on the injured employee. Hence, Madam Chairman, I hope they can support the amendments.

CHAIRMAN (in Cantonese): I now put the question to you and that is: That the amendments moved by Ms Audrey EU 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 LEE Cheuk-yan rose to claim a division.

CHAIRMAN (in Cantonese): Mr LEE Cheuk-yan 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:

Dr Raymond HO, Miss Margaret NG, Mr CHEUNG Man-kwong, Mr SIN Chung-kai, Mr LAW Chi-kwong, Miss LI Fung-ying and Mr Michael MAK voted for the motion.

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

Geographical Constituencies and Election Committee:

Miss Cyd HO, Mr Albert HO, Mr LEE Cheuk-yan, 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, Mr Frederick FUNG and Ms Audrey EU voted for the motion.

Mr CHAN Kam-lam, Mr Jasper TSANG, Mr LAU Kong-wah, Miss CHOY So-yuk, Mr TAM Yiu-chung, Dr David CHU, Mr NG Leung-sing, Mr YEUNG Yiu-chung, Mr Ambrose LAU and Mr MA Fung-kwok 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, 24 were present, seven were in favour of the amendment and 17 against it; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 26 were present, 15 were in favour of the amendment and 10 against it. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the motion was negatived.

CLERK (in Cantonese): Clauses 3 and 12 as amended.

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.

CLERK (in Cantonese): Schedule.

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.

EMPLOYEES COMPENSATION ASSISTANCE (AMENDMENT) BILL 2002

SECRETARY FOR EDUCATION AND MANPOWER: Madam President, the

Employees Compensation Assistance (Amendment) Bill 2002

has passed through Committee with amendments. I move that this Bill be read the Third time and do pass.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Employees Compensation Assistance (Amendment) Bill 2002 be read the Third time and do pass.

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

(Members raised their hands)

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

(Members raised their hands)

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

CLERK (in Cantonese): Employees Compensation Assistance (Amendment) Bill 2002.

MOTIONS

PRESIDENT (in Cantonese): Motions. Proposed resolution under the Pharmacy and Poisons Ordinance to approve the Pharmacy and Poisons (Amendment) (No. 2) Regulation 2002 and the Poisons List (Amendment) (No. 2) Regulation 2002.

PROPOSED RESOLUTION UNDER THE PHARMACY AND POISONS ORDINANCE

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Madam President, I move that the motion to amend the Poisons List Regulations and the Pharmacy and Poisons Regulations as set out in the paper circulated to Members be approved.

Currently, we regulate the sale and supply of pharmaceutical products through a registration and inspection system set up in accordance with the Pharmacy and Poisons Ordinance. The Ordinance maintains a Poisons List under the Poisons List Regulations and several Schedules under the Pharmacy

and Poisons Regulations. Pharmaceutical products put on different parts of the Poisons List and different Schedules are subject to different levels of control in regard to the conditions of sale and keeping of records.

For the protection of public health, some pharmaceutical products can only be sold in pharmacies under the supervision of registered pharmacists and in their presence. For certain pharmaceutical products, proper records of the particulars of the sale must be kept, including the date of sale, the name and address of the purchaser, the name and quantity of the medicine and the purpose for which it is required. The sale of some pharmaceutical products must be authorized by prescription from a registered medical practitioner, a registered dentist or a registered veterinary surgeon.

The Amendment Regulations now before Members seek to amend the Poisons List in the Poisons List Regulations and the Schedules to the Pharmacy and Poisons Regulations, for the purpose of imposing control on a number of new medicines and tightening the control of oral contraceptive products containing oestrogenic and progestational substances.

The Pharmacy and Poisons Board proposes to add three new medicines to Part I of the Poisons List, and the First and Third Schedules to the Pharmacy and Poisons Regulations so that pharmaceutical products containing any of them must be sold in pharmacies under the supervision of registered pharmacists and in their presence, with the support of prescriptions.

In addition, the Pharmacy and Poisons Board proposes to modify the exemption given to oral contraceptive products. At present, steroid compounds with androgenic or oestrogenic or progestational activity are prescription only medicines, but preparations intended to be taken orally for contraceptive purpose only which contain not more than 50 mg of oestrogenic substance and not more than 5 mg of progestational substance are exempted from such control, so that they can be sold freely over-the-counter. However, these exemption levels do not take into account the different potencies and side effects of individual steroid compounds. The Pharmacy and Poisons Board now proposes to specify the exemption level for individual steroid compound contained per dose in the oral contraceptive product. This is done by adopting the highest level of each steroid compound contained in each of the 35 oral contraceptive products currently registered in Hong Kong as the new exemption levels. Oral contraceptive products containing any steroid compound for which exemption

levels have not been set, or containing an existing steroid compound at a level exceeding the exemption level, will be considered on a case by case basis if exemption is justified.

The two Amendment Regulations are made by the Pharmacy and Poisons Board, which is a statutory authority established under section 3 of the Ordinance to regulate the registration and control of pharmaceutical products. The Board comprises members engaged in the pharmacy, medical and academic professions. The Board considers the proposed amendments necessary in view of the potency, toxicity and potential side effects of the medicines concerned.

Madam President, I beg to move.

The Secretary for Health and Welfare moved the following motion:

"That –

- (a) the Pharmacy and Poisons (Amendment) (No. 2) Regulation 2002;
and
- (b) the Poisons List (Amendment) (No. 2) Regulation 2002,

made by the Pharmacy and Poisons Board on 28 May 2002 be approved."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by the Secretary for Health and Welfare be passed.

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

PRESIDENT (in Cantonese): Proposed resolution under the Factories and Industrial Undertakings Ordinance to approve the Factories and Industrial Undertakings (Woodworking Machinery) (Amendment) Regulation 2002. Secretary for Education and Manpower, you may now move your resolution.

PROPOSED RESOLUTION UNDER THE FACTORIES AND INDUSTRIAL UNDERTAKINGS ORDINANCE

SECRETARY FOR EDUCATION AND MANPOWER: Madam President, I move that the Factories and Industrial Undertakings (Woodworking Machinery) (Amendment) Regulation 2002 made by the Commissioner for Labour be approved.

The proposed Amendment Regulation seeks to prohibit the employment of persons under 16 years of age to work on any woodworking machine. The amendment is required for the compliance of the International Labour Convention No. 182: The Worst Forms of Child Labour Convention, 1999 (the Convention).

The Convention and its accompanying Worst Forms of Child Labour Recommendations (Recommendation No. 190) were unanimously adopted by the International Labour Conference held in June 1999. It is one of the eight core conventions of the International Labour Organization and is widely ratified by member states. As at May 2002, about 120 countries have ratified the Convention.

The Government of the Hong Kong Special Administrative Region (SAR) is committed to the protection of the rights of children and promotion of their interests. Having consulted the Committee on the Implementation of

International Labour Standards of the Labour Advisory Board (LAB), the Administration has concluded that the Convention should be applied to the SAR and has notified the Central People's Government of this position in September 2001. The Central People's Government is also considering ratifying the Convention.

The Convention calls for immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour, including the employment of child labour in work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children. Under the Convention, a child is defined as a person under the age of 18 years.

While the Convention aims at providing protection for children under the age of 18, Recommendation No. 190, which supplements the Convention, provides some flexibility to lower the age limit to 16. This is on condition that the competent authority will ensure that the health, safety and morals of children aged 16 and 17 are fully protected, and that the children have received adequate specific instruction or vocational training in the relevant branch of activity.

The Factories and Industrial Undertakings (Woodworking Machinery) Regulations, that is, the principal Regulations, were enacted in 1971. In the 1970s, it was not uncommon that persons below 16 years were employed to operate machinery of various kinds. Owing to the relatively dangerous nature of woodworking machines, employers are allowed to employ persons under 16 only with the written permission of the Commissioner for Labour. In granting the permission, the Commissioner could impose additional safety precautions as deemed necessary.

The Amendment Regulation aims to prohibit the employment of all children below 16 years of age on woodworking machines. This is achieved by removing the discretionary power of the Commissioner to permit the employment of persons under 16 years of age. However, I have not recommended raising the age limit to 18 years as there is still a practical need to allow persons aged 16 and 17 to operate woodworking machines. Currently, there are two designated trades under the Apprenticeship Ordinance (Cap. 47) involving the use of woodworking machines, that is, carpenter/joiner and wood furniture maker. Some young persons who would like to join the apprenticeship training or work in these trades may not have reached the age of 18. In order not to jeopardize the employment opportunity of this particular

group of persons, I have not proposed to raise the minimum age limit beyond 16 for employment on woodworking machines.

Although persons aged 16 and 17 will still be allowed to work on woodworking machines after the proposed amendments are made, employers are bound by their statutory obligation under current safety legislation to ensure that adequate instruction and training have been provided to such workers.

The proposed amendment of removing the Commissioner's discretionary power to allow employers to employ persons younger than 16 years of age will not have any practical impact on employers and persons under 16 years of age. The Labour Department has not received any application for permission to employ such persons on woodworking machines since the principal Regulations came into operation in 1971.

The Amendment Regulation, if enacted, would prohibit the employment of any person under 16 years of age on any woodworking machines and enable the SAR to comply in full the Convention. The proposal is supported by both the LAB and the Legislative Council Panel on Manpower. I now recommend the proposed Amendment Regulation to Honourable Members.

Madam President, I beg to move.

The Secretary for Education and Manpower moved the following motion:

"That the Factories and Industrial Undertakings (Woodworking Machinery) (Amendment) Regulation 2002, made by the Commissioner for Labour on 5 June 2002, be approved."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by the Secretary for Education and Manpower be passed.

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

PRESIDENT (in Cantonese): Proposed resolution under the Buildings Ordinance.

PROPOSED RESOLUTION UNDER THE BUILDINGS ORDINANCE

SECRETARY FOR PLANNING AND LANDS (in Cantonese): Madam President, I move that the motion, as printed on the Agenda, be passed.

The motion seeks to amend the description of Scheduled Area No. 3 in the Fifth Schedule to the Buildings Ordinance to refer to the plans dated 29 May 2002, which were signed by the Secretary for Planning and Lands and deposited in the Land Registry.

The railway protection areas are those within 30 m from the edges of Mass Transit Railway structures. By virtue of section 41(3) and 41(3A)(f) respectively of the Buildings Ordinance, ground investigation and underground drainage works carried out in the railway protection areas require the Building Authority's prior approval of plans and consent for their commencement. This is necessary to ensure the safety of the structures and hence the integrity of the Mass Transit Railway system.

The plans to which the description of Scheduled Area No. 3 now refers reflect the position up to 1998. Since then there have been two changes. First,

to relieve congestion at the Quarry Bay Station, the Kwun Tong Line was extended to the North Point Station, which has become an interchange station. Second, the construction works for the Tseung Kwan O Extension Line have been completed. We have, therefore, prepared a new set of plans to set out the correct railway protection areas. All these new plans have already been deposited in the Land Registry and are available for public inspection.

I urge Members to support this motion in order to ensure continued protection of the Mass Transit Railway system.

Madam President, I beg to move.

The Secretary for Planning and Lands moved the following motion:

"That the Fifth Schedule to the Buildings Ordinance be amended -

(a) by repealing area number 3 and substituting -

"3. The railway protection areas along the Mass Transit Railway lines being -

(a) the areas delineated and shown edged black on the plans numbered MTR/G/1 to 3, MTR/RP/1 to 22, MTR/RP/25 to 27, MTR/RP/30 to 46, MTR/RP/50 to 55, MTR/RP/60 to 66 and MTR/RP/101 to 170, dated 29 June 1998, signed by the Secretary for Planning, Environment and Lands and deposited in the Land Registry; and

(b) the areas delineated and shown edged black on the plans numbered MTR/G/4, MTR/RP/23 Rev. A, MTR/RP/24 Rev. A, MTR/RP/28 Rev. A, MTR/RP/29 Rev. A, MTR/RP/56 Rev. A, MTR/RP/57 Rev. A, MTR/RP/58 Rev. A, MTR/RP/59 Rev. A and MTR/RP/202 to 223, dated 29 May 2002, signed by the Secretary for Planning and Lands and deposited in the Land Registry.";

(b) in area number 4, by repealing "以".

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by the Secretary for Planning and Lands be passed.

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

MEMBERS' MOTIONS

PRESIDENT (in Cantonese): Members' motions. Two motions with no legislative effect. The speaking time limits are in accordance with the recommendations of the House Committee. I am obliged to direct any Member speaking in excess of the specified time to discontinue.

First motion: Report on Higher Education in Hong Kong.

REPORT ON HIGHER EDUCATION IN HONG KONG

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

Madam President, the University Grants Committee (UGC) published a report entitled Higher Education in Hong Kong on 26 March this year. In a commentary published on 4 April, I criticized that the two-month consultation period was far too short and demanded an extension of the consultation period. The Government finally extended the consultation period to the end of July. This ready acceptance of sound advice should indeed merit commendation.

The report, compiled under the leadership of Lord SUTHERLAND, maps out the direction for development of higher education in Hong Kong in the next 10 years. The report has put forward many radical proposals on the development strategy, and aroused extensive discussions and debates in the community. Given that higher education is crucial to the economic restructuring and social development of Hong Kong, I consider it is necessary to conduct a debate on this report in the Legislative Council. I call on the Government to fully listen to and seriously consider the views expressed by Members and then propose revisions to the report and make final decisions.

Since the motion moved Dr the Honourable Raymond HO a fortnight ago already focused on the discussion of associate degree programmes, I will, on behalf of the Democratic Alliance for Betterment of Hong Kong (DAB), express views on several key issues, including the delinking of the remuneration of university staff from that of civil servants, the credit accumulation and transfer system and allocation of resources.

Madam President, the delinking of the remuneration of university staff from that of civil servants is the most sensitive and controversial proposal in the entire report. Proponents of this proposal consider that the remuneration of university staff is rarely linked to the civil service pay and conditions in other parts of the world, and that delinking can facilitate the recruitment of top professors from around the world to teach in Hong Kong, thus putting an end to the system of everyone getting the same pay and perks and allowing more flexibility in the terms and conditions of employment. However, the opponents consider that delinking will jeopardize the stability of university staff, that it would result in the higher echelons growing fat at the expense of the lower echelons, and that it would intensify the shoe-shining culture, which is not conducive to academic freedom. They consider that as a review of civil service pay is under way, if a pay cut for civil servants comes out of the review, the university staff would be willing to follow suit, but they strongly oppose

delinking. The DAB agrees that delinking of remuneration of university staff from that of the Civil Service should be an objective in the long run, but it is not an appropriate time for delinking now, because the university staff need time to build up trust in the management. Coupled with the fact that no ceiling is now imposed on the remuneration of Professors and Chair Professors in universities, a mechanism is therefore in place for recruitment of the world's top and well-known professors. Therefore, there is no urgency for delinking.

We consider that the authorities can consider delinking the remuneration of university staff from the civil service pay only when the following three conditions are met: First, the Government must ensure that delinking is conducive to upgrading the quality of local universities; second, the replacement remuneration packages proposed by universities must be widely accepted by their staff; and third, a sound appeal mechanism should be put in place to provide a channel for staff to seek redress on arrangements concerning remuneration, promotion, and so on.

In the last couple of years, many universities have already cut the number of posts or reorganized their remuneration system and posts due to resource considerations. University staff worry that retrenchment and pay cut will surge after delinking. Given that delinking involves the interest of all university staff, any proposal must be agreeable and acceptable to the university staff before it can be implemented. Only when scholars have a stable working environment can they develop coherent thinking and come up with creative ideas. When their "rice bowls" are at stake, how can they think of any "delicious dishes" to cook?

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

The personnel and work arrangements subsequent to delinking will certainly arouse discontent among some staff. In the past year, the layoffs at the City University of Hong Kong and the Hong Kong Institute of Education are good lessons for us. So, if universities do not seriously put in place complaint channels with a high degree of transparency to deal with the dissatisfactions caused by delinking, the higher education sector might be caught in endless

troubles. If the authorities are unable to properly handle these problems, it is indeed inappropriate to immediately effect delinking.

Even if delinking will be implemented only at a later stage, the authorities must undertake not to reduce the funding for universities. The DAB considers that any changes in the funding mechanism should not result in reduction of government funding for higher education. As for the extra resources, they can be injected more into key universities and areas of excellence.

Madam Deputy, another controversial proposal is the credit accumulation and transfer system. The DAB supports the transferability and portability of credits among universities, but we do not support the "money-follow-student" system. The proposal in Appendix E is actually a university voucher system. At present, such university voucher system is not implemented in any place elsewhere in the world. So, why does Hong Kong have to so eagerly make itself the "guinea pig" for such an experiment?

Indeed, the justifications for implementing this system are grossly inadequate. In foreign countries, the purpose of implementing a credit accumulation and transfer system is to facilitate changing universities or faculties by students, but this will not have any bearing on the resources of universities. If the purpose of implementing this system is to facilitate associate degree programme graduates pursuing further studies, the number of subsidized places may just as well be increased; if the purpose is to facilitate the mobility of university students, student exchange programmes can be organized among tertiary institutions or co-operation can be stepped up among the institutions in respect of such programmes. It is unnecessary to perform such a big operation.

I do not believe after the introduction of market forces into universities, the quality of universities can be upgraded through students' choice of disciplines. Even if a particular discipline of a university is welcome by students, it does not mean that this discipline of that university has achieved excellence. In foreign countries, some faculties deliberately adopt a lax approach in assessing the score of students in order to retain their popularity among students. We must also bear in mind that the branding effect does indeed influence the choice of Hong Kong students.

We feel also concerned that under this system, the tertiary institutions might compete with one another in the provision of programmes that are popular

among students, in order to boost student intake and prevent funding from going over to other institutions with the departure of their students. They might also cut the resources or places of some other faculties or even stop offering programmes in certain disciplines. Programmes that are most likely to be eliminated will be those that are not very popular among students but with academic value, or those taught by professors who are strict with their students. Should that be the case, would the proposal not run counter to the objective of encouraging division of responsibilities among universities and enabling universities to excel in what they do best?

The credit accumulation and transfer system is abbreviated as CATS. Such "CATS" with boundless magic are detested by all, since they have absolute control over the amount of resources to be allocated to universities. But if we can take away the magic of such "CATS", and if these "CATS" purely serve as obedient couriers of credits for students, they could perhaps turn into lovely "CATS".

Madam Deputy, while the report has avoided a distinction between universities focusing on research and those focusing on teaching, the intention to develop key universities is still clear. That is, resources for universities will be refocused, in order to spare more resources for the key ones. At present, there is not a very big gap among the eight universities in Hong Kong and we do not see serious discrepancy in their standards. There is competition in some of the programmes offered by the eight universities, but some of these programmes are endowed with individual characteristics and division of roles among them. Every university has prominent scholars on the staff and students with outstanding performances are not confined to one or two universities only. If we accept the recommendations of the report and pool resources together mainly for a number of key universities, polarization is set to arise. Is this what we wish to see?

The DAB considers that the development of world-class universities in Hong Kong is a correct direction. But this should not be done by cutting the resources for other universities. This is indeed too high a price to pay. Last year, the UGC decided to cut the triennial funding for some institutions, and this has already made individual institutions suffer badly. Steps taken to loose weight must stop at a certain point, and one absolutely cannot keep on losing weight to leave only a skeleton, for this is unhealthy. If we accept all the recommendations, it would be tantamount to taking away food from someone

who is already undernourished and giving it to the healthy ones. Certainly, we support the provision of more programmes. But all universities should play a part to ensure good co-ordination and due division of roles, with a view to putting resources to the best use.

The DAB supports the development of a funding mechanism based on mission and performance of institutions. The UGC should formulate performance indicators for institutions. However, while it is relatively easy to formulate indicators for assessment of research achievement, it is a difficult question as to how indicators for assessment of teaching performance can be formulated. Fairness, objectivity and precision must be ensured for both sets of indicators. In formulating indicators for research achievement, the authorities must support local studies which are conducive to social and economic development. Research studies published in Chinese should not be subject to any discrimination.

The DAB supports the report's recommendation to increase the functions of the UGC and enhance its strategic role, in order to steer the development of higher education. The authorities should draw up policies to attract students from the Mainland and the neighbouring regions to study in tertiary institutions in Hong Kong. This can not only broaden the horizons of local university students and promote cultural exchange, but also enhance the sense of competition, upgrade the teaching quality and facilitate the development of higher education in Hong Kong, thereby developing Hong Kong into an education centre in Southeast Asia.

At present, the governance and management of universities are fraught with problems, for example, there are too many members sitting on the Council; the Council is merely nominal and subject to manipulation by the management, and hence fails to perform the important task of governance; centralization of power in the management of universities and the absence of sound monitoring and check-and-balance mechanisms. The DAB supports that the governing committees of universities should review the governance and management structures of universities. They should, whilst ensuring the autonomy of universities, foster a greater degree of democracy in universities and enhance their transparency to the public. While improvements should consistently be made to ensure the existence of independent and effective complaint channels in all institutions, the DAB considers that it is an acceptable proposal to extend the

remit of the Office of The Ombudsman to cover the UGC-funded institutions so as to provide an alternative channel for complaints.

Moreover, the scope of the report is obviously too narrow. There is no discussion on the reform to the admission criteria for students, articulation with senior secondary programmes, the proposal of "changing the present three-year university structure to four-year", the upgrading of the quality of university students, the objectives of the development of higher education, and so on. It has not provided a thorough analysis on the strengths and weaknesses of the *status quo* and has not conducted in-depth studies on reforms to the governance and management of universities. All these inadequacies will warrant improvements by the authorities.

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

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

"That this Council notes the report of the University Grants Committee entitled "Higher Education in Hong Kong"."

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

MR TOMMY CHEUNG (in Cantonese): Madam Deputy, the Liberal Party always supports investment and reform in education; and we are very much concerned about higher education, for it directly involves the training of manpower in Hong Kong. Moreover, we consider that provisions from public coffers should be in direct proportion to the quality of university students.

In general, the report on Higher Education in Hong Kong published by the UGC has indeed suggested forward-looking proposals on the reform and direction of tertiary education in Hong Kong, but the report represents at the same time a radical proposal for change.

The report has covered mainly four areas, namely, "selectivity" in the provision of funding, the credit transfer system, delinking of the remuneration of university staff from the civil service pay, and the provision of programmes at

associate degree and comparable levels on a self-financing basis. All of these have aroused many discussions in the education sector and in the community.

First of all, "selectivity" in the provision of funding. In order to maximize the cost-effectiveness of the limited resources, the UGC has proposed that a small number of institutions with outstanding achievements be identified as the focus of public and private sector support for research initiatives, making these institutions capable of competing at the highest international levels. This proposal does merit support. The relevant details will be explained by the Deputy President when she speaks later.

However, some members of the education sector worry that such a funding approach which targets only on a number of institutions would inevitably produce a labelling effect with a ranking of the universities. This would widen the gap among institutions and might even result in some universities having to give up their research results. This will only impede healthy competition. Besides, universities with a longer history and those that have their status upgraded to universities only recently do not start at the same point. It appears to be unfair that the new universities, which do not have enough time to catch up with the "old" ones, are subject to the "selectivity" principle. The Liberal Party, therefore, considers that the authorities should conduct more consultations in the process.

In the debate relating to higher education on 27 June last year, I stated that under the premise of enhancing competitiveness and improving quality, it is a viable option to promote the development of private universities. Moreover, overseas universities are given a lot of personal donations and have established close contact with the business sector, so universities in Hong Kong should draw reference from them. The Liberal Party proposes that the institutions and the authorities should gain a better understanding of the operation and needs of the business sector, so as to ensure that the trained talents can better meet the needs of the sector and the community. This can attract more donations from the business sector, thereby alleviating the inadequacy in resources for tertiary education and funding for research studies. The Government can also consider encouraging donations from the business sector through tax arrangements.

Secondly, the report mentioned the credit transfer system. The Liberal Party does not oppose in principle giving more choices to students. But it appears that the model suggested in the report is found nowhere in the world, and

we have reservations about it. Under the proposed system, students can transfer to other institutions to earn credits without having to secure the consent of their original institutions. This will have a great impact on the stability of financial resources of institutions, programme planning and the curriculum, and also efforts to cultivate a sense of belonging among students.

From my experience when I studied in the United States, under the credit transfer system commonly adopted in foreign countries, a student who wishes to transfer his credits to other institutions is required to first settle with his original institution on the number of credits that he has acquired. Then the new institution will determine how many credits of that student are accepted and the accepted credits will be transferred to the new institution. That will mean the end of the student's relationship with his original institution, and the student will only register his graduation in the new institution. But under the proposal of the report, other than first-year students, all students will ultimately register their graduation with their original institutions irrespective of the number of credits acquired by the students in other institutions. This might result in an absurd scenario where the time that a student has studied in his graduating institution is even less than the time that he has studied in other institutions.

Furthermore, in respect of the articulation of programmes and the recognition of credits, there are still many ambiguities under the new proposal, and this may easily cause confusions. What is more, this may also induce the institutions to neglect the qualifications of students and the quality of programmes in order to recruit more students and hence obtain additional resources. For example, if a student withdraws after studying in a university for a few days only, how should the tuition fees be apportioned? Will universities have to scramble for students from other institutions in order to make up for the loss? Who will shoulder the administrative costs incurred? What good will it do with such confusions? Furthermore, the eight universities have raised objections to this proposal in unison. The Liberal Party considers that the authorities should look into this more thoroughly.

Thirdly, regarding the delinking of the remuneration of university staff from that of civil servants, the Liberal Party has all along stressed the importance of flexibility in the remuneration of the staff of tertiary institutions. Indeed, if we look at the staff of universities all over the world, a linkage with the civil service pay and conditions is rare. Such linkage does not only lack flexibility, but also restricts the development of universities. The Liberal Party always

considers it necessary to review the structure of the civil service pay. The remuneration of staff in non-governmental organizations or tertiary institutions should not be linked to that of civil servants. So, the Liberal Party is supportive of delinking.

Another controversial issue, namely, the provision of programmes at associate degree and comparable levels on a self-financing basis, was discussed in the Legislative Council last week. The Liberal Party reiterates that to achieve the target of providing tertiary education for 60% of young people, it means that an additional 30% of youngsters will have to reach the tertiary education level in the next 10 years. However, the Government does not have extra resources for the expansion of tertiary education, and it is not the wish of the Liberal Party to see any reduction in the resources currently provided for universities. Therefore, we agree that the new associate degree programmes should be self-financed. As for diploma and higher diploma courses which are comparable to the level of associate degree, given that they have long contributed to the training of industrial and business professionals with remarkable results, the Government should continue to provide funding for these courses. Furthermore, the authorities should not lump associate degree programmes which stress general education and diploma/higher diploma courses which focus on professional training together for discussion.

Madam Deputy, I so submit.

DR YEUNG SUM (in Cantonese): Madam Deputy, the report entitled Higher Education in Hong Kong published by the UGC in late March has put across a message to the public and that is, the Government will emphasize the economic efficiency of education investment in future; it is also stressed that due to resource constraints, competition among the institutions for resources is encouraged and "selectively" is advocated in the Government's injection of resources into higher education. These views appear to be going against the Government's objective of making every effort to increase the post-secondary participation rate to 60%.

Madam Deputy, I would put forward four views on this report for the Democratic Party.

Firstly, the Democratic Party opposes the privatization of associate degree programmes. The report on Higher Education in Hong Kong proposed the theory of privatizing the provision of publicly-funded associate degree programmes, suggesting that a majority of associate degree programmes be provided on a self-financing basis in future. At present, government funding for students in general associate degree programmes of the eight universities amounts to about 82% of the costs required for such programmes. But after the reform, associate degree students would face tuition fees of some \$160,000 each year. The new proposal will certainly eliminate many associate degree students who do not have the means, while students who can afford the exorbitant tuition fees might eventually choose to pursue studies abroad.

After the industrial revolution, education in all countries has developed on the principle of popularization, with a view to upgrading the overall education standard and productivity of their nations. But while we are celebrating the successful popularization of education, we have forgotten that the personal value of each student is ignored in the process of "teaching" and "learning". Therefore, given the current constraints in manpower, financial capacity and land resources, it is the responsibility of each and every educator to explore ways to strike a balance between popularization of education and individualization of the teaching and learning process.

At present, the 18% of students at appropriate age who can receive tertiary education come from different sectors of the community. Many of those in the lower class can, through studying in universities, acquire the relevant qualifications and then improve their social background and social strata. In fact, after promoting popularization of education, the education policy of a democratic country should begin to pay attention to the equalization of education. Information of a survey conducted by the Hong Kong Polytechnic University recently shows that the average household income of its students is about \$20,000. In other words, despite government support in the forms of grants and loans, university tuition fees still constitute a heavy financial burden to most parents. The tuition fees for the self-financed associate degree programmes in future will be some \$100,000 to \$200,000. This would indirectly strangle the opportunity of students from less well-off families to receive university education and substantially reduce the chances of these students to improve their lot through social mobility, thus slowing down the development of society as a whole.

Secondly, the Democratic Party opposes the proposal to delink the remuneration of university staff from the civil service pay system. While the general public and the Liberal Party hold that allowing institutions to determine the remuneration of their staff can achieve the positive effect of upgrading the teaching quality, the Democratic Party is concerned that the Government has proposed the delinking just because it is faced with financial pressure, and in order to achieve savings in expenditure, it cannot but target at the remuneration of university staff. Furthermore, the Financial Secretary has also expressly stated that he will stringently impose caps on the growth in annual expenditure of each department.

In fact, the remuneration of university professors is already very attractive now. The existing lump sum grant arrangement already provides institutions with ample flexibility in making adjustments to remuneration. The report claimed that the purpose of delinking is to enable institutions to have greater flexibility and appeal in recruiting internationally well-known professors. But as a matter of fact, few of these world renowned professors are willing to come to teach in Hong Kong, because their consideration is not only remuneration, but also the environment for conducting research. In this regard, Hong Kong does not fare particularly well traditionally. That the Government has vetoed the proven link to the civil service pay system for all university staff in Hong Kong on such flimsy arguments is indeed unconvincing.

Thirdly, regarding the implementation of the credit accumulation and transfer system (CATS) in universities, the Democratic Party supports students' freedom of choice, but we have reservations about the details of its implementation in future. Our reason is that the presently proposed CATS, which is linked with government funding, is not an ideal system after all. If the existing eight UGC-funded institutions are comparable in terms of reputation, scale and the direction of teaching and research, then the introduction of the CATS will certainly stimulate healthy competition among the institutions, which would be greatly beneficial to students, institutions and society. But the reality is that the eight institutions are not on a par with one another, and the mentality of hoping to study in prestigious universities is still prevalent among members of the public. The implementation of the CATS will have enormous impact on the new universities. For this reason, the Democratic Party hopes that the Government, in formulating the CATS, will not only consider the possibility of delinking this system from government funding, but also pay extra attention to the uniqueness of each institution and have regard for the respective admission

criteria, so as to provide against shortfalls in student intake or amalgamation of institutions.

Fourthly, the Democratic Party supports that funding be provided on the basis of research performance and supports "selectivity" in the provision of funding. But the authorities should not allocate resources only to a small number of institutions on the ground of resource constraints.

It is true that genuine competition serves to enable institutions to give full play to their areas of academic excellence. We consider that the authorities must revise and improve the existing research assessment mechanism, and allow representatives from all institutions to take part in the entire assessment process, so as to prevent dominance by the assessment panel led by traditional universities.

As the old saying goes, "it takes the whole village to raise a man", and this cannot be more correct. So, reforms of higher education rely on the support and recognition of all quarters in the community and require the injection of abundant resources before excellent talents can be nurtured. The Democratic Party urges the Government to examine in detail the four problems arising from the reform proposals outlined by me. We must bear in mind that the earnest aspirations and well-intentioned criticisms of the education sector are an important driving force propelling the development of education.

Thank you, Madam Deputy. I so submit.

MR TAM YIU-CHUNG (in Cantonese): Madam Deputy, last Tuesday, I met with representatives of the staff unions of the Vocational Training Council (VTC) in my capacity as a Member of the VTC. The representatives raised strong objection to the intention of the Education and Manpower Bureau to abolish the diploma and higher diploma courses of the VTC. In the report entitled Higher Education in Hong Kong, it is stated that clear lines of financial accountability be established for all public sector funds used to support programmes at associate degree level, in order to be consistent with the Government's intention that associate degrees be predominantly funded by the private sector. It is also suggested in the report that a Further Education Council be established to oversee the provision of programmes at associate degree and comparable levels by both public and private providers. The policy direction proposed in the report has far-reaching implications on the future development of the VTC.

At present, apart from providing training for operatives, craftsmen, technicians and technologists in various fields through its training centres, the VTC's Institute of Vocation Education also offers a wide range of vocational diploma and higher diploma courses. As spelt out in the report and evident in the position stated by the Government recently, the diploma and higher diploma courses of the VTC are regarded as comparable to associate degrees and so, the Government will consider reducing its subvention for these courses and transferring them to the future Further Education Council for co-ordination and management. With regard to this policy direction, I think it is necessary to further explore and discuss it in detail, and a decision cannot be made hastily.

The VTC has long played a pivotal role in the vocational education and training system in Hong Kong. The VTC provides young people with opportunities to acquire professional skills in various trades, so that they can apply what they have learnt in their work in future. Vocational diploma and higher diploma courses cannot simply be taken as equivalents of associate degree programmes. Therefore, the Government should not apply its subvention policy on associate degree programmes to the diploma courses of the VTC. Moreover, young people with an education level of Secondary Three can presently acquire more working skills or upgrade their skills through diploma and higher diploma courses after completing VTC's certificate courses or courses of vocational studies. If the Government withdraws its funding support for diploma courses, the opportunities of these young people to pursue studies would no doubt be stifled. The tuition fees for diploma or higher diploma courses are \$13,700 at present. If government subvention ceased, the tuition fees would have to increase to at least \$37,500 (this is the level of fees of the self-financed associate degree programmes currently run by the School of Business and Information Systems of the VTC), which is 2.7 times as much as the present level. We can imagine that most students would only be deterred by the exorbitant tuition fees.

In the report on the strategic review of the VTC published by the Government in 1996, it was stated that the vocational training provided by the VTC should continue to be funded by the Government, and that the Government should not take drastic measures to privatize VTC training courses. In the report published by the Government in September last year on the review of organizational set-up of vocational training and retraining, it was also stated that during the transitional period prior to the establishment of the Manpower Development Committee, the existing functions of the VTC should be

maintained. Before a final decision is made on the role and direction of the VTC in the future, a hasty withdrawal of government subvention for diploma and higher diploma courses would only cause unnecessary contentions in society and arouse anxieties among teachers and students.

The report entitled Higher Education in Hong Kong has made particular reference to the governance of programmes at associate degree level, because the development of these programmes is related to higher education. The report only followed the direction of the Government's subvention policy, without examining the subvention policy on associate degree programmes. But as emphasized in the motion on associate degrees passed in this Council two weeks ago, the Government should increase the subvention for tuition of programmes at associate degree level, in order to ease the burden of young people in their studies.

The Hong Kong College of Technology has specifically conducted a survey among those young people who are neither studying nor working, commonly known as the "non-engaged youths". According to the survey findings, 45% of them said that whether they can continue with their studies will depend on whether they have the means to afford the costs. The diploma courses offered by the VTC are a major channel through which they can acquire working skills. If the Government withdraws its funding for these courses, I am afraid that to these young people, the day when they have the means to pursue studies would be very distant indeed. While the Government endeavours to improve higher education and increase opportunities of tertiary education, it should not seek to achieve these objectives at the expense of the opportunities of vocational education opened to young people.

I so submit. Thank you, Madam Deputy.

DR RAYMOND HO (in Cantonese): Madam Deputy, Hong Kong is transforming into a knowledge-based economy. Our success in future development will to a very large extent depend on the availability of sufficient manpower resources with tertiary education to meet the needs of the market. In fact, the Government is well aware of the importance of this. In the 2000 policy address, the Chief Executive proposed the target of increasing the popularization rate of tertiary education to 60% within 10 years. Therefore, the future development of higher education in Hong Kong will have far-reaching

implications on the future of Hong Kong. Some of the recommendations in the report entitled Higher Education in Hong Kong published by Lord SUTHERLAND, Principal and Vice Chancellor of University of Edinburgh, aptly provides us with a basis for discussion in this regard.

Given limited public resources, the report proposed the development of key universities by identifying a small number of institutions as the focus of public and private sector support, so that these universities can develop into competitive institutions at international levels. To this end, the report proposed a segregation of universities to enable universities to give play to their strengths and position themselves in accordance with their own conditions. But I have reservations about positioning universities as research-led or teaching-led institutions, because research is basically the core of universities, and also their soul.

Having said that, however, each university has its own characteristics, unique development background and academic culture. Despite the pressure of resource constraints, the authorities concerned should not practise the so-called "selectivity" based on criteria that are unfavourable to the disadvantaged universities, for this would strangle the development of institutions with a shorter history but potentials for development.

Regarding another proposal in the report, namely, the credit accumulation and transfer system (CATS), I would also like to express some views on it. Undeniably, this system does allow a greater degree of flexibility and can at the same time provide articulation channels for graduates of community college and associate degree programmes. Nevertheless, we have every reason to believe that higher achievers of disadvantaged institutions would very likely change to other "prestigious" tertiary institutions after the implementation of the CATS. On the premise that "money follows students", the resources and competitiveness of these "non-prestigious" institutions would be further undermined, thus resulting in unfairness. Moreover, individual departments of some tertiary institutions would probably offer programmes in which students can easily score passing marks, in order to attract students' enrolment. This would result in a decline in the quality of education. All these issues must be addressed squarely by the authorities concerned.

The report also discussed associate degree in great length in the report. This is one of the reasons why I moved the motion on associate degree in this

Council on 12th of this month. Thanks to the support of Honourable colleagues, the motion was passed smoothly. My motion focused on the quality of associate degree. In this connection, I think the report proposals on establishing a Further Education Council and a quality assurance system for associate degree programmes are worthy of more in-depth studies.

Madam Deputy, the demand for higher education is inextricably linked with the development of society. Our decision to increase tertiary places and tertiary programmes must be in keeping with the needs of society in order to avoid a mismatch of human resources. For example, if the number of graduates of certain disciplines far exceeds the needs of the market so much so that the students cannot apply what they have learned or even become unemployed, it would not only waste their investments in terms of money and time, but also waste a substantial amount of resources of society. With these remarks, I support the motion. Thank you, Madam Deputy.

MR CHEUNG MAN-KWONG (in Cantonese): Madam Deputy, the report on Higher Education in Hong Kong compiled by Lord SUTHERLAND tends to tap new sources of revenue for the Government, steering the development of higher education to privatization and in a market-led direction. It is more of a report on financing than on the development of university education.

Nevertheless, the market is not a panacea. The report has aroused many controversies in the education sector. In a debate days ago, I already stated my opposition against the withdrawal of government funding for associate degree and higher diploma programmes. Today, I will express my views on the other key recommendations in the report.

The most controversial recommendation in the report is the delinking of the remuneration of university staff from that of civil servants. This would do damages to the "keel" of universities and court countless troubles.

Mr Donald TSANG and Mr Antony LEUNG have criticized that the costs of the local universities are exceedingly high, but evaded the fact that funding for university research activities, which accounts for a mere 0.48% of the Gross Domestic Product, lags far behind that of our major economic rivals. The UGC said that delinking would inject more flexibility into the remuneration of

university staff and allow universities to compete with other parts of the world for talents. However, funding for research studies in Hong Kong is inherently inadequate. If even the mainstream employment system, that is, a "substantive system" linked with the civil service pay is affected, we would not be able to provide a stable working environment. In that case, how could we attract overseas scholars? How could scholars concentrate on teaching and research? Indeed, in respect of the employment of senior teaching staff, universities already have some degree of flexibility in determining the level of remuneration. If scholars do not have job security, not knowing whether they will be out of job tomorrow, academic freedom would be empty talk, and this is precisely the underlying reason why university staff are so resolutely opposed to delinking.

The university staff's opposition to delinking also reflects the lack of democratic mechanisms in universities. In recent years, incidents that occurred in universities have plunged the entire community into chaos. Without proper channels to lodge complaints, the staff of university have been forced to turn to the Legislative Council for assistance. Using institutional autonomy as a pretext, universities have evaded their accountability to society. For example, as regards the mandatory redundancy incident in the Hong Kong Institute of Education, the Institute refused to communicate or explain the development despite repeated invitations from the Legislative Council; in the incident concerning the School of Law of the City University of Hong Kong months ago, the University also resorted to stalling tactics and an investigating committee was set up only until the end of the school term; both the teachers and students have long been pouring out endless grievances.

Madam Deputy, I respect the spirit of autonomy in universities. I agree that the Legislative Council is not an ideal venue for handling disputes in universities. Regarding the recommendation of the report to set up an independent ombudsman system, I consider that there are still inadequacies. It is because an ombudsman, like the Legislative Council, can conduct investigations only into whether an institution has deviated from rules and procedures. It does not have the capacity to handle academic disputes, but complaints in respect of universities are often of such a nature.

Universities are the conscience of society. If there is no democracy in universities, the staff and students would not dare to speak out for themselves, and the conscience would become silent. While universities can enjoy

institutional autonomy, there is no channel for university staff to lodge complaints. Institutional autonomy has become a prerogative of the higher echelons; autonomy has become an irony. Therefore, I think the Government and universities should promote democracy in universities and expressly provide in the relevant ordinances governing the universities a more independent mechanism at a higher level for university staff and students to take part in university administration and deal with complaints.

The report recommended that a small number of institutions be identified as the focus of funding, and the merger of institutions has also been made an item on the agenda. All of a sudden, many love stories about forced marriage and open discussions on marriages have begun in universities. In fact, the history of local universities varies, some with a longer history and some with a shorter one, and they have attained different levels of development. To engage in world competition, they should first foster co-operation among themselves, bring their advantages into full play, and endeavour to complement rather than gobble up each another. Similarly, the report recommendation to link credit transfer with funding would jeopardize the healthy development of universities, shatter the foundation of institutions and change the nature of education. So, I oppose a linkage between credit transfer and funding. The Government and the UGC should first encourage exchanges among the institutions by, for instance, increasing the quota of auditor students in the institutions, rather than forcing institutions to close down some departments with the use of the credit transfer system, sort of murdering with a borrowed knife.

Madam Deputy, grievances of university staff against scarcity of resources for universities are often heard in society. The Secretary for Education and Manpower designate, Mr Arthur LI, who are always as articulate, should understand the situation of the tertiary sector and know only too well what this sector has been through. He certainly has far more heartfelt feelings than I do. When the Government sought to cut the funding for universities for six years in a row, Vice Chancellor LI cried out loudly, holding the Government responsible for a possible decline in the competitiveness of students in the next five to 10 years. When the Government planned to delink the remuneration of university staff from the civil service pay, Vice Chancellor LI expressed concern that the Government might again cut the resources for universities, and requested the Government to put down in black and white the terms and conditions agreed by both sides, so that the institutions can pursue responsibilities from the Government by legal proceedings to ensure that the Government will not go back

on its words. When the report recommended that key universities be made the focus of funding, Vice Chancellor LI was very confident that the university under his leadership would become an "elite university" of the territory; and he went further to say, "I hope we are the only one."

It is natural for anyone to act in the interest of his own institution. The views expressed by Vice Chancellor LI certainly centred around The Chinese University of Hong Kong. Now that the accountability system for principal officials is implemented in Hong Kong, new personnel will invariably bring about new styles of work. I hope that Vice Chancellor LI, after assuming office as the Secretary for Education and Manpower, will not forget his origins, the difficulties confronted universities in the face of tight funding, and the expectations of university staff and students. Certainly, he must take an overall view of the development of universities. He should formulate policies on universities not only on the basis of his own experience in a particular university, but also on the basis of the voices of the staff of all institutions, the voices of society and the voices of basic education.

Madam Deputy, I so submit.

MR MA FUNG-KWOK (in Cantonese): Madam Deputy, the education system in Hong Kong is poised for changes. To respond to the new demands for manpower training arising from the development of knowledge-based economy and at the same time satisfy the needs for manpower in the economic restructuring of Hong Kong, it is necessary to nurture more local talents of a high quality. This has long been a consensus in society. Basic education and higher education alike have to face the challenge of upgrading the quality of teaching and providing more education opportunities.

The report on Higher Education in Hong Kong published by the UGC will have profound and fundamental influence on the future development of higher education in Hong Kong. The Government must, therefore, fully consult the views of all quarters, including the public, students, tertiary institutions, and in particular the staff of the institutions. After the release of the report, the Government accepted the preliminary view and extended the consultation period by two months. This merits commendation, for it allows members of the public to gain a fuller understanding of and express more views on this report of far-reaching implications. However, to truly achieve the objective of consultation,

the Government, apart from inviting more input from the community, should seriously consider the different views expressed by the relevant organizations and individuals, and contemplate the various recommendations of the report in the overall interest of society.

The report has made 12 recommendations. Many people consider that the discussions on various issues in the report actually revolved around only one theme and that is, how teaching in tertiary institutions can be upgraded both in terms of quality and quantity to meet the needs of future development on the premise of effectively controlling the resource injection by the Government. This sounds like a mission impossible.

Regarding the resources for education, a research paper on education expenditure in Hong Kong² pointed out, on the basis of the global development indicators developed by the World Bank and the global education indicators announced by the United Nations, that in 1996, public expenditure on education accounted for 2.9% of the Gross National Product in Hong Kong, which was lower than the 5.4% in the United States, 3.6% in Japan, 3.7% in South Korea and 3% in Singapore.

This research study also pointed out that the percentage of funding for primary and secondary schools as a share of the expenditure on education is lower than that in most countries; whereas the percentage for tertiary education is 37.1% in Hong Kong, which is close to that in Singapore and Canada, and even higher than that in the United States.

At a glance, the resources injected into higher education in Hong Kong appears to be comparing favourably with other countries and even faring better than the United States. However, the difference is that the United States have a large number of private universities, whereas a vast majority of tertiary institutions in Hong Kong are publicly-funded. So, Hong Kong is actually not committing a lot of resources to tertiary education.

In last year's policy address, the Chief Executive reiterated that the Government of the Hong Kong Special Administrative Region (SAR) must

² "Public expenditure on education in Hong Kong: Plenty or Scarce?" (香港在教育方面的公共開支多不多) by ZHANG Junsen and LEUNG Kai-yui, included in *Education Reforms and Hong Kong: New Era, New Challenges* 《教育改革與香港：新紀元、新挑戰》 edited by Dr Fanny CHEUNG, Social Science and Education Research Panel, Chinese University of Hong Kong, May 2001

"make significant investments in education to prepare each one of us for the advent of the knowledge-based economy". We appreciate that the Hong Kong economy is not as prosperous as it was a few years ago. The economy will still face many difficulties in future and there are many social problems to tackle. Notwithstanding this, it is still incumbent on the Government to continuously make commitments to education within its means as far as possible. This is the responsibility of the Government. Meanwhile, this is also an assurance that no one will be deprived of the opportunity to pursue studies due to financial problems.

To the general families, the annual university tuition fees of over \$40,000 are by no means a small amount of money. In recent years, the employment prospects of university students have been fairly uncertain. Even if they take out loans to pay for their tuition fees, they will have to carry debts well over \$100,000 after graduation, and the pressure on them is not at all negligible. The report recommended that the majority of associate degree programmes should operate on a self-financing basis. If this recommendation is implemented, I believe most associate degree students would have to pay a considerable amount of tuition fees. While the Government has undertaken to offer loans as financial assistance, students taking these programmes will be subject to greater pressure of indebtedness. The institutions will also face the pressure of keeping the books even and so, whether the institutions can at the same time assure the quality of programmes is indeed open to question. At the end of the day, education objectives might be achieved only in a numerical sense, and we might not necessarily be able to truly train up talents.

The report suggested the "selectivity" principle, in that a small number of institutions will be identified as the focus of public and private sector support to make those institutions capable of competing at the highest international levels. There are now eight publicly-funded tertiary institutions in Hong Kong. Some of these universities of a smaller scale have, in recent years, developed an edge in certain disciplines and nurtured many outstanding students. This shows that the merits of a university have nothing to do with its size.

The report recommended that a small number of institutions be strategically identified by the Government as the focus of support. This has given rise to a series of questions: While it is certainly important to identify and reward teaching or research units that have achieved excellence, the so-called

excellence must be determined by objective and fair assessment criteria and measured by an academic ruler. Can the Government, in selecting or identifying these institutions, live up to these standards? Meanwhile, if emphasis is placed only on rewarding institutions that have achieved excellence, will the centralization of resources lead to monopolization as a result of dominance in future, which is not conducive to long-term development? Free competition among the institutions has in the past enabled institutions to make their respective achievements. Rigid selectivity will only kill the interaction of healthy competition.

Education objectives should be people-oriented. The quality of teaching hinges on, among other things, the front-line educators and researchers. The report recommended that the pay and terms of employment of staff in tertiary institutions should be delinked from the civil service system, taking the view that this can recruit and retain the best staff. This recommendation has given rise to opposition from many university staff.

The proposed delinking allows institutions to freely formulate their own remuneration packages. To many scholars, remuneration is certainly one of the considerations in deciding whether to accept an offer. But a more important factor is whether the institution offers a good academic atmosphere and environment for teaching and research. Furthermore, the existing system already has some degree of flexibility which allows institutions to recruit world-class scholars by offering them more generous employment terms and conditions.

The many recommendations in the report, such as delinking, performance-based funding system, and so on, will easily lead to marketizing of universities. To fight for more public funding and other social support, the institutions can only provide more business-related programmes; and delinking will enable institutions to recruit teaching and research staff in these fields with better terms and conditions. On the contrary, the development of humanities disciplines will consequently be ignored.

What warrants more concern is the long-term impact of delinking on academic freedom in universities. The existing linkage with the Civil Service provides a stable research and working environment for university staff. After delinking, more emphasis would be put on teaching and research results.

University staff would have to adapt to the requirements of the new assessment mechanism and put more emphasis on teaching and research results. Nonetheless, it is not easy to quantify results of education. Nor is it easy to predict research results, because each research study must go through a certain process.

In the final analysis, quality still warrants the greatest concern in respect of Hong Kong's education system. If we take an overview of this report, it appears emphasis has been placed only on resources, without conducting in-depth studies of the quality of teaching, an issue of wide public concern. The new Secretary for Education and Manpower will take office soon. I hope that the Government can listen more to the views of the public over education issues and map out the commitments of the Government to education. Thank you, Madam Deputy.

MISS LI FUNG-YING (in Cantonese): Madam Deputy, the report on Higher Education in Hong Kong being debated in the Legislative Council today involves not only the future direction of development of higher education in Hong Kong, but also a large number of front-line educators in the tertiary sector, as well as the growth of numerous students.

In Chapter One of the report, it is stated at the outset that "this report assumes a geography that locates higher education as a sector within a large field of post-secondary education which has at least two other sectors: the vocational education and training sector, and the emerging community college sector.....". However, the report has failed to duly establish a linkage among higher education, vocational education and training, and community college. The report has devoted many paragraphs to extensively discussing the emerging associate degree programmes, but it is almost silent on vocational education and training. No wonder educators in vocational education sector have criticized the Government's intention of lumping together associate degree programmes and diploma and higher diploma courses, calling a stag a horse by equating vocational education programmes with associate degree programmes provided by tertiary institutions.

I agree with the distinction drawn by front-line workers in vocational education. That is, associate degree programmes lay stress on general education and the main purpose and development of students is to articulate with

degree programmes, whereas diploma and higher diploma courses put emphasis on professional disciplines and belong to pre-vocational education. There is indeed a need for the report to clarify the role of pre-vocational education whilst extensively discussing the future of associate degree.

Educators in vocational education sector are concerned that the Government would shirk its commitment to vocational education through the review of higher education. Under item 3 of the List of Recommendations in the report, it is recommended that "a Further Education Council be established to oversee the provision of programmes at associate degree and comparable levels by both public and private providers." Teachers engaging in vocational education have told me that the so-called programmes at comparable levels actually refer to pre-vocational education, and that the report recommendation to introduce private sector support for these programmes aims to pave the way for the Government to cut resources. Although the Education and Manpower Bureau has stressed that the Government has no intention to stop its funding for higher diploma courses, the Government has made no explicit commitment to pre-vocational education as a whole. In its replying letter to the teachers' association of the Hong Kong Institute of Vocational Education, the Education and Manpower Bureau only emphasized that if the recommendations of the report are implemented, the authorities concerned will discuss with individual institutions to decide on the courses to be continuously funded by the Government in accordance with the funding criteria. Does it mean that some of the courses that are presently funded by the Government will not or cease to be funded by the Government in future? So, the undertaking made by the Education and Manpower Bureau has failed to allay the concern of the staff.

THE PRESIDENT resumed the Chair.

The Government is vigorously promoting the development of knowledge-based economy. To those young people who are unable to receive higher education for various reasons, they may already consider this a significant failure in life. If the Government seeks to shirk its commitment to pre-vocational education in its policies, this will no doubt be a double blow to these unfortunate youngsters. If these young people who cannot afford the expensive tuition fees are made to chart their own course and run wild, society would eventually have to bear the bitter fruits.

Madam President, I am not familiar with policies on higher education. But after reading the report, I was tremendously shocked by paragraph 1.17 of the report which stated resolutely that "The core functions (of universities) will be drivers of economic opportunity". Perhaps the teachings from our ancestors that "What the Great Learning teaches is to illustrate illustrious virtue; to renovate the people; and to rest in the highest excellence."³ has become obsolete. But if universities in Hong Kong are virtually turned into factories of skills as recommended in the report in order to compete with international rivals, then I must cite a few words of Prof Ambrose KING, Pro-Vice Chancellor of The Chinese University of Hong Kong, in his book entitled *The Idea of a University* (《大學之理念》) to conclude my speech: "Universities are not the birthplace of poets. But if a university cannot invoke reverberations from a poetic heart in young people and stimulate their thinking about mankind, then this university is obviously devoid of the power to influence." In the last Chapter of his book, Prof Ambrose KING earnestly cited the remarks of the former President of the Education Commission of the United States: "If the States are caught in any education crisis today, it would have nothing to do with lower scores in examinations, but rather our failure in civic education." I hope the SAR Government will take heed of these sincere advice.

Madam President, I so submit.

MISS EMILY LAU (in Cantonese): Madam President, more than three months ago, when Lord SUTHERLAND visited this Council, we did not have time to have lunch together because we had to attend a panel meeting at which he would present the report.

I asked Lord SUTHERLAND very clearly whether his recommendations were meant to save money for the Government because there were speculations before the release of the report and the Government was facing many problems such as a fiscal deficit. Thus, people thought that there might be a series of reforms or changes to save public expenditure for the Government. However, Lord SUTHERLAND put it very clearly, as recorded in the minutes of the meeting, that that was definitely not the case. He even said that the Government should inject more resources into this.

³ *The Four Books*, Hunan Publishing House, April 1996

I believe the Secretary also knows that I have said that the resources injected by Hong Kong into education are fewer than those of our trading partners or places of a comparable level of development. As I noticed, some Secretaries said that thanks should go to the British. But I would not forget that Mr TUNG Chee-hwa and some Executive Council Members were Executive Council Members in 1992. However, it is unnecessary for us to blame anybody or the British for spending little in this regard. In discussing the reform of higher education, I believe one of the most important bases is to inject more resources and try our best to train up talents. Certainly, education should not only be oriented towards economic development.

Throughout the years, I have always said that some university lecturers are offered very high salaries, even higher than those of some famous universities in foreign countries. Some professors abroad have also told me that they admire the excellent pay of professors in Hong Kong. I have not said that university staff should be given a pay cut but I hoped that their performance would be commensurate with their pay. I also earnestly support giving universities more freedom to determine the pay of academic staff. I think that there is not any problem at all.

Madam President, what is wrong at present? Perhaps you also know that some university lecturers, or some professors may hold a petition for the impact they have suffered. But, should we not proceed with the reform when somebody oppose the reform proposed? Madam President, you may remember that I asked a question about racial discrimination last Wednesday, and Secretary LAM Woon-kwong said that there were voices of opposition in the community. When Mr LEUNG Yiu-chung asked the Secretary what were the sensitive points and why there had been a delay of six years, the Secretary also told Members to wait a while. That was the racial discrimination problem that was quite different from the present subject but it still took six to seven years to study. If we were going to have a further delay, Premier ZHU Rongji would scold us again.

However, when dealing with controversial issues, should we blindly press ahead? In my view, we should not do certain things about which no consensus has been reached. Having listened to the remarks made by various parties today, I have not found anyone who support the Secretary to press ahead or suggest that we should go ahead despite the objection of teachers and staff. Nobody has said so today. Some Members may support the Secretary but they have also

suggested that the Secretary should first seek a consensus by the affected such as parents, students and taxpayers. The Secretary may ask how long the process would take. Even though it may take some time, there is no alternative. The Secretary would become a permanent secretary but she still has to continue to take forward the education reform. But if she still insists on pressing ahead despite the boiling discontents, even though the reform is meritorious, I would not support the Secretary dashing forward obstinately.

On the question of delinking, I in principle do not think there is any problem, and if Members think that it is good, we have to persuade the academic staff concerned because the implementation of the recommendation may directly affect their interests. But we have to tell them that it is done for the greater public interest and we should take coupling actions as far as possible. Yet, we do not advocate a high-handed approach. As Mr CHEUNG Man-kwong has said, delinking is so sensitive because it is related to the interests of university staff. Many lecturers have attended quite a few meetings of this Council and they have a total loss of confidence in the governing structure of universities, especially the complainants mechanism. Therefore, when we touched upon the arguments that may arise in the future in respect of the determination of matters such as the pay of academic staff, many academic staff think that they would not be given fair treatment under the governing structure of universities. Therefore, it is extremely difficult for there to be a highly transparent and independent governing structure that is supported by university staff, students and parents. Anyway, we have to try. Even if we fail, we should not obstinately adopt other alternatives. Otherwise, the university staff would blame us for not handling the matter well. In other words, we would have planted a bomb in the university system.

I do have some worries about the recommendation on injecting more resources into the development of key universities because there are so many universities in Hong Kong and all students are the children of Hong Kong people and the academic staff are Hong Kong teachers. How can we ask them to allow the allocation of more funds for the development of a certain university rather than all universities? If some universities want such development, it would be best to encourage them to raise funds from outside. At present, a large number of overseas universities have come to Hong Kong to raise funds and many Hong Kong people have gladly made donations. Yet, the Government has an education system, how can the Government convince parents, students and teachers if it treats certain universities better than some others?

Madam President, the report has made many recommendations and I believe it would trigger off a lot of discussions. Heated debates have been held here in this Chamber and in the community and Mr Tommy CHEUNG has said that the changes to be made would be dynastic. In that case, if we fail to reach a consensus, I would not support the Government pressing ahead with the reform rapidly. I hope that Members would continue to discuss the matter further.

I so submit.

MR IP KWOK-HIM (in Cantonese): Madam President, the Korea Republic, the Tiger of Asia, made a historical record in becoming one of the four strong teams in the World Cup Finals this year, and all football fans in the world were fascinated. The older generation football fans might recall that the national team of Hong Kong in the 1960s was the Light of Asia. There were YIU Cheuk-yin, CHEUNG Chi-tai and WU Kwok-hung, and the Hong Kong team was similarly strong like a tiger. In the 1980s when that generation of football stars retired, the football teams in Hong Kong excessively relied on expatriate players, which was not helpful to the football development of Hong Kong, and the football business of Hong Kong has not been able to recover since then.

The same has also happened to higher education in Hong Kong. The report on Higher Education in Hong Kong recommends delinking the remuneration of university staff from that of civil servants so as to allow universities to recruit world-class scholars with more favourable remuneration. However, the recommendation would only intensify the present situation in which universities spend a lot of public money on expatriates. Some universities have appointed famous scholars on considerable remuneration and allowed these scholars not to teach so long as the names of the local universities appear in world-class academic journals. Even though their researches are not related to Hong Kong at all and they do not have much relationship with students, these expatriates would still be considered to have performed their glorious missions.

To allow these expatriates to do more research, other academic staff have to increase contact hours without any spare capacity for research. These expatriates do not have to teach or conduct researches that meet the needs of Hong Kong, then what roles do these world-class scholars play in the academic sector of Hong Kong? Actually, some local academics have also questioned this. Would Hong Kong degenerate into a makeshift temporary research base?

Is it value for money to pay them \$1 million annually in exchange for the publication of the names of universities in world-class academic journals? All these questions warrant our deliberation.

While world-class scholars conduct world-class researches, researches themed on the needs of Hong Kong have not been encouraged. Taking town planning that is related to Hong Kong as an example, the Government has not properly made use of the talents and resources of local universities, but it has instead paid foreign consultancies millions of dollars from the public coffers. As a result of this, the report on the \$4 million research on pedestrian environment planning has only described the streets of Hong Kong without any insight into the problem. Regarding the 1 cm thick consultancy report on the special research on the Aberdeen harbour, only seven pages are written by the consultant personally, nine pages are figures from the questionnaire survey and all the other pages are copied from the submissions. The latter report has not summed up the submissions and government replies or offered any professional advice.

While Hong Kong spends a lot of public money on subsidizing higher education and the relevant academic researches, why have local experts and academics not been consulted? Why has the Government failed to get the best out of the scholars? Now that even the Government does not attach importance to local researches, how can it raise the academic standards of Hong Kong? No wonder that there are only a few locally nurtured doctorate degree holders among the academic staff of the eight local universities. After all, it is because the local experience is not given due attention. Even local doctorate degree holders have failed in their applications for the post of Customs inspectors. Thus, the academic atmosphere of Hong Kong would only continue to weaken and local university students would only become more eager for quick success and instant benefits. Universities would degenerate into prevocational schools.

The failure to get the best out of the scholars also applies to the expatriates. So, when universities recruit world-class scholars, they may consider such requirements as contact hours, the number of research students to be supervised or joint research with local scholars, in order to utilize fully the knowledge and experience of these expatriates, lift the standard of local scholars and drive academic development in Hong Kong.

Turning back to football, with team members exerting their utmost and the experience and wisdom of their Dutch coach HINDDINK, the Korean team —

the Tiger of Asia — fully displayed the might of an Asian football team. I hope that future policies on higher education will make proper use of world-class HINDDINK and display the unyielding efforts of local universities such that higher education in Hong Kong can blossom in radiant splendor.

Madam President, I so submit.

MRS SELINA CHOW (in Cantonese): Madam President, higher education is an important part of social investment. The question of to how a balance can be struck is very important. The Liberal Party considers that the objectives of higher education are to nurture sufficient talents for society on the one hand and achieve outstanding performance in pursuit of excellence at higher levels or in more sophisticated domains on the other. In this connection, the Liberal Party does not oppose the provision of additional resources where necessary. But this does not mean that overlapping or wastage of resources for higher education is allowed.

Since education resources are indeed limited — this is the reality, and in any society, any kind of resources are limited — we should make a greater effort to ensure effective utilization of resources, with a view to adding value. With regard to "selectivity" in the provision of funding mentioned in the report, our view on education has always been that on the premise of popularization of education, it is utterly important to nurture elites. Under the "selectivity" principle proposed in the report, institutions with better performance can be allocated with more funding. The Liberal Party considers that this is precisely a manifestation of the pursuit for excellence and can offer institutions incentives to give play to their strengths and finally become capable of competing at international levels. Besides, since education resources are limited, we do not agree that resources be evenly distributed to every institution. In fact, the "selectivity" concept is more consistent with the principle of putting the limited resources to good use.

Moreover, research work in universities is of great importance not only to the universities. It is also a crucial factor dictating the advancement of society as a whole. Therefore, we hope that local universities can achieve excellence in their research studies or even exceed international standards in certain domains.

We should not give up the efforts made by universities with capability and achievements in conducting research. But as I said earlier on, education resources in Hong Kong are limited. Added to this is the fact that local universities often receive less funding for research than internationally renowned institutions. Therefore, the principle of "selectivity" can better cater to the actual circumstances in Hong Kong, enabling institutions to adopt a more focused approach in their research endeavours to achieve goals of greater significance.

I must emphasize that the Liberal Party does not object to the policy of popularizing tertiary education. Only that we are of the view that we should not give up research and teaching efforts at some higher levels or more specialized domains. Therefore, "selectivity" in the provision of funding is all the more important where resource constraints prevail.

Furthermore, after the publication of the report on Higher Education in Hong Kong, to address the issue of resources, there have been discussions about whether Hong Kong has too many universities and about the need for some measure of integration. In this connection, I would like to share with Members my thoughts. Earlier on, the Vice Chancellor of The Chinese University of Hong Kong (who is the Secretary for Education and Manpower designate), Prof Arthur LI, proposed that universities be merged on geographical proximity, so that they can complement each other and resources can be pooled together. We consider that this proposal merits consideration and has discussion value, because after all, this is related to the question of how education resources can be most effectively utilized.

At present, we have eight universities providing different programmes. Some programmes are overlapping, and from the perspective of resources, wastage is unavoidable. Besides, a number of institutions have competed to launch some new programmes, such as the Chinese medicine programme which is quite well-received recently. While universities enjoy autonomy, no one is in a position to play the role of a co-ordinator to ensure the most effective and appropriate injection of social resources which is consistent with the overall development and interest of Hong Kong. This is indeed an issue that requires thorough consideration, attention, discussions and decisions in the context of reform to tertiary education.

Madam President, earlier in the debate, Miss Emily LAU mentioned the views of the staff of some tertiary institutions. A number of Members also responded with strong views, particularly on the question of delinking from the civil service pay. Obviously, anyone whose vested interest is threatened will naturally feel worried. I do not oppose holding discussions on this. But as to whether a consensus must definitely be reached, as suggested by Miss Emily LAU, I am not optimistic about this. On the view that a consensus must be reached before policies can be implemented, I certainly beg to differ. I think it is always impossible for a consensus to be reached in a society, though adamantly insisted by some people. Therefore, I think our discussions should be premised on the overall interest and long-term development of Hong Kong. I very much agree to holding rational discussions, but I oppose never-ending discussions. Hong Kong has recently been criticized both by the local community and outsiders for always holding discussions without reaching decisions. I think we should reflect on ourselves. It is because not only the Government appears to be holding discussions without reaching decisions. Is this phenomenon also found in society at large? Indeed, nothing can be ideal in this world, and for some issues, it is impossible for them to be agreeable to all. Moreover, the more it involves one's own interest, the more difficult to seek consent from everyone. Therefore, I think we cannot just talk about lofty ideals that are impossible to realize. This is very undesirable to the development of our society as a whole. So, I hope that Members can focus on the development of tertiary education in their consideration.

MR SZETO WAH (in Cantonese): Madam President, in the policy address of the year 2000, the Chief Executive stated a strategic intent to increase the participation rate of tertiary education to 60%, double that of 30%, for the relevant age group within 10 years. It is similar to a big leap forward plan to "surpass the United Kingdom and keep up with the United States". The report on High Education in Hong Kong is a tool that serves this plan. There are 12 recommendations in the report and four of them are vital.

First, the delinking of the remuneration and terms of appointment of the staff of institutions from the civil service system to enable free and flexible determination by institutions.

Second, offering and increasing associate degree programmes and other programmes of comparable level on the self-financing and user pays mode of private operation.

Third, defining the eight existing institutions as research and academic institutions, highlighting a small number of institutions as the focus of allocation of funds, that is, they would be allocated more resources and in priority.

Fourth, implementing a credit accumulation and transfer system to induce the transfer and mobility of students. With further development of the system, institutions would be given allocation on the basis of the number of credits rather than the number of places.

These four vital recommendations reflect the highest instructions for following through the implementation of the big leap forward plan to "surpass the United Kingdom and keep up with the United States", irrespective of the reality and characteristics of education. It forcibly applies the free competition mechanism to a non-economic domain. This particular attribute was found in the philosophy of governance in other areas in the last five years, but it has further intensified this time around.

First of all, the Government has neglected the fact that education is a people-oriented cause, a cause of vital and lasting importance. It is an important initiative in socio-economic development and the development of productivity. Its fruits are shared by all the people. The Government is duty-bound to inject resources into this cause. But now, the Government has not only reduced funding for higher education, it has even asked others to foot the bill after it has ordered the dishes. I believe the Government would take similar actions in respect of the future changes to six-year system of secondary education and four-year structure of university education. It would definitely affect the quality of education, put a heavier burden on parents and deal a blow to the morale of educational workers.

Besides, the Government has not paid attention to the class division, but it has comprehensively promoted such division in many areas. It has not encouraged institutions to give full play to their edges and create their characteristics and styles; conversely, it has divided them into classes and unfairly allocated resources. If institutions were divided into classes, graduates would be labelled. Such division would also be found in the intellectual and professional classes in the future.

Moreover, the rule of man has replaced the rule of law and personal liking has replaced a proven system. There is a system for the salaries of civil servants, so while the delinking with this system enables free and flexible decisions, it also means an absence of a system governing such decisions. In

other words, it has become the rule of man on the basis of personal liking. The Government is going to submit to this Council a legislative proposal on civil service pay cut which is virtually a violation of the established agreement between an employer and employees. No wonder it is now also prepared to wield the axe at the staff of institutions.

Inducing the transfer and mobility of students is euphemized as free competition, but it would actually wreck the sense of belonging of students and encourage them to trim their sails, become inconstant and play up to those in power, thus, they would develop poor characters and morals. Perhaps some may think that it gives no cause for much criticism for them to have such characters and morals in the business sector. However, should the culture spread to the education sector?

If the plans in the report are implemented, I foresee a catastrophe for higher education. Higher education which is at the top of the education pyramid must have significant effects on basic education. At present, the so-called education reform in progress has created troubles for basic education, and there would be even more problems in the future after the implementation of these recommendations.

Prof Arthur LI who is going to assume office as a principal official has made a lot of criticisms against the report. I hope that he will stick to the correct remarks he made and listen to other opinions, especially those of the academic staff of tertiary institutions who have once worked with him. I expect him to be accountable for the future education cause, but he must first be accountable for the remarks he made.

Madam President, I so submit.

MR LEE CHEUK-YAN (in Cantonese): Madam President, serving as a foil to today's debate is the demonstration staged by lecturers and professors of post-secondary institutions. The SAR Government is definitely not incompetent and it is most capable of inducing people to take to the streets for it has turned stability into instability. I am not sure if the permanent secretaries have to take to the streets one day.

Why have lecturers and professors of post-secondary institutions taken to the streets? It is evidently because we fail to find epigrams such as "What the Great Learning teaches is to illustrate illustrious virtue; to renovate the people;

and to rest in the highest excellence." On the contrary, we only smell the stink of money and the overt conspiracy of capping and reducing funding for post-secondary education. The University Grants Committee (UGC) is very frank and does not have any hidden agenda. Money is simply the central idea of the report. The TUNG Chee-hwa government has proposed increasing the participation rate of higher education to 60% for the relevant age group within 10 years. The only sacred mission of the UGC is to double higher education places without doubling higher education funding. The only way to be the host without paying is to ask others to pay. According to the report, associate degree programmes will have to be self-financed, and the salaries of university staff will no longer be linked with civil service rates. At the end, Mr TUNG Chee-hwa would be the host but university staff and students have to pay to achieve his goals of education.

Two weeks ago, we discussed the reform proposals of associate degree programmes and I am not going to repeat the relevant remarks. I only wish to say that students, especially those with poorer results, who want to take associate degree courses in future would have to carry loads of debts. Then, poorer students may give up further studies after consideration. The system would only lead to the gradual regression of education in Hong Kong.

Workers are not living seafood and their salaries cannot change with the times. Workers want a stable job and a stable income to make arrangements and plans for life such as whether they would get married, have children or buy a home. Intellectual workers in universities also want a stable job and a stable income because academic research is a lifelong career. Taking a step back, if a professor has an unstable job and has to constantly worry about daily necessities, how can he wholeheartedly devote to academic research and teaching duties? At present, most newly appointed university academic staff are not appointed on a permanent basis and their salaries are not linked to civil service rates. Some of them only have a nine-month teaching agreement in a year and whether the agreement would be renewed is dependant upon whether extra money can be squeezed from somewhere in the next academic year. Under such adverse working conditions, how can there be quality research? The situation would become even worse if their remuneration are delinked from the civil service rates.

Besides academic staff, university staff, especially basic rank staff, are set on tenterhooks. I believe that if their remunerations are delinked with civil service rates, there would be outsourcing of more security guard and cleaner

posts and clerks would be given a pay cut. A survey conducted by a trade union two years ago found that the wages of security guards and cleaners working in outsourced posts were just enough to erk out their livelihood and some outsourcing contractors had violated the labour legislation. They did not grant such workers rest days and sick leave, shame on the ivory tower.

Not long ago, students of Harvard University fought for improvement to the treatment of workers of outsourced jobs and they almost offended the President. I hope that such education in pursuit of social justice would not emerge in Hong Kong. After all, the education of students should not be built on the sufferings of workers. However, I guess that the situation would continue and students may have to assist workers in fighting for their interests.

Madam President, the proposals of the UGC such as the credit transfer system and the selectivity principle for research funding actually seek to commercialize higher education. The market logic stresses survival of the fittest with the extreme of being unscrupulous, which is out of tune with the education philosophy of salutary influence and cleansing the soul. Reforming higher education on basis of pure market logic has only one result, that is, doomed failure. To attain effective market operation and enable money to follow students, there have to be quantifiable indicators — it would be the best for them to become indicators of price. Yet, as Simon CHAU said, education is heart-to-heart stimulation and a project of induction and transformation. The project is inherently difficult to quantify. In the course of forcibly quantifying the performance of education and quality of research, we may easily make mistakes such as taking "馮京" as "馬涼" or "量化" as "異化".

In the education market, knowledge is actually too abstract for students and the pursuit of knowledge is even more abstract for them. How are students going to make a choice? They may have to know which professor would give away most distinctions, whether the subject is popular in the market and whether employers would scramble to employ them upon graduation. The marketplace would then be explicit and calculations can be done. If education were quantified that way, it would degenerate into a marketplace, rather than a means for knowledge transmission.

Madam President, when Prof Edward CHEN, President of the Lingnan University, was interviewed by a *Ming Pao* reporter and discussed the report, he repeated eight times that he was very angry and he said that it was ridiculous thrice. He wished to convey a very clear message, that education is not an

ordinary commodity. The information useful to evaluating the quality of teaching is extremely scarce and the supply and demand of education is inevitably subject to market failure. Therefore, education cannot be considered as a commodity, unlike a chicken for \$1 in restaurants. Given that education cannot be commercialized as a commodity, we object to the proposals of the UGC that would turn education into a market commodity.

Madam President, I so submit.

MR LEUNG YIU-CHUNG (in Cantonese): Madam President, the report on Higher Education in Hong Kong has several key recommendations, firstly, "selectivity" approach in allocation of funding; secondly, elite training and thirdly, delinking the remuneration of university staff with civil service rates. I wish to express my views on the three points above.

As regards the "selectivity" approach in allocation of funding, many colleagues have just said that the subjects currently taught in universities might become commodities on the market and the market would determine their quality. Commodities of good quality may be allocated more resources; otherwise, fewer resources would be allocated. But, what is good quality? The biggest question is how to measure good quality and what criteria should be adopted. It is a very difficult question.

An institution has appointed a world-class professor to conduct research and if his research were fruitful, the institution would be given more resources. Another institution says that the performance of its students has generally improved and the subjects they taught are not only market-oriented. Would this latter institution be considered good for its students have achieved better academic results, character and morals? If so, it should be given more funding. However, the report disagrees and it has stated that more funding would only be given for better academic achievement. I cannot help asking what the objective of university education is. Is it for the sake of society as a whole or the economy only? Should the character, conduct, beliefs and lifestyle of people be improved as well?

If Members agree with the principle of selectivity, please tell me the criteria of assessment. If there were not sufficient grounds, it would not be feasible to do so. Why? It is because many institutions would act according to the Government's preference. For instance, Mr TUNG often emphasizes

technology, so, institutions would look for professors with expertise in technologies to conduct researches in Hong Kong, and if their researches were fruitful, the institutions would be given more funding. What about social science that is not Mr TUNG's preference? There would ultimately be a shoe-shining culture in universities, as I have often criticized. In fact, such a phenomenon would easily arise because institutions have to comply with the Government's preference.

Actually, there is but not will be a shoe-shining culture. Universities have continuously required academic staff to conduct better researches for publication in international journals. What kinds of research results are qualified for such publication? These journals often require research subjects to focus on significant issues of concern to the whole world, very prominent issues. They may not put emphasis on general issues, especially domestic issues. Therefore, academic staff have told me that they have to comply with their preference and strive for publication of the results of their researches in such journals. But it would indirectly impede academic freedom seriously and deal it a heavy blow. Even though a scholar would like to conduct research on a subject, it would not be worth the effort if the results would not be published in these journals. Even worse, it would have impact on the institution, impeding its rise to a first-rate university; it would then fail to get funding or more provisions by the Government. Then, his own "rice bowl" would not be secure. Hence, it would indirectly deal a blow to academic research and neglect academic freedom.

Concerning elite training, we need elites indeed but how many would we need? People from the business sector keep saying that there is a lack of talents and they have to find talents outside. Have they considered how many elites we have to nurture? One, two; 100, 200; 10 000, 20 000; or over 1.2 million, over 2 million? We have to consider clearly how many elites we need. If we only need dozens of them, I think it would not be very helpful to the business sector.

The business sector intends to import talents because there is a lack of talents in Hong Kong. It is true but we are not talking about dozens or hundreds of talents but the general improvement in the academic levels, skills and knowledge of the population. Only then would there be results and social progress. But training individual elites would not be helpful to society as a whole. In fact, the business sector is reaping what it has sown. They have not vigorously promoted popularization of tertiary education and many students with

poorer results cannot go to universities, thus, they cannot help the development of society. I hope that Members would not focus on training a small group of elites. If there were a participation rate of 60%, all of such students should become elites. Only in this way can such a participation rate be helpful to society, otherwise, it would be meaningless.

Lastly, I would like to discuss the issue of delinking. I wish Members would understand that an academic research takes a long time and it cannot be completed within one to two days or a short period of time. If scholars do not have a fixed income or job security, how can they conduct researches? Would they set their mind on and think hard about the researches? We must consider these questions and we cannot just say that more researches should be conducted when there may not be any more resources for research half a year later. How could they set their mind at ease and put all their efforts in conducting researches?

I hope the Secretary would carefully consider that a person would not be wholly absorbed in research if he could not be assured of a stable living. Members must also understand that researches would not achieve results within a short period of time and they take a fairly long time. Therefore, scholars must have a stable job and income. The report recommends delinking the remuneration of academic staff with civil service rates, but it will not facilitate the conduct of researches. Furthermore, if remunerations are linked with performance, it may give rise to a flattery culture. People once criticized that there was already such a phenomenon in tertiary institutions, I very much worry that it may also emerge in the future.

Madam President, I so submit.

MR JASPER TSANG (in Cantonese): Madam President, first of all, I wish to remind the Secretary that the Chinese translation of the report on Higher Education in Hong Kong is very poor. I was astonished by the sentence cited by Miss LI Fung-ying earlier, but I found after reading the report that it was not the meaning of the original text. Miss LI Fung-ying cited paragraph 1.17, saying that the core functions of universities will be drivers of economic opportunity. How can it be? If we look at the original text in English, we would discover that the meaning is actually different. But we cannot put the blame on Miss LI Fung-ying because the Chinese translation is like that.

Madam President, let me cite another sentence. I am just criticizing the translation in passing. I would like to cite paragraph 6.35, as there is no punctuation mark in the sentence of 34 Chinese words, I wonder if Members can understand it. The sentence goes, "In all of these contexts the boldness necessary to further deregulate the sector and thus strengthen its responsiveness to the winds of international competition is essential. (必須積極地減少對教育界的規管和增強面對國際競爭的適應能力是絕對必需的。)" The sentence comprises the word "necessary" and "essential". After reading it over and over again, I still fail to figure out how many issues are involved. All in all, the report has many similar examples, but I do not think the Chinese is presentable for a report on higher education.

I do not intend to focus my discussion on the above. I do not wish to make sharp criticisms as some Honourable colleagues have done. This report has discussed about resources from beginning to end and it is simply about money. For instance, the report proposes how funding should be allocated, that is, key institutions should be allocated more resources rather than equal allocation of resources. The remunerations of academic staff would not be linked to civil service rates and the same salaries would not be given for some should have higher salaries than the others. Students can take some credits in an institution before taking other credits in another institution. The Government would not allocate funding to an institution on basis of the number of students but the credits given to students. Evidently, the whole report is about the allocation of funding.

"Selection" and "competition" have appeared many times in the report and the two points are discussed throughout the report while the overall spirit is espoused in the conclusion. The word "deregulate" is used in the English text but I am not sure about its Chinese translation. However, the Chinese translation of the report is so poor that readers would definitely not understand it. The word "deregulate" means giving up uniformity and limitation, to be flexible and open. The report has also repeatedly mentioned the market and dependence on the market force.

However, I am concerned if the development of higher education can be so dependent upon the market force. We should not think so on the grounds of popularity and peculiarity. Under ordinary circumstances, the market-led development of higher education has problems.

What exactly is the so-called market? Students would strive to take the relevant courses in the light of what talents are much coveted in the market. Madam President, I recall that when I entered university, I had to be interviewed by the committee because I had applied for living allowance. The chairman of the committee asked me how much I reckoned that I had to spend monthly as a university student. As I had not prepared for such a question, I arbitrarily gave him an estimate. The chairman then said with a smile on his face that students who wished to take Mathematics were the worst at calculations. His point was I did not know my sums. University students in the 1960s were like that. Yet, university students who took Mathematics in the past 20 years were very good at calculation. Thus, all of them took medicine because it was very popular to become doctors during a certain period. As far as I know, the Faculty of Medicine of the University of Hong Kong admitted all students who had distinctions in two Mathematics subjects in the A-Level examination.

But when 1997 was approaching, students were worried by the uncertainty of becoming doctors under "one country, two systems" after 1997. Since it took far too long, five years, to study medicine, I heard that students no longer took medicine from the end of 1980s to 1990s; as a result, the medicine students of universities had performed increasingly badly. Students with the best results in Mathematics switched to taking business management since it would take a shorter time and be applicable all over the world. Unexpectedly, this group of graduates met the financial turmoil upon graduation. They could hardly find satisfactory development in the business sector nor a job. I heard that universities have gradually admitted students with better results for science subjects. For years in the past, students with outstanding results in mathematics did not take mathematics in universities but some students with better results in mathematics have done so in recent years. Nevertheless, we cannot tell how the world would change when these students graduate. In other words, the training provided by higher education certainly lags behind social demands. Today, some industries that are generally regarded as offering good prospects may lag behind the social changes when the graduates join the workforce. I have evaded a discussion about the market demands irrespective of the academic demands. I think this lag is a general rule.

Hong Kong is a very special society because it is a small place and there are only eight universities. There is not much difference between the best and the worst of these eight universities, but there are really differences between famous universities and the worst universities in the United States. Does the

Government wish to artificially create differences and increase disparity? If it puts more resources into a few key institutions, it would mean fewer resources to the other institutions. Should we do so now that there is only a small number of universities in Hong Kong? Another problem is delinking. Since there are only a small number of universities and academic staff in Hong Kong, do we have to create salary disparity between academic staff? Thus, under the special circumstances of Hong Kong, we must carefully consider the recommendations made in the report. Thank you, Madam President.

MR MICHAEL MAK (in Cantonese): Madam President, education brings people hope and self-confidence. University education should train up talents with knowledge and power of judgement, talents who would make contribution in the social, cultural, democratic, scientific and economic domains. However, it is disappointing that the report on Higher Education in Hong Kong has not explored or made recommendations in relation to how best this mission and conviction can be strengthened and consolidated, and it has failed to tackle the issue of increasing university places. On the contrary, it is money-minded, benefit-oriented and very commercial, which is most disappointing and regrettable. In a word, it has forsaken righteousness in the face of benefits.

I said so because most of the report recommendations focus on training talents who meets the needs of high value-added society, while stifling the development of other smaller faculties with fewer students. Besides, to save funding, it has invented all sorts of names and recommended delinking the remuneration of academic staff with that of civil servants. All these are shortsighted recommendations that fail to see the wood for the trees.

Given the limited public resources, the report has proposed the principle of selectivity under which disciplines with outstanding performance will be selected from different institutions for key funding in the hope of further strengthening such areas of excellence. However, humanities subjects that normally have fewer students but emphasize moral standards and rational thinking would be eliminated with further reduction in resources. Madam President, to forcibly apply the survival of the fittest theory to the cause of education is not beneficial to the younger generation at all.

I am strongly dissatisfied with the report suggestion that associate degree courses should no longer be subsidized. Mr TUNG Chee-hwa, the Chief

Executive, has said in the most ambitious manner that the participation rate for the relevant age group would be increased to 60%. But the Government is now going to stop subsidizing associate degree students, who would be deterred from taking up such courses in the light of tuition subsidy. With such contradictory policies, it seems the Government is giving itself a good slap on its own face.

In keeping with the needs of the community, more and more institutions have begun to offer associate degree programmes and the relevant programmes tend to articulate with universities overseas. Thus, associate degree courses are gradually becoming an alternative avenue to university education. For example, the Hong Kong Baptist University School of Continuing Education plans to co-operate with a famous university in Canada next year. Under this co-operative programme, students who have completed associate degree programmes would be granted bachelor degrees from the university after taking a two-year articulated degree courses. Compared to studying in Canada, students would at least be able to save more than \$400,000. Reducing subsidies for associate degree programmes during an economic slump would deter students who aspire to university degrees and deprive them of opportunities of learning, sort of hitting them when they are down.

Madam President, many reviews in recent years have targeted at the salaries and benefits of civil servants and staff of subvented organizations. And yet, the Government has taken wonderful coupling actions and racked its brains to squeeze everything out of them. The report is no exception and it proposes delinking the remuneration of university staff from that of civil servants. The working environment of universities must be stable, so if the salaries and benefits of university staff are destabilized, universities would no longer be places where they can teach and conduct research with peace of mind. The ultimate victims would be the students. Actually, the problem is also found in the Hospital Authority (HA) in which I serve. The HA has introduced different policies to exploit newly appointed staff in terms of benefits and salaries. Today, I have received a complaint that the HA may abolish the increment for newly appointed staff who have to accept with reluctance and helplessness.

Madam President, it is most miserable to be desperate. I am disheartened and angry with the Government's probing the bottomline of professionals time and again. Professionals serve the public with professionalism and expertise, but we are really heartbroken after we have been heartlessly treated again and

again. I hope the current review on higher education would make the Government reflect on the attitude it should adopt towards professionals.

I so submit.

MR NG LEUNG-SING (in Cantonese): Madam President, the report on Higher Education in Hong Kong commissioned by the Education and Manpower Bureau made important recommendations on the reform of universities. If such recommendations as elite education, credit transfer system, extending the ambit of The Ombudsman to cover universities and the establishment of Further Education Council are implemented, they would have far-reaching effects on the development of higher education in Hong Kong. This widely representative legislature is therefore duty-bound to discuss the matter further, collect more public opinions and reach a consensus on various matters for reference by Bureau Directors under the accountability system for principal official so that better policies could be made.

The most controversial recommendation is the selectivity-based resources allocation policy. Under the proposal, institutions and staff with outstanding performance would be given suitable funding to assist them in attaining first-class international standards. As stated in the report, to maintain the international competitiveness of our higher education sector, we must concentrate resources on the development of teaching and research in key universities. Since there is a serious deficit, the Government cannot inject resources without limits; thus, it can only selectively subsidize academic research projects with higher returns. It seems that all these are result-based and market-oriented, and people cannot help worrying about if education would become commercialized. Evidently, new institutions with a shorter history do not welcome the new policy and they have raised a lot of questions. I understand that the recommendations of the report seek to improve the quality of teaching and research projects through competition among institutions. However, I worry about the side effects of the policies, fearing that they may not be as good as intended. For new institutions to compete with famous universities for resources, they are like eggs hit against a rock and destined to lose. Similarly, without suitable injection of resources by the Government, I am afraid the new institutions will find operation difficult. Therefore, the resources allocation problem arising from the establishment of public universities

within a short period really warrants deliberations and study. We should ponder over the affordability of resources for higher education and consider the future direction of operating private universities with resources from the community.

Given the existing mode of public funding, there was strong reaction to the proposal in Appendix E of the report on the determination of the amount of subsidies on the basis of the number of credits. Under the Credit Accumulation and Transfer System, students naturally will have more choices. It is certainly good for students who initially failed to enter the famous universities they like and would promote academic exchange among institutions. Yet, resources would be transferred with the transfer of students and credits, creating a phenomenon in which subsidies follow the students. Are there not side effects? In general, in a benefit-oriented society, students would certainly choose universities of greater fame, and new institutions would gradually be abandoned or become transitional institutions. No wonder they think that it would be an unfair game resulting in at least a vicious cycle. Therefore, linking the research funding of universities to credits and market response would induce the flow of most resources to famous universities and strangle the development of new institutions to a very large extent. In addition, the more worrying problem of the quality of programmes would ultimately do harm to education in Hong Kong.

After all, we have to lead the community to reach a consensus again. What is the goal of education, especially higher education, in Hong Kong? Provided that all of us explicitly know this goal, we would have a clearer direction and be more confident in moving forward. Do we only wish to be comparable to first-class universities in the international arena, equating university education to economic benefits, or do we wish to cultivate cultural creation, morals and spirits and develop an education policy with the features distinctly Hong Kong? It takes 10 years to grow trees but 100 years to rear people. Education is a protracted war and we can definitely not see the results at once. For this reason, the Government should substantively support education by making reasonable and stable financial injection. In regard to policies, the Government should consider making proper arrangements for private institutions, otherwise, it would force universities onto the road of commercialization and degenerate into the next sacrifice in the market.

Madam President, I so submit.

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

MRS SOPHIE LEUNG (in Cantonese): Madam President, it is now past 10 pm but we still have to debate another motion, however, I must make some remarks after listening to the heated discussions about the motion by Honourable colleagues.

Mrs Selina CHOW and Mr Tommy CHEUNG have discussed the views and position of the Liberal Party, but I still wish to make some remarks. In the past few years, I have had many opportunities of co-operation with many university students. Sometimes, people describe universities as "ivory towers" but I would not casually agree with the use of this metaphor. Actually, we have to consider that our arguments are sometimes produced in "ivory towers". Some Members have just loudly fought for more resources for the younger generation or maintaining the existing resources. Should we look at the results of students given the existing resources? Have they made good use of the campuses? Does anybody know the inside story?

In the past year, I have held dozens of seminars of over three hours each with students and studied the questions with them in detail. More students have approached me this year because it has been very hard for them to find a job. On each occasion, I would spend three hours discussing matters with them, but I must make a few remarks here. Firstly, insofar as the universities are concerned, many people work in the department responsible for liaison with students. I thought that they would really liaise with the students, show concern for them and offer them alternative dependence. But it appeared that they were best at sending e-mails and none of them would follow up if students had read the e-mails or bother about how the emails are received. On one occasion, a university asked me to give a lecture, but only one person from the university attended the lecture.

Secondly, I had asked a lot of students if they know the culture and characteristics of their universities, but none of them knew what the culture was. I told them to find out the answer from teachers or even the presidents or vice chancellors, but they just evaded the matter. That is the case of post-secondary institutions after we have injected a lot of resources. I am not sure what problems there are and I have tried to ask some presidents or vice chancellors about their opinions on the motion, but they are not as concerned as some of their peers whom I know.

Thirdly, students who have approached me are actually very good students. When I asked those among them who had the habit of preparing lessons to raise their hands, only a few students dared raise their hands. When I asked whether they had prepared lessons, only a small number of students among a class of 30 raised their hands. When I asked them why they did not prepare lessons, they told me that their teachers had not asked them to do so. I asked if they thought that they would have wasted the tuition fees paid, they did not know how to answer my question. That is the case after we have injected a lot of resources. I only wish to share my experience with Members. If we really wish to fight for resources for the younger generation or maintain the existing resources, then we must ask a major question. How have the resources actually been used, and have the younger generation been fully nourished with the resources. Thank you, Madam President.

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

(No Member responded)

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, in late March this year, the University Grants Committee (UGC) released the report on Higher Education in Hong Kong (the report), in which recommendations on the future development of local higher education are made and a public consultation period designated. Subsequently, in response to the views expressed by the Legislative Council Panel on Education, the UGC extended the consultation period to the end of July to enable the community, the education sector and students to discuss the recommendations in greater depths and reflect their views to the UGC.

I welcome Mr YEUNG Yiu-chung to move this motion today, so that all Members of the Legislative Council can have a chance to discuss the development of local higher education, and I am also very grateful to the valuable opinions put forward by Members. Since the public consultation exercise on the report is still ongoing and the Government has no predetermined position on the UGC's recommendations, I do not intend to respond to the opinions of Members one by one. As for the financing of associate degree programmes, since we also had a pertinent debate two weeks ago, I would not repeat my points here. Today, I intend to discuss with Members the present

situation of higher education, its mission and some of the significant principles underlying the planning of its development in the future.

First, let me define some of the terms which may easily be mixed up. Actually, "higher education" denotes education at degree level or above, and "tertiary education" is a generic term for all the education received after secondary school. This means that higher education is in fact a subset of tertiary education, and tertiary education would cover professional diploma, higher diploma and associate degree programmes, which are all referred to as sub-degree courses. The main task of the UGC is related to higher education, but since two of the UGC-funded universities also offer subsidized sub-degree courses, the report released by the UGC inevitably has to touch upon the future supervision and financing of sub-degree courses.

Local higher education started to develop very rapidly in the mid-1980s. The participation rate for youngsters aged 17 to 20 actually rose from 5% in 1985-86 to 18% in 1995-96. Subsequently, the number of freshmen has remained consistently at the level of 14 500. During this course of development, the Government has injected huge resources to increase the number of university places, encourage research efforts and upgrade the quality of the various institutions.

Currently, we have a total of eight publicly-funded universities, and the funding for them amounts to nearly \$ 1.4 billion in 2001-02, or 6% of the total government expenditure. These eight universities now offer about 80 000 full-time equivalent places, 4 000 of which being research degree places. The objective of the UGC report is not so much to save resources; rather, it is aimed at strengthening university governance and increasing the flexibility of resource utilization. In fact, if we are to implement the recommendations of the UGC, billions of additional expenditure will have to be made.

In the mid-1990s, the UGC once conducted a comprehensive review on local higher education, in which the general situation and possible developments following the expansion of university places were assessed. At that time, the community at large expressed deep concern about the "quality" problem resulting from the increase in "quantity". The conclusion of the UGC was that while increases in places will admittedly lower the average standards of students, the overall quality of students was still satisfactory because the overall participation rate was still on the low side. The UGC, however, did raise two

concerns: first, the language standards and social skills of students were generally unsatisfactory; and, second, the quality of students admitted to less popular programmes was comparatively less satisfactory and enhanced training was required.

The conclusion of the UGC then is still appropriate in the context of today. However, we should also note that as more and more Hong Kong students further their studies abroad, the intake quality of local universities will inevitably be further affected. We estimate that every year, about 7% of our secondary school graduates will go abroad for studies, and many students even do so before they complete their secondary education. In the long run, however, we need not thus worry about any brain drain, because as long as Hong Kong can retain its status as a cosmopolitan city, it will continue to attract talents from around the world and induce graduates to come back to cater for our domestic demand. Actually, since the reunification in 1997, many overseas graduates have returned to Hong Kong for work, thus giving Hong Kong many talents with cross-cultural and international perspectives.

As for local graduates, owing to the increase in participation rate, their standards are bound to vary. However, I must add that many students admitted to popular programmes are still very outstanding, and at times, even more outstanding than their predecessors in early years. These students are now nurtured by better teachers, and they can also benefit from a better learning environment and a much more holistic learning experience, all made possible by general education, exchange student schemes and hostel life. Besides, local university students have also won many awards in various international contests.

Since 1999-2000, the Government has been conducting annual surveys on employers' satisfaction with university graduates. Generally, about 70% of the employers sampled for survey are satisfied with the performance of their graduate employees. About 13% of them are very satisfied, while 6% are not satisfied. Employers in general are more satisfied with the information technology knowledge, Chinese language standards and work attitude of their graduate employees, but they are most dissatisfied with their Putonghua, English and analytical power. This shows that the language standards of students are still the main concern of society. The crux of the problem does not lie so much with the universities. Rather, it is caused by a series of factors connected with primary and secondary schools: their curriculums, teaching methods, teacher

quality, learning incentive, language environment, and so on. All these are precisely the issues to be dealt with by the education reform now underway.

As for the quality of teaching and research, the UGC has introduced many quality assurance mechanisms over the past 10 years to ensure the quality of university education, covering research evaluation, formative reviews on teaching and learning, management reviews, and so on. Doubtless the local higher education sector has achieved constant upgrading in terms of teaching and research in recent years, especially in the field of research. With increasing resources from the Government, and also under the pressure of competition, the various tertiary institutions have achieved marked qualitative and quantitative improvements in their research work, and some of their research projects have even attained international standards.

During the 10 years between 1991 and 2000, the Research Grants Council under the UGC financed more than 4 000 research projects, and research funding also increased from \$100 million in 1991 to \$470 million in 2000. However, when compared with other advanced regions, Hong Kong's research funding is still on the low side, representing just a mere 0.5% of the Gross Domestic Product (GDP). The corresponding percentage is 2% in Taiwan and 0.8% in the Mainland. According to the Organization for Economic Co-operation and Development (OECD), in order to tie in with the development of knowledge-based economy, the research funding indicator of a place should be 3% of its GDP. However, the OECD also encourages the industrial and commercial sector to invest vigorously in research activities. Many Members have criticized the report for focusing only on resource allocation without considering any educational objectives and ideals. Actually, right at the beginning of the report, in the first chapter, the role played by universities in the community of Hong Kong is already explored, and Annex II also offers a comprehensive picture of local higher education and the effects of rapid social changes on higher education institutions and their upgrading of quality.

The core task of a university is no doubt to create knowledge, nurture talents and serve the community. In the academic world, research work is often looked upon as a means of asserting one's status and reputation. Many professors regard teaching as their career mission, and, to them, serving the community is only of secondary importance. As times change, the mission of universities should be revised accordingly. At this time of social anxieties and economic restructuring, the responsibilities of universities have become ever heavier than before, as they have to serve as the beacons of society, take an

impartial lead in discussions about social issues, draw the strengths of society together and assist in social development founded on their solid research capabilities. Precisely because of this sacred mission, universities should enjoy autonomy and academic freedom and be free from any external pressure and political intervention.

Prof Henry ROSOVSKY, former dean of arts and sciences at Harvard once remarked to the effect that only three kinds of people are qualified to wear hats and gowns — priests, lawyers and professors, for they are the symbols of justice and equity, the conscience of society. This is what society expects of universities and the higher education sector. I very much hope that our professors can treasure this expectation.

Higher education every where in the world has been undergoing varying degrees of reform due to the impacts of knowledge-based economy and globalization. In 1998, the United Nations Educational, Scientific and Cultural Organization pointed out in the World Conference on Higher Education that "to lay down the fundamental principles for the in-depth reform of higher education systems throughout the world and thus contribute to transforming higher education, in its material and virtual manifestations, into an environment for lifelong learning, for cultural debate, for the affirmation and safeguarding of diversity, and for forging and confirming the values and principles for 'the intellectual and moral solidarity of mankind'". To achieve this goal, the improvements and reform of higher education must be based on quality intake, and universities must improve their governance and quality assurance, seek to serve society and build up better links with the real working world. While enjoying autonomy and freedom, higher education institutions must be accountable to society and members of the public, so as to strike a balance between rights and obligations.

In Hong Kong, the future development of higher education should seek to intensify the missions of universities and respond to the needs of society. When drawing up a blueprint for future development, we must take account of the following:

- (1) Since universities are the nurturing grounds of the best of our talents and university students are the future leaders of society, universities must strictly assure their quality of teaching, so as to ensure that their graduates can meet the expectations of society;

- (2) Since universities are part of the whole education system, they are obligated to play the role of locomotive in education reforms, and they must assist in upgrading the quality of secondary education through their admission policies, teacher training, curriculum reforms and research, so as to ensure a higher quality of university intake;
- (3) Higher education is both a public responsibility and personal investment. The Government, society and individuals must jointly shoulder the expenditure on higher education. Currently, the various subsidized higher education institutions all draw the funding mainly from the Government. The tuition fees collected represent only 18% of the total costs, while private donations represent another 3% to 4%. These rates are much lower than those of other developed regions;
- (4) Given the shortage of resources, we are obligated to make the best use of resources by promoting a division of responsibilities among universities, so as to reduce unnecessary duplication and waste of resources. We must expend resources on the strongest areas on individual institutions, with a view to maximizing the effectiveness of resources.
- (5) Hong Kong must upgrade the educational qualifications of its people if it is to maintain its competitiveness in the knowledge-based economy. In the long run, we must further increase the number of university places; and,
- (6) The higher education system must remain flexible and diversified in a society of lifelong learning, and it must converge with the other segments of the education system, so as to provide alternative avenues and facilitate and encourage lifelong learning. The funding mechanism must keep abreast of the times to cater for the needs of lifelong learning.

The 21st century is an age of globalization and knowledge-based economy. At this very critical moment of economic restructuring and gearing in with the mainland economy, the role played by institutions of higher education has become all the more significant. They will have to play the role of nurturing talents for commerce, politics and education and of driving our social and economic development.

The report puts forward a number of visionary directions for the development of higher education, and Members have advanced many views that merit our consideration. There is still a month or so to go before the end of the consultation exercise. I hope that all the sectors of society can put forward their views. The UGC and the Government will seriously consider all the public views on the recommendations and then work out a practicable schedule for gradual progress and a reasonable strategy of resource allocation. I am sure that the incoming accountable official will be able to lead local higher education to the state of excellence, promote academic-government co-operation and enhance the links between higher education institutions and society. He will certainly live up to public expectations.

Madam President, today is the last time for me to speak in a meeting of the full Legislative Council as the Secretary for Education and Manpower. I wish to take this opportunity to thank Members for the attention and advice they gave to the Bureau in the past two years. Over the past two years, Members have asked 153 questions and moved 14 motions on education policies, and they have provided a lot of valuable and practical suggestions to the Government. I look forward to continuing my communication and co-operation with Members outside the legislature in the future.

Madam President, I so submit. Thank you all.

PRESIDENT (in Cantonese): Mr YEUNG Yiu-chung, you may now reply. You have up to three minutes 50 seconds.

MR YEUNG YIU-CHUNG (in Cantonese): Madam President, I am very grateful to the dozens of Members who have expressed their views on today's motion. As expected, Members have different opinions and viewpoints on education but I believe this debate has brought out a very strong message, that we hope the Government would think twice before taking forward reforms on higher education and that it would prudently deal with such fundamental issues as the philosophy of education and the interests of educational workers.

As the Secretary has said, it is the last time for her to speak in the Legislative Council in her capacity as the Secretary for Education and Manpower. I am very grateful to the Secretary for the strong support she has given to the

Panel on Education in the past two years and I hope that the Secretary would establish a new partnership with the Legislative Council in her capacity as a permanent secretary. In particular, I hope that the Secretary would convey to the new Bureau Director the views expressed by Members of this Council today because education reform is very important indeed. I wish that our higher education reform would be carried out in a sensible, useful and orderly manner. Thank you, Madam President.

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

(Members raised their hands)

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

(No hands raised)

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

PRESIDENT (in Cantonese): Second motion: Local community economy.

LOCAL COMMUNITY ECONOMY

MRS SOPHIE LEUNG (in Cantonese): Madam President, I move that the motion as printed on the Agenda be passed.

In recent years, there have been heated discussions about the development of the local community economy. The Budget has made the local community economy one of the directions of development and the Financial Secretary has

personally led an inter-departmental task force to promote the development, in the hope to promote internal consumption, create job opportunities and give play to the local culture. The Government wishes to kill three birds with one stone.

In fact, the term "local community economy" is not found in economics, but it generally refers to domestic economic activities such as small vendors, artistic fairs and other personal services with distinctive features. In other words, these activities are supported by internal demand and the development of such industries that principally serve local people serves the purpose of promoting the job opportunities of the lower class.

But I wish to say that it is a simple idea to rely on the local community economy to create job opportunities and we should not regard developing the local community economy as a panacea for the unemployment problem. It is because our economy has always been export-oriented and its take-off in the past depended on the foreign exchange income from industrial export and entreport trade that supported the local consumption market.

Faced with the economic restructuring and globalization, the future of Hong Kong lies in the development of export-oriented high value-added activities so as to absorb more foreign exchange and catch more flowing water. Without flowing water, how can we increase the consumption power and desire of the public? Therefore, the local community economy is only one of the links of economic development and we cannot merely rely on a market with 7 million people to vitalize the economy.

Therefore, the Liberal Party has proposed the motion today. We hope that the Government would start with improving the economy as a whole. I believe the Financial Secretary knows very well, and fully agrees that while we actively promote the development of the local community economy, we must tie in such development with the overall social and economic situation as well as the future development — Madam President, I emphasize the future development — to further improve the business environment, and we must pay attention to omni-directional economic development. Only so can we more actively and effectively promote the development of the local community economy.

The Liberal Party thinks that the following points warrant particular attention in developing the local community economy.

Firstly, under the economic downturn, the organization of more distinctive local economic activities would really attract consumption by the public to the benefit of the retail industry. Moreover, such activities can highlight the tourism and cultural features of different districts, attract foreign visitors and further promote the local tourism industry.

Yet, we cannot merely rely on "minute-scale" activities such as small vendors and personal services as people generally mentioned. Many other industries such as the catering and retail industries have very strong internal demands and they would very effectively stimulate economic growth and create jobs.

We also hope that the Government would promote the development of more new activities and diversified services. If it can take matching actions in various aspects such as traffic arrangement, publicity and promotion, and make it more convenient for the public and operators, I believe it would help the development of the local community economy.

Furthermore, we think that all forms of local community economic activities must be carried out in an orderly manner to avoid causing the social order and economic activities to lose balance. This is also one of our objectives in proposing the motion today

All in all, we must make efforts to improve the business environment and try all means possible to simplify all red tape so that these "minute-scale" activities, the original local economic activities and even the economic activities upon which we have relied for survival for years would develop prosperously one day and be comparable to the economic prosperity in the 1980s. Certainly, the relevant authorities should also provide operators with convenient tax return services to encourage them to do so honestly and fulfil our obligations as citizens as well as protect public revenue.

Later on, other Members from the Liberal Party would discuss in what areas the local community economy can be developed and the relationship between the business environment and small and medium enterprises (SMEs) and the local community economy. Concerning the amendments proposed by two other Members, I think that they are not quite different from the motion of the Liberal Party and the difference only lies in how best a fair business environment can be created. I wish to reiterate that the Liberal Party does not agree with

making a fair competition law in a broad-brush manner. I would respond further after listening to the views expressed by the two Members. I also wish to listen to the views of Members present.

I earnestly hope that the team lead by the Financial Secretary would propose a specific and comprehensive plan and consider how to develop the local community economy. Besides encouraging businesses with small capital, we should also create a good business environment — Madam President, I emphasize a good business environment — and adopt measures that treat operators equally without discrimination to attract more foreign investments and create jobs.

With these remarks, I beg to move.

Mrs Sophie LEUNG moved the following motion: (Translation)

"That, in order to promote Hong Kong's economy and domestic consumption and to create more employment opportunities, this Council urges that, to complement the overall socio-economic situation, the Government adopt proactive measures to promote the development of the local community economy and spare no efforts in improving the business environment, in order to strengthen the local community economy."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Mrs Sophie LEUNG be passed.

PRESIDENT (in Cantonese): Miss CHAN Yuen-han and Mr Fred LI will move amendments to this motion. Their amendments have been printed on the Agenda. The motion and the two amendments will now be debated together in a joint debate.

I now call upon Miss CHAN Yuen-han to speak first, to be followed by Mr Fred LI; but no amendments are to be moved at this stage.

MISS CHAN YUEN-HAN (in Cantonese): Madam President, on 6 March this year, the Financial Secretary put forward a proposal to develop the local

community economy. Later, when he appeared before this Council again, he told us that the local community economy had been in existence all along and was an important element of Hong Kong economy. Recently, however, in addition to further explaining that we could not rely solely on the local community economy to save Hong Kong economy, he also stressed that even though the local community economy was an important element of our economy, high technology and high value-added industries should be the mainstream economy of Hong Kong.

I fully agree with the Financial Secretary's views in this regard. On the other hand, the Government has never looked into the reasons why the local community economy, which has been in existence all along, is now in a dying state rather than improving with the development of Hong Kong. That being the case, why does the Government try to develop the local community economy again today? The Government has not answered this question and thus aroused all sorts of wild speculations among different sectors of society. Yet the Government will very shortly task the Home Affairs Bureau with the responsibility of promoting local community economic activities in the 18 districts across Hong Kong. Given that there are speculations, there must naturally be divergent views on the definition of local community economy. All of a sudden, many different suggestions for the development of the local community economy are raised in the community. This may perhaps be a good thing, yet at the same time the different views and suggestions may also give rise to confusion.

Madam President, since the financial turmoil in 1997, the property market in Hong Kong has remained weak and fragile, thereby highlighting the problem of structural unemployment in our economy structure. Today, I believe every person in Hong Kong is aware that the unemployment problem has become increasingly grave and remained as the biggest issue facing Hong Kong. Recently, the unemployment rate has soared further to 7.4%. During 1998-99, the economy of Hong Kong was dealt a series of heavy blows and subject to challenges in the wake of the financial turmoil in 1997, and we all admitted that unemployment had already become a huge problem in Hong Kong. As such, the Hong Kong Federation of Trade Unions (FTU) conducted a study in collaboration with the Baptist University at that time and made the suggestion that if we were to resolve the unemployment problem, Hong Kong must implement an economic development strategy of giving priority to employment.

At that time, in addition to completing a study report, we also identified a number of issues. What issues did we identify then? We could see that the Government would like to develop high technology industries, which the Financial Secretary has repeatedly stressed as the mainstream economic activities; yet our concern was: If the situation continues, could the employment situation in Hong Kong be improved? We also debated the issue with the Government of the Hong Kong Special Administrative Region (SAR) and expressed our dissenting view on relying on the development of high technology industries to resolve the employment problem of all members of society. We conducted the study jointly with the Baptist University in 1998, and the conclusion drawn then was that because Hong Kong's workforce would expand tremendously in future, a sole reliance on the development of high-technology and high-profit industries just might not be able to create enough jobs for the entire workforce. Besides, as such development would give rise to some elimination effect, in that the number of new jobs created would be smaller than the original jobs replaced, thereby inducing the further deterioration of the unemployment problem. So, this is the conclusion we made in 1999 after completing the said study.

The FTU has since been advocating that if we are to resolve the serious structural unemployment problem in Hong Kong, we must first have in place an economic development strategy of giving priority to employment. We have repeatedly raised this view to the SAR Government, only that it did not address the issue squarely at that time. Why do we insist that our proposed strategy is an effective measure to resolve the structural unemployment problem facing Hong Kong today? This is because we found out in the study that if Hong Kong should develop in this direction, some 1 million-odd workers in our society would have difficulty integrating into the mainstream economic activities because they just could not meet the required education and skill levels.

In the meantime, Prof TSANG Shu-ki, a local economist, has also put forward the theory to enhance the quality of the dual economy. He has raised a number of points and many of them are totally in line with that of ours. According to Prof TSANG's view, since Hong Kong is currently undergoing economic restructuring, enhancing the quality of the dual economy should be a direction that merits consideration. He also holds that in developing high-technology and high value-added industries that provide very limited employment opportunities, Hong Kong should at the same time promote the

development of some low value-added labour-intensive industries. While the first element of this dual economy should serve as the locomotive of the economy and the major source of foreign exchange income, the other element would absorb the majority of the lower-skilled members of the workforce and the industries in this stream should highlight the characteristics of the local community economy. Certainly, he has also mentioned many other aspects, including recovery and recycling industries, community services, and so on, all of which were in line with our study results.

Over the past few years, the FTU has also advocated the promotion of industries like environmental protection, refuse recovery, community services, home help service, and so on. Besides, we also mentioned development of the local community culture economy last year. In the past, the Government did not agree with the views of the public in this respect; but then, on 6 March, the Financial Secretary put forward the term "local community economy" in the Budget. We consider this change of attitude on the part of the Government a positive recognition of our views and suggestions. Besides, we also hope that if the Government is really determined to develop the local community economy, we can have a part in the implementation process. However, it appears there are still problems with the development of the local community economy and I do not know whether the Government is willing to resolve them. All along, the Government has never made any explanation or clarification in this regard, and that is why members of society are holding widely divergent views on such issues. In this connection, some people have mistakenly believed that the development of the local community economy can enable Hong Kong to get out of the present economic plight and help to resolve our economic and employment problems. Actually, all these are but a misapprehension.

Just now I cited some of the findings of the study conducted by the FTU in 1999 and some of the views raised by Prof TSANG. I believe some of the problems mentioned must be resolved. The local community economy is one element of our dual economy, which comprises low value-added trades and industries that offer plenty of employment opportunities. If the Government should agree with our view, it should formulate a set of measures to resolve the problems arising from such trades and industries. I do not intend to speak on the industries relating to environmental protection. There have been prolonged disputes over environmental protection industries in these last few years. Although the Government has undertaken to promote the environmental

protection industries or recovery industries, nothing has been done by the Government so far. The Government has only set up a fund to provide loans for the relevant trades and industries, so that they can do something in the community. Certainly, it is better to have a fund than no fund at all. But if the Government is offering the assistance for decorative purposes only, the recovery and environmental protection industries concerned will not be able to give full play to their functions.

The case of community services and personal services is similar. Even though the Government seems to have agreed to promoting and re-introducing such services under the name of local community economy, so far specific efforts of implementation have yet to be made. I certainly understand that the Government will not take any proactive actions in this respect, but the question remains whether the Government has any measures to resolve the problems with the existing policies that are inconducive to the promotion of the local community economy.

If we are to promote the local community economy, we have to make good use of the local resources, including manpower resources, natural environment, the unique east-meets-west cultural features, the various economic activities conducted in different districts, and so on. In making use of such resources, we would need the Government to relax some restrictions and revise certain existing policies. For example, the use of resources is restrained by numerous laws and regulations, including the hawker-related subsidiary legislation, provisions on town planning, provisions under the Antiquities and Monuments Ordinance, the long-existing Co-operative Societies Ordinance and Public Health and Municipal Services Ordinance, legislation on food and environment, and so on. The Government has undertaken to develop the local community economy, yet at the same time its policies are stifling such development. Here is one recent example. The Financial Secretary paid a site visit to Sai Kung recently and remarked that some outdoor cafes and fresh seafood stalls could be opened there. But then, the Food and Environmental Hygiene Department quickly responded that if the restaurants there should add more tables, their kitchens would not be able to meet the relevant requirements. Besides, the Police Force also pointed out that restaurants would not be allowed to set up tables that way, as fresh seafood stalls are not allowed to set up tables in the open air. From this we can see that there are still a great many restrictions hindering the development of such local community economic activities. Just how can the Government promote such activities if it does not relax all those restrictions?

In the past, there were many hawkers selling ice cream and soft drinks outside parks, and there were also carts selling other kinds of food as well. But the law does not allow such hawking activities now. A couple of months ago, I told the relevant officials of the Leisure and Cultural Services Department that if the Government should allow hawkers to sell ice cream and soft drinks outside parks again, some 1 000 new jobs would be created. Could the Government consider relaxing the restrictions in this context? This is the question I wish to ask the Government.

In addition to urging the Government to amend the outdated policies and statutory requirements, I have also raised some of my views in my proposed amendment. I have seen that many local community economic activities are being stifled by not only the restrictions of government policies but also many other restrictions. If the Government is unwilling to create a fair business environment, small business operators will still be affected by the various monopolistic activities despite the assistance they receive from the Government.

For these reasons, Madam President, I have to propose an amendment to emphasize that in order to promote the diversified development of the Hong Kong economy, it is imperative that the Government amend the outdated policies and statutory requirements and create a fair business environment. Thank you.

MR FRED LI (in Cantonese): Madam President, Madam President, in view of the weak domestic consumption, the various hardships facing the SMEs and the continually rising unemployment in Hong Kong these days, the Financial Secretary suggested promoting the development of the local community economy two months ago, with a view to stimulating consumer spending and thereby resolving the unemployment problem. The Democratic Party believes that in order to promote the development of the local community economy, it is most important to create a satisfactory business environment where the SMEs engaging in the various trades and industries could compete with the large consortia for businesses in a level playing field. But then, the Government has all along failed to recognize the monopolistic activities existing in the local community economy. Besides, many of its policies are also indirectly helping the large consortia to monopolize the relevant markets, and thus suffocated the development of the local community economy. For these reasons, the Government has failed to apply the right remedies to the problems but mistakenly believed that the diminishing vitality of the local community economy could be

restored just by setting up a number of hawker permitted areas, organizing arts fairs that highlight the characteristics of the local community, promoting body-building services, and so on.

What is local community economy? In my view, compared to the high value-added industries earning foreign exchange, the local community economy may largely be interpreted as domestic personal consumption or community economy. When the substantial foreign exchange earnings Hong Kong has made with its high value-added industries are re-injected into the various local markets, the local consumers' buying power will be enhanced and can therefore support the different kinds of local spending items available in the various housing estates and districts across Hong Kong. All these personal consumption items, including "cooked food stalls", cafes, household electrical appliances, grocery stores, personal care services, and so on, are personal consumer services run mainly by the SMEs providing a large amount of low-skill jobs. So, we can see that so long as the SMEs can find enough room for business operation, there is no need for the Government to promote the development of the local community economy in all apparent seriousness.

Taking wet markets and grocery stores as an example, the emergence of supermarkets has given rise to an issue, which is market monopolization. The Consumer Council also expressed concern over this issue a few years ago. In recent years, supermarkets have also incorporated the businesses of wet markets and department stores. With the only exception of coffins, they are selling almost anything from live and fresh food to "siu mei", "lo mei", and so on. What is more, some have even joined with the electrical appliances chain stores under the same consortia to sell household electrical appliances, thereby monopolizing the retail market gradually. On the other hand, the policies formulated by the Government have also served to further tighten the small operators' room for survival. That way, the monopolizing position of the large-scale supermarkets will be strengthened further.

The emergence of superstores selling practically all kinds of foodstuff has impacted directly on the business of wet markets. Worse still, the situation has been further aggravated by two policies adopted by the Government. The first one is its rent policy. The Government is currently prepared to formulate a new rent policy for wet markets, and it is estimated that 90% of the stalls operating in the wet markets under the Food and Environmental Hygiene Department across Hong Kong will have to pay higher rents. In the end, the rent level for such

stalls will catch up with the market rate. Upon the implementation of the new rent policy, rent levels will be raised by 7.4% to 9.4% annually. So, once the new rent policy is brought into operation, the stall operators will be faced with both internal and external troubles, which are, namely, increases in rents and keen competition from supermarkets.

Another problem is that the Government is currently considering not constructing any more markets in future. So far, over half of the market construction projects planned in the past have been cancelled. The Democratic Party is afraid that if the Government continues to cancel the market construction projects, the superstores operated by large consortia will stand to benefit. In the end, not only the individual food retailers will have no more room for survival, consumers will also be left with no other choices but to patronize the superstores. In the long run, such superstores will monopolize the food retail market.

The monopolization by large consortia will impact gravely on both the local community economy and the employment situation in Hong Kong. Actually, this point has already been mentioned in the economics textbooks. Monopolistic activities will result in unsatisfactory distribution of economic resources. In order to reap the maximum profits, the monopolizing enterprises would rather raise prices by producing less; naturally, they would also employ fewer workers. In the labour market, the wage levels of the workers employed by the monopolizing enterprises will be suppressed because their positions in the market is not equitable in comparison to that of their employers. In the end, the size of the employed population will continue to diminish while wage levels continue to fall. Under such circumstances, domestic consumption will certainly be dealt a heavy blow.

The case of supermarkets is just one of the many examples, as there are indeed many monopolistic activities in the domestic consumer market. Many international organizations, such as the International Monetary Fund, World Trade Organization, and so on, have already expressed concern over monopolistic activities in the domestic markets in Hong Kong, only that the Government has shut its eyes to the problem all along. So far the Government has only set up a Competition Policy Advisory Group for decorative purposes. Taking the recent pork supply problem as an example, so far the Advisory Group has yet to come up with any conclusion.

In addition to market policy, the land policy of the Government has also served to directly and indirectly kill a rather extensive domain of the local community economy. In the past, the Government's plan to develop new towns like Tseung Kwan O, Tin Shui Wai, and so on, have in many cases involved the sale of a large piece of land lots. But then, the mode of management of the large housing estates is unfavourable to the diversified on-street economic activities or small business operations. As a result, community economy just cannot be developed there. Moreover, since the supermarkets operating in the large housing estates are related to the developers concerned, the retail shops are also linked with the developers and they have basically monopolized the retail market in the relevant housing estates. Hence, in implementing redevelopment projects in old areas in future, the authorities should make consideration from different economic angles.

In the past, when there was rapid economic growth, unemployment was not a serious problem because of the excessive demand for labour; as such, the Government had only some ad hoc measures to tackle the unemployment problem. However, at present when the economy is undergoing restructuring, unemployment has turned into a structural problem and the lower-skilled workers are threatened by long-term unemployment, and there just may not be enough jobs for them even after the economy has revived.

In the face of the new economic situation, the Democratic Party urges the Government to formulate a comprehensive and complete set of employment policies, and the development of the local community economy may be adopted as one of the measures to ameliorate the unemployment problem. However, the policy directive should not aim at merely implementing a few hardware projects or several funding items. Rather, the Government should adhere to the community-based principle and conduct an in-depth review of the various causes leading to the gradual disintegration of the local community economy, the pertinent policies and measures, as well as its competition policy, with a view to providing a business environment in which the SMEs can compete with the large consortia in a fair manner, thereby facilitating the prosperous development of the local community economy and creating more employment opportunities for the disadvantaged social groups.

Madam President, now I should like to comment briefly on the amendment proposed by Miss CHAN Yuen-han, since I would not have another chance to

speaking on that later. Basically, we support Miss CHAN's amendment, only that we propose to add the term "small and medium enterprises". Hence, subject to the passage of Miss CHAN's amendment, I will move an amendment to incorporate "enable small and medium enterprises to participate actively in the local community economy" into the motion. I hope Members will support this amendment. Certainly, I am speaking this on the assumption that Miss CHAN's amendment will be passed. If Miss CHAN's amendment is negated, I will move an amendment to Mrs Sophie LEUNG's motion instead. My proposed amendment is similar to that of Miss CHAN's in that we both propose to add in the idea of creating a fair business environment (a level playing field). I hope Members will not object to the creation of a level playing field for the local community economy. Mrs Sophie LEUNG is very much concerned that I might mention formulating legislation on fair competition. Actually, Mrs LEUNG was not alone, as several Members affiliated to the Liberal Party have also urged me not to mention legislation on fair competition or else they would vote against my amendment. Frankly speaking, I just hope Members will discuss the issue. It is true that we have all along held that there is a need for legislation on fair competition, but since we hope that this Council can urge the Government to provide support and assistance in one voice, we will not highlight the issue in this motion debate today. Hence, I have not included it in my amendment.

I so submit. Thank you, Madam President.

DR LUI MING-WAH (in Cantonese): Madam President, in his maiden Budget presented in March this year, Financial Secretary Antony LEUNG proposed to develop the local community economy to help promote domestic consumption, create employment opportunities and highlight Hong Kong's unique cultural characteristics. The people have responded enthusiastically to this proposal and various suggestions for the development of the local community economy have been put forward by different sectors of the community. Projects like reopening the "Poor People's Night Clubs" in Sheung Wan, setting up outdoor cafes at the Golden Bauhinia Plaza and Sai Kung waterfront, organizing raft fishing activities in Sai Kung, holding arts fairs outside Wong Tai Sin Temple, and so on, are suggested one after another. The development of local community economy has thus become the talk of the town.

I am glad to note that at the present time when the economy is still in the doldrums, the Financial Secretary is able to suggest some economic ideas that can induce interest among members of the public to help boost not only business activities but also people's confidence. Nevertheless, I should like to point out that in order to reverse the downward economic trend and save our economy, we must develop economic activities that can help to increase the wealth of society. It is because the wealth of Hong Kong as a whole has been diminishing that both the spending power of the public and the domestic demand have remained weak. I am afraid the development of local community economy, which seeks to boost economic activities by stimulating domestic demand, will not be able to remedy Hong Kong's economic situation in the long run, but may even disappoint greatly many business-starters.

The economy of Hong Kong has been experiencing a bitter winter for five years and various trades and industries are all having a hard time trying to remain in business in this harsh economic environment. Despite the remarks made frequently by government officials that the economy of Hong Kong has reached its lowest point and is about to bounce back, the economy of Hong Kong is still in a critical situation as indicated in the various statistics and data. While the GDP in the first quarter of the year has dropped 0.9% compared to the same period last year, the rate of unemployment has risen to the historical high 7.4%. At present, the local economy is like a car without fuel and has thus lost all its drive. In the face of an ever-rising unemployment rate, falling wage levels and tremendous decrease in income, the spending power of the public has generally dropped. People just dare not spend a cent lightly even if they have money to spare. According to the latest statistics, compared to the same period last year, private consumption expenditure has dropped 0.6% in the first quarter of the year. Compared to last year and 1998, the overall consumer price in May this year has dropped 3.1% and 12.1% respectively. The persistent deflation reflects that the domestic demand has been shrinking incessantly and pushing prices further down. As the folk adage goes, "Cheap products are still too expensive to the purse of the poor". Many business operators are trying to boost sales by cutting their prices, hoping to earn only minimal profits or just to cover the costs; but then, business remains poor. In recent years, a great many shops have folded and vacant shop premises with "To Let" posters put up by real estate agencies on four walls have already become one of the unique scenes in the streets across Hong Kong. Given the insufficient domestic demand, how can the local community economy be developed?

The economy of Hong Kong has all along been export-oriented; hence, if we are to revive the Hong Kong economy, we must start with economic activities which can help us accumulate more wealth and earn more foreign exchange. The first and foremost task at present is, therefore, to revive the economic structure, identify a locomotive that can really drive economic development, as well as develop high value-added manufacturing industries. In this connection, the Government must actively provide a quality business environment by offering tax concessions, importing semi-skilled labour, providing land lease concessions, and so on, with a view to attracting more inward investments. It is only in this way that the economy of Hong Kong can be revived. With the economy becoming vibrant and the wealth of our society accumulating, both the employment situation of the public and their income level will be stabilized; that way, people's consumer sentiment will be strengthened and the local community economy will then find some genuine room for development.

Certainly, if the Government could allow local business operators a breathing spell in the midst of an appalling market situation by providing them with some help and assistance, such as abandoning the rigid and unreasonable restrictions bred from the past bureaucratic culture and creating for them a more lenient, co-operative and tolerant business environment, the proposal to develop the local community economy put forward by Financial Secretary Antony LEUNG would merit support. Nevertheless, as the Financial Secretary has explained earlier on, since the development of the local community economy cannot help to promote the restructuring of our economy, Hong Kong still has to rely on the high value-added industries for our long-term economic development. For this reason, I hereby urge Honourable Members to help identify a correct position and development direction for the local community economy, so as to avoid any waste of resources or energy. Thank you, Madam President.

MR CHAN KAM-LAM (in Cantonese): Madam President, different interpretations have indeed been advanced on the concept of local community economy in the community since the Financial Secretary put forward the proposal to develop the local community economy. According to the Financial Secretary's definition, local community economy must comprise four features, namely, covering a wide range of activity, highlighting Hong Kong's unique characteristics, creating employment opportunities and promoting domestic

consumption. The Democratic Alliance for Betterment of Hong Kong (DAB) agrees fully with his definition.

However, the government department concerned has stressed that the development of the local community economy must be based on the market-led principle, and the Government would not have any participation in it or provide any opinion as to what activities should be best developed in which districts. The objective of the Government is, reportedly, to draw on the folk wisdom to develop a great diversity of economic activities. Frankly speaking, it would of course be most satisfactory if the folk wisdom could be brought into full play and the 18 districts across Hong Kong could come up with projects of different themes and nature. But then, the reality is quite another story. Rather than highlighting any unique features or giving people any surprises as expected originally, the projects proposed by the different districts are rather similar, such as outdoor cafes, hawker bazaars, arts fairs and on-street performance areas. The development projects proposed by quite a number of districts overlap or resemble that of others, and this is mainly attributable to the unclear definition of local community economy. Without any guidance from the Government, the various districts just act blindly and rush to develop hawker bazaars similar to the hawker permitted area at Tung Choi Street. In addition to engaging in vicious competition, the hawkers have aroused discontent from the shop operators there because they have snatched some of their business. Hence, while the market-led principle is the major premise upon which the local community economy develops, the Government must also formulate specific development direction and co-ordinate all relevant efforts; otherwise, both the hawkers and the shop operators will just end up in a lose-lose situation.

Given the great variety of economic activities it comprises, the local community economy should cover many different sectors of society and may involve any government department. What is more, in some cases the proposed projects concerned may require the approval and co-ordination of several departments. The success or otherwise of the development of the local community economy depends basically on whether or not the Government can adopt an open attitude and abandon the obsolete laws, as well as the co-ordination between government departments and their willingness to remove the rigid procedures. Earlier on, a Chinese restaurant closed down and the owner said it was all because he could not apply successfully for a liquor licence even after the restaurant had been opened for half a year. Certainly, whether or not the closure of the restaurant was really attributable to that reason should not be

the subject for discussion here; but then, it should indeed be a cause for concern if the Government could not issue a liquor licence in six months. The complicated application procedures for restaurant licences and the prolonged approval process have long been a cause of complaint. The rules and regulations governing the issuance of restaurant licences are reflective of the restrictions imposed by many of the existing laws on the development of the local community economy. If the Government should still refuse to revise the policies and legislation that are out of keeping with the times, if government officials should adhere to their bureaucratic culture and insist on rejecting applications on the pretext that the proposed projects may be in breach of the law or pending further studies, and so on, then no matter how many good ideas the people may have, their proposals just would never be realized.

With regard to the economic activities that highlight the unique characteristics of the local community, the majority of them were first started as some innovative small businesses by members of the public and then grouped together gradually to evolve into today's specialty industries of Hong Kong. In the present economic downturn, if small business operators are to survive, the first thing they should do is to cut costs. Hence, in order to encourage the public to put their innovative business ideas into practice, the Government should formulate policies that can cater for the needs of the small business operations. In this connection, although the lower-rent shopping arcades were originally designed to enable small business operators to run their businesses with limited resources, most of the premises in such arcades are now leased to chain-store operators with enormous financial resources while small business operators are forced to pay huge rents for shop premises elsewhere. To enable the healthy development of the local community economy which highlights the unique characteristics of the local community, the SAR Government must expeditiously revise the existing policies that run counter to the efforts to promote the development of economic activities in the local community.

The development of the local community economy is an important mission, as its aim is to provide employment opportunities for the lower-skilled workers with low education attainment by encouraging them to develop small-capital businesses that can highlight Hong Kong's unique characteristics. But then, not many people have the abilities to start their own businesses. As such, it is necessary that the business environment be improved to help develop a dual economy. In other words, labour-intensive industries that are low-value-added but offer enormous employment opportunities should be made another direction

of development of the local community economy. The two elements of the dual economy should complement each other to achieve better results. The Government has proactively proposed to rent out the existing commercial and industrial buildings at lower rents to attract SMEs to set up factories in Hong Kong. What is more, the Government has also offered to turn the units in some industrial buildings into hostels for the convenience of workers. We welcome these proposals. According to the information from the Planning and Lands Bureau, there are currently 1 700-odd unoccupied units in the old-type industrial buildings in Hong Kong, representing 20% of the overall vacancy rate. Changing the uses of these vacant units can make full use of the existing resources on the one hand, and break away from the norm of conducting economic activities in the local community only at street level on the other. The DAB urges the various government departments to strengthen their communication with each other to enable the expeditious commencement of the relevant policies. Earlier on, the industrial and business sector has also initiated a campaign to revive the local community economy. In addition to urging members of the sector to expand the scale of operation of their high value-added industries or enterprises under their brand names, and to relocate some of the high value-added processes back to Hong Kong, it has also urged the Government to come up with matching measures in terms of manpower training, tax concessions, financing policies and immigration policies. We just hope the Government can look more into these aspects.

In order to improve the economy of Hong Kong, it is necessary that domestic consumption be given a boost and the Government certainly could not adopt an onlooker's stance on this issue. The DAB hopes that the SAR Government's newly established team of accountability officials can take actions with new thinking, which is to lead the people of Hong Kong out of the economic downturn by "removing obstacles and relaxing restrictions".

Madam President, I so submit.

MR LEUNG YIU-CHUNG (in Cantonese): Madam President, the unemployment rate in Hong Kong has currently reached another record high, standing at 7.4% and representing a 250 000-strong unemployed population. According to government estimation, the figures will continue to rise and it is therefore an urgent task for society to create more employment opportunities to help resolve the unemployment problem. Even though Mr TUNG has time and

again stressed that he would try every means possible to create more jobs, so far his pledges have yet to be honoured. As regards the Government's pledge to create employment opportunities, the jobs are still those 30 000 temporary posts mentioned in last year's policy address and thus cannot help to resolve the increasingly serious unemployment problem. In the face of all these, Financial Secretary Antony LEUNG just keeps saying that the problems should be left to market adjustment and has not, therefore, made any pledges. Recently, the Financial Secretary put forward in the Budget a proposal to develop the local community economy, hoping that the people can rely on themselves for their livelihood. Madam President, we have to emphasize that we adopt an open attitude towards any proposals that can create more employment opportunities. But then, the question remains whether the Government has ever put in any effort or provided the public with any assistance in considering the so-called new proposals to create job opportunities, or it is just churning out some empty terms and leaving the people alone to strive for their own survival.

What exactly is local community economy? Different people will have different interpretations. Here is how Financial Secretary Antony LEUNG defines the term: "This local community economy covers a wide range of activity, including cultural, recreational, sports, social and personal services; and there are many different types of players, such as small traders, local domestic helpers and fitness instructors. Development of the local community economy can promote domestic consumption, create employment opportunities and highlight Hong Kong's unique characteristics." However, there are views quite different from that of the Financial Secretary, in which a narrower definition of local community economy is drawn. According to these people's definition, the local community economy encompasses only the economic activities of a community and can therefore be referred to as community economy as well. Madam President, regardless of whether we are going to make the community economy or the local community economy a success, we must first answer these two questions: firstly, is there any room for development; and secondly, what assistance can the Government offer?

As regards the present situation, rather than providing any substantive help, the Government is in fact impeding the development of the local community economy. While businesses need a market for survival, the Government is taking the lead in cutting employees' pay when the economy remains in the doldrums and the people's consumer sentiment is fragile, just how can people have the mood to spend money in the present difficult situation where they can

hardly make ends meet or safeguard their employment? There is actually no demand for the local community economy as defined by the Financial Secretary. Without any demand, how can the development of the local community economy work? Hence, I am afraid we would be doomed if the Government should really adopt the Financial Secretary's definition and seek to develop the local community economy.

Perhaps some may hold that the local community economy has nothing to do with trading in consumer products, but the people's daily necessities, including the pork and vegetables sold in wet markets. Should that be the case, the Government must all the more be condemned for suffocating the development of the local community economy. As we all know, because of their enormous capital, large-scale chain stores are able to lure suppliers to supply them goods at very low prices so that they can sell the products to customers at comparatively lower retail prices, with a view to driving the small operators out of business and thereby monopolizing the market. But the Government just adopts an indifferent attitude towards this problem. In December last year, I moved a motion debate on opposing unfair competition in this Council, but the Government raised objection to my motion. Actually, the Government has done more than just raising its objection, as it has systematically helped large consortia to monopolize the economic activities in various districts. In public housing estates, for example, there are shop premises reserved for restaurants and supermarkets operated by large business groups; small operators just can have no room for survival. More often than not, these large consortia and supermarkets will draw on their huge capital to drive other business operators out, and for those which try to compete with such large business groups, they will end up being driven out of business as well.

Apart from strangling the market, another heavy blow the local community economy receives from the Government is its bureaucratic practices. At the beginning of the year, the Government once said that in view of the economic downturn, it would encourage the people to become self-employed and start their own businesses; as such, it would "connive" at hawkers selling dry goods. But then, since this flexible administrative measure has not been put down in black and white, the law enforcement agencies are at a loss as to what rules to follow, while hawkers are wondering what connivance the Government will effect. In the end, nothing has ever been done to facilitate the development of the local community economy; all is but some empty talk. The business of

small operators has not benefited from such measure either, as they often have to argue with the law enforcement officers.

Further still, many problems have also arisen from the co-operation between different government departments. For instance, some organizations have successfully applied to the Environment and Food Bureau for funds to operate refuse recovery businesses, yet they cannot commence their projects with the money granted to them because the Housing Department still has not approved their application for the relevant premises. As such, the industry cannot create any new jobs for the public. If any members of the public should be waiting for such jobs to feed their families, they would end up in an even worse situation because just no job could be created this way. And this is all because there is no co-ordination or mutual support among government departments. Hence, we hold that if the Government is to enable the local community economy to find vitality, the first step it must take is to relax the various restrictions and enhance the communication and co-ordination among government departments. Otherwise, the development of the local community economy will just die when it is only budding.

Besides, the local community economy must also lay emphasis on originality. Since the originality of the people can only be developed in a liberal society, the Government must ensure that ours is a free society, so that all kinds of original ideas can be formed.

Madam President, I hold that if the Government is to develop the local community economy, in addition to relaxing the various restrictions to create a more friendly business environment, it must also stop being an accessory to the large consortia's attempt to kill the local community economy. Besides, the Government must also do a good job of co-ordinating the various departments to ensure a sufficient supply of resources.

Madam President, I so submit.

MR LEUNG FU-WAH (in Cantonese): Madam President, I do not have any particularly different views from what is suggested by the motion and its wording today. On the definitions of "local community economy", "local community

culture economy" and "dual economy", and also on what their differences are, I must admit that I am not as well-versed as Miss CHAN Yuen-han is. Nor will I focus too much on general concepts and the interpretation of terminology in this debate. I only wish to put forward a very specific proposal in the debate this evening. I hope that this specific proposal can achieve the objective stated in the original motion, that is, promoting Hong Kong economy and domestic consumption and creating more employment opportunities; and, there is also Miss CHAN Yuen-han's amendment on amending outdated policies and statutory requirements, enhancing co-ordination among the various departments and optimizing the use of existing local resources.

Madam President, to promote the diversified economic development of Hong Kong, we must come up with innovative ideas and transcend the parameters of the old mindset, so that we can better utilize our resources, make bold attempts, discard the outdated and usher in initiatives. While seeking to promote the development of local community economy, we should look at things from many different perspectives. As long as we can exercise some imagination, we will realize that many of the activities around us can actually be developed as part of our unique local community economy. For instance, many people like cycling. Has it ever occurred to us that cycling may well be developed into a segment of Hong Kong's local community economy?

With this idea in mind, I approached the Secretaries responsible for economic and labour affairs, the Chief Secretary for Administration and the Financial Secretary earlier today to sell my proposal. My proposal is a brand new one which will not take away the business of existing shop operators and create yet more conflicts as feared by Mr CHAN Kam-lam.

The mere mention of cycling will immediately remind us of the cycling track adjacent to the Tolo Highway which stretches several kilometres from Tai Wai to Tai Po. Cycling is a wholesome activity; during holidays, the cycling track adjacent to the Tolo Highway is invariably thronged with cyclists; and besides groups of youngsters, there are also many families spending time together cycling. Since cycling is such a popular activity among people, why do we not consider the idea of better utilizing our existing resources and supplementing them with new developments, with a view to further developing cycling into part of our economic development?

Government officials may consider the possibility of turning the cycling track adjacent to the Tolo Highway into a centre of bicycle sales, rentals, storage and repairs in Hong Kong, where, in the future, people can enjoy easy access to "one-stop" bicycle services. The "one-stop" bicycle services should also cover bicycle sales. As far as I know, the price of a bicycle ranges from \$298 for one manufactured in Shenzhen to \$400,000 for one made by Ferrari. So, as long as one is interested, one can keep on upgrading one's ride, and this means that bicycle sales will definitely become an industry with a business turnover worths hundreds of millions of dollars. Then, there are of course also the sales of bicycle suits, helmets and even sound equipment. In addition, repairs and maintenance and replacement of equipment are all business areas full of development potentials. Bicycle storage services can also be provided, now that there are already different kinds of storage places for documents, furniture and clothes in the market. In places like Sha Tin and Tai Po, residents generally face a shortage of bicycle storage places, and roadside parking is rather unsightly and bicycles are prone to rusting or even the risk of being taken apart for theft of parts. So if we can target at the needs of these residents and set up bicycle storage places near the cycling track and the cycling park, there will definitely be lots of business opportunities.

In addition, in order to tie in with the development of cycling, the authorities may also consider the possibility of setting up roadside cafeterias, snacks kiosks, barbecue sites and angling grounds along the shore of Tolo Harbour. This will not only promote the sport of cycling in Hong Kong, but also boost its economic development, thus creating more employment opportunities.

Since Hong Kong is so densely populated and homes are usually very small, many people are unable to keep a bicycle of their own. This has nothing to do with any lack of means, but is largely connected with the unavailability of bicycle storage places, because there is a scarcity of storage places both at people's homes and in the streets. The Government may provide bicycle storage facilities in places near the Tolo Highway. In this connection, I think there is already a very suitable site which can be recommended specifically to the Government. The site concerned measures several dozen thousand square feet, but is now used by a few police officers only. The place can in fact be turned into some sort of a bicycle storage centre — either a multi-storeyed bicycle parking complex or a bicycle city, for example.

If this proposal is implemented, frequent users of the cycling track will be able to hire a bicycle from the shops there, or they can even buy one they like and set off in the breezes, enjoying the pleasure of cycling and the natural coastal scenery along the way. That really gives a lot of fun. If their bicycles unfortunately break down along the way, they may ask the technicians of nearby repairs shops to check and repair their bicycles. In the meantime, they can take a rest at the seaside cafeteria or snacks kiosks nearby, or even spend some time in the angling grounds there.

Cycling as a sport in Hong Kong has reached a very high standard internationally. HUNG Chung-yam in the past and current top cyclist WONG Kam-po have achieved very brilliant results in various international competitions. Most notably, WONG Kam-po even snatched gold in the cycling event for Hong Kong in the 1998 Asian Games. All this shows that there are potentials of turning the sport of cycling in Hong Kong into a lucrative business. As long as we can better utilize our existing resources and make some minor alterations to the Tolo cycling track or those nearby, designating separate lanes for fast and slow cyclists, we will be able to assist in the development of the sport while still allowing ordinary people and their families to enjoy the pleasure of cycling.

The Government may also consider another development for the cycling sport in Hong Kong — cycling tourism, which is not only new in Hong Kong, but is also going to be unique in Asia. For instance, cycling lodges can be constructed near cycling tracks, and tourists interested in cycling can stay at these lodges, where they can hire bicycles and then cycle along the Tolo Harbour shore, savouring the picturesque scenery on the way. The Government may even explore the possibility of further extending our cycling tracks to Sai Kung in the east; and, currently, our cycling tracks stretch to Tai Wai and Sha Tin in the west, but these may well be extended to the western shores around Yuen Long, Tuen Mun and Castle Peak Road in the future; as for the north, the cycling tracks can be extended to Sheung Shui, Fan Ling and even Guangdong Province. This is actually a way of capitalizing on the edge of our natural resources.

At first glance, there does not seem to be any connection between the sport of cycling and local community economy, but if we really bother to think and be more observant, it will not be difficult for us to identify new development potentials. I hope that under the leadership of the accountable officials in the future, all government officials can explore how best to promote the diversified

economic development of Hong Kong with a new mindset, so as to boost domestic consumption.

Thank you, Madam President.

MR HOWARD YOUNG (in Cantonese): Madam President, the Liberal Party strongly supports the development of local community economy, but we also think that the term should not be narrowly interpreted as the setting up of a few hawkers' areas to pose competition to shop operators.

I wish to talk about local community economy from the standpoint of the tourism industry, with which I am familiar. Although local community economy cannot be entirely equated with local tourism, there are still many things that can be done. For instance, the Government may draw on the unique characteristics of some places in Hong Kong to develop tourism. Sai Kung, often called the beautiful backyard of Hong Kong, is a suitable place for the development of green tourism; Aberdeen and Stanley in the Southern District, where Eastern and Western characteristics are blended, are also suitable for developing local community economy activities, including those mentioned by some Members earlier — roadside cafeterias and seaside water sports, for example. Besides encouraging people to spend money locally to boost the domestic economy, this can also attract foreign tourists to come and stay here for longer periods, thus helping to make foreign exchange earnings.

Honestly speaking, in some cases, it is our inadequate efforts that have rendered foreign tourists unwilling to stay here for spending and forced Hong Kong people to go northward to the Mainland for consumption. For instance, every weekend, many Hong Kong people go to Guangdong in the Mainland, golf bags on their backs, just for a game of golf. Is this because there are so many restrictions in Hong Kong that operators are unable to set up more golf courses or driving ranges? People in Hong Kong often have to wait more than 10 years in vain for admission to golf clubs, and a lot of money has thus drained out of Hong Kong.

As far as I know, numerous restrictions are imposed on many activities in Hong Kong, some examples being karting and war gaming, both being the favourite pastimes of young people. In the case of karting, for example, the karts participating in Hong Kong races must be smaller in horsepower than their

foreign counterparts, and because of the proximity of the karting circuit to Mai Po, the noise level must be minimized. For war games, the guns permitted to be used are less powerful than those used in similar shooting games in other countries, so the interest of young people in these games are reduced. All these restrictions have significantly reduced the investment desire of investors.

Besides, we have also failed to do enough in terms of publicity and support facilities. The Tourism Development Board, for example, often promotes the "Ladies' Market". But when local travel agencies or foreign ones bring along huge numbers of tourists to the vicinity of the "Ladies' Market", are there any laybys for tourist coaches, so that tourists can get off to have a shopping trip? The flea market in the old Kai Tak airport is another example; due to inadequate publicity, the operators there are suffering immense losses.

I also wish to point out that the various districts should not throng to develop local community economy activities which are exactly identical. I have heard that the Government is now asking all the District Councils to explore how they can develop local community economy activities in their respective districts. If all the districts simply rush to set up art bazaars, street markets or flea markets, they will be duplicating one another's efforts, and this may not necessarily be the best way to develop local community economy. I think the individual characteristics of the districts must be taken into account in the process of development; this is the only way which is more effective.

Quite a number of Members have talked about markets and supermarkets earlier on, and they seemed to be propagating a message that there is now a "supermarket phobia" in Hong Kong. I think that in the development of local community economy, we do not necessarily have to exclude large consortia and make SMEs the only participants. Suppose Hong Kong really decides to convert its country parks into golf courses, who else except large consortia will have the means to do so? A small enterprise consisting of just 10 staff members or so? This means that we simply should not have any "blanket" discrimination against all large corporations, saying that only small companies are capable of developing local community economy. I think all companies, large and small, have their respective strengths.

I am convinced that given our efforts to diversify development items and government encouragement in the form of special terms for operators, the development of local community economy will definitely be greatly facilitated.

Some Members wondered just now whether factory buildings, now no longer needed greatly by the industries, could be rented out at lower prices, so that people could set up folk art, art and special shopping venues in these buildings. I think this proposal should merit our consideration.

Madam President, I am convinced that following the exchange of many different views made possible by the motion today, we should be able to work out many good ideas on developing local community economy.

With these remarks, I support the original motion.

MR SIN CHUNG-KAI (in Cantonese): Madam President, I do not think that the interpretation and definition of local community economy are issues of so much importance. What is the most important should be an economy with employment opportunities. Any economy that can create jobs is a good economy.

I think Miss CHAN Yuen-han has made one very correct point in the discussions about local community economy: The Government should amend all those unnecessary and outdated policies and regulations. Actually, many SMEs are thinking to themselves that it is fine for the Government not to offer any help, but it must never do anything to destroy them. Their request is just that simple. But when it comes to local community economy, Miss CHAN Yuen-han often gives me one impression. If the impression I have happens to be wrong, I hope Miss CHAN can correct me. My impression is that she often advises people to become hawkers.

I would of course very much like to see that there are business opportunities for hawkers, but when there are hawkers touting for business outside a shop, will the shop owner not be affected? She often advises people to hawk outside parks. But we all know that there are snacks kiosks in the parks, and the franchises to operate these kiosks are awarded through public tenders. This means that the successful bidders have to pay the Government for their franchises of operation. If a couple of hawkers come along and sell fish balls outside the kiosks and find very good business, then a problem arises. How are we going to solve this problem? Then, there is also the problem of cooked food kiosks inside public housing estates. The authorities have made lots of efforts over a very long period of time before they cease to operate. If we now propose

to resume the operation of these kiosks, the residents living upstairs may have to suffer noise nuisances once again. That is why all such problems must be handled very cautiously. Sometimes, rules and regulations may really be outdated, but we simply should not overkill.

Equally, it may not necessarily be possible to rely on characteristics of the traditional Chinese culture as a means of developing local community economy. In the case of palmistry, for example, if people want to try that, they may go to Temple Street where lots of palmistry stalls are already found. When it comes to temples, there are lots of temples worth visiting in mainland China, and all of these temples are much bigger than those found in Hong Kong. As for the Buddha Statue, I paid a visit to it last Saturday, and I noticed that there were not too many visitors already.

I think we should really try to find out where the problem lies. I think that sometimes, we may have to stick to something despite the political incorrectness of doing so. One example is the preservation of British characteristics in Hong Kong. Since Hong Kong was once a British colony, the characteristics of the colonial era should be preserved. The point is that foreigners who want to visit Chinese temples will naturally go to Beijing, and those wishing to experience ancient Chinese culture will naturally go to Sian. The characteristics of a British colony may precisely be the reasons why foreigners wish to visit Hong Kong. My viewpoint may be dismissed by some as politically incorrect, but I only wish to say that I agree with Dr LUI Ming-wah that industrial development should be the best option for Hong Kong.

I fail to understand why some problems have still remained unresolved despite the prolonged discussions on them. The Chief Secretary for Administration has been paying frequent visits to Beijing for discussions on the so-called closer ties. But we have so far heard only all the loud thunder but not any concrete achievements.

Regarding the establishment of a boundary industrial zone in the river bend areas, the Hong Kong Federation of Trade Unions, Democratic Alliance for Betterment of Hong Kong, Liberal Party and Democratic Party have all raised such a proposal, and I am sure most people would support it, because it is a general belief that such an industrial zone will make some industries stay in Hong Kong, and that it is also conducive to the development of some primary industries. But such views have been put forward for three to four years, and

honestly, after so many discussions, I would rather not to talk about them any more. But despite my feeling that people may become bored, I still have to say a few words more on the topic. If something can be done about this proposal, more employment opportunities will be created.

The vacancy rate of industrial buildings mentioned by Mr CHAN Kam-lam involves precisely one of the problems which I think should require our most urgent attention — the problem of "pulling oneself up by one's boot strap", one which must not be allowed to continue. Frankly speaking, our industrial buildings lack any conditions to attract the return to Hong Kong of those industries that have shifted northward to the Mainland. But some in the industrial sector have recently said that if the Government can relax the relevant restrictions and offer them tax concessions, they are prepared to relocate their operations back to Hong Kong. I think these suggestions still require further and detailed exploration, but at a time when the vacancy rate of industrial buildings is so high, I do think that the Government should at least consider the relaxation of restrictions to change or introduce flexibility to the specified uses of industrial buildings. For example, it should examine whether it is possible to make minor revisions to specified uses, so that tenants can be allowed to carry out retail or other service businesses inside industrial buildings. All this can offer some kind of appeal, and will provide more opportunities for people to start their own businesses.

The main objective of developing local community economy should be to create employment opportunities. However, many existing government rules and regulations are in fact working against the creation of job opportunities. For instance, the Government has recently been talking about the need to regulate the operation of cyber cafes, Internet computer service centres, PC rooms and the like, which now already number several hundred. When investors hear that there will be regulation, they will naturally withhold their investment. The fact is that the numerous kinds of government regulatory policies are very much restricting the vitality and room for venture businesses by people with small amounts of capitals.

A few months ago, I asked a question on fireworks in the Legislative Council. Fireworks are also something that can induce people to stay in Hong Kong for consumption. The people of Hong Kong can light fireworks for entertainment in a place as near as Macao, so why should we still fear that this may lead to safety and security problems? I am sure that if the Government can

allow the licensed and regulated importation of fireworks or permit people to light fireworks under controlled conditions, there will be more local consumption and opportunities for people to start their own businesses. The Ocean Park has actually suggested that visitors be allowed to light fireworks under controlled conditions during special festivals. Unfortunately, it seems that the various government departments are just concerned about their own perspectives, without according any importance to overall employment.

Whether there is any local elements with local community economy is not a matter of great importance. The most important thing is that job opportunities must be created to reduce the unemployment rate. This should be the only important objective. Thank you, Madam President.

PRESIDENT (in Cantonese): Miss CHAN Yuen-han, do you wish to make a point of elucidation on those parts of your remarks which have been misinterpreted?

MISS CHAN YUEN-HAN (in Cantonese): Yes, Madam President, a point of elucidation.

Madam President, thank you for giving me this opportunity. The motion debate on local community economy provides us with a very good opportunity. I wish to give a book to Mr SIN Chung-kai, one which is about the concept of local community economy advanced by the Hong Kong Federation of Trade Unions

PRESIDENT (in Cantonese): Miss CHAN Yuen-han

MISS CHAN YUEN-HAN (in Cantonese): Madam President, because Mr SIN Chung-kai got me wrong just now and thought that I was just talking about hawkers

PRESIDENT (in Cantonese): Miss CHAN Yuen-han, you can only clarify those parts of your remarks which have been misinterpreted.

MISS CHAN YUEN-HAN (in Cantonese): Thank you, Madam President. If the Democratic Party is interested, I can give them a research paper on this topic. If Mr SIN Chung-kai is still interested in this topic, I can give him a book on priority employment. Thank you, Madam President.

MISS CHOY SO-YUK (in Cantonese): Madam President, at a time when the economy is so weak and the unemployment rate has reached a record high, the Financial Secretary has, in his first Budget, suggested the idea of developing local community economy to boost domestic consumption and create more jobs. I strongly support his idea. Besides recognizing the usefulness of local community economy to ameliorating unemployment, I also think that all the associated economic incentives will, more importantly, induce more people to think about how we should utilize our existing strengths and identify items of economic development specific to the local conditions. That way, we will be able to achieve the objective of making the best use of our lands, goods and talents.

Unfortunately, this has remained a mere ideal after all, because in practice, our Government has so far failed to encourage innovation at the policy-making level. Things have been done without any co-ordination and communication, with each department going its own way. The result of this can be easily imagined: many initiatives and workable ideas have been nipped in the bud by all sorts of bureaucratic red tape. As a result, those schemes which have been put into practice are confined to the old mindset. So, flea markets looking different but essentially the same in contents have sprung up one after another all over Hong Kong, in apt reflection of the undesirable outcome of such a style of administration.

The Secretary for Home Affairs, Mr LAM Woon-kwong, has once remarked that local community economy is all about giving expression to the characteristics of individual districts, the ideal situation being something like "the blossoming of a hundred flowers". According to him, since there is a need to draw on people's wisdom and encourage participation at the district level, the Government is not supposed to assume all the responsibility. I agree that the Government should not specify all the details concerning the development of local community economy, or else creativity will be stifled. But this does not mean that the Government can thus watch with folded arms, expecting our

economic activities to blossom like a hundred flowers on their own. In order that local community economy activities can be implemented more effectively at the district level, the Government must assume responsibility for co-ordination, planning and implementation. The purpose of this is to encourage and help the various districts to take account of their respective conditions, draw on their own characteristics and competitive edge, capitalize on their strengths, avoid their weaknesses, formulate strategies that suit their own contexts, and thus in turn develop their respective district-based economic activities. That way, while local development is boosted, the residents of the districts can be directly benefited.

We may look at Stanley as an example. The place is a centre of Eastern and Western cuisine, shopping, leisurely pursuits and historical relics, in brief, a "must" for foreign tourists in Hong Kong. However, government departments have never told the public clearly how they intend to take forward the integrated development of this major tourist spot and make it a place of ever-lasting appeal to foreign tourists. Instead, they have simply made some piecemeal attempts to treat the symptoms of existing problems without bothering to deal with the root causes. The result of this will be the formation a bottleneck that hinders the further development of Stanley, whether in terms of transport and land use planning, or business operation and culture promotion. Therefore, for the sake of assisting the development planning of the place, the DAB is now holding discussions with the local residents on the future planning of Stanley. But there is after all a limit to what civil organizations can do, and there must be policy support and practical co-ordination from the Government before we can prevent our competitiveness from dying out gradually.

Another problem hindering the development of local community economy is the lack of a revolutionary mindset among the officials concerned, with the result that many innovative local community economy activities have failed to receive adequate support. There are now many deserted agricultural lands in the New Territories. Recently, some people have put forward a rehabilitation plan for these agricultural lands, in the hope of reviving vegetable farming in the New Territories and in turn promoting the development of local community economy. Their idea is to start from motivating vegetable farmers in the New Territories, and then go on to develop wholesaling and a chain of retail outlets, with the aim of establishing a brand name for local vegetable. It is hoped that this can open up the market for our comparatively low-priced vegetable and in

turn create more job opportunities. Unfortunately, due to the lack of matching efforts by the Government, the progress of this scheme has been slowed down.

To tie in with the development of local community economy, Hong Kong really needs to formulate a new set of policies on hawkers and food establishments. The existing policies, which have been in use for a long time, are very harsh and even contain many unreasonable formalities which often produce the effect of suppressing community economic development; as a result, the livelihood of many grass-roots people have been sacrificed. For example, owing to the physical constraints of their shops, many food establishment operators in Shek O are unable to meet the licensing requirements of the Food and Environmental Hygiene Department, which is why they have been forced to operate without a licence. But their hygiene records over the years have been satisfactory, and they have never had any problems with the local residents there. Unfortunately, the authorities have failed to take account of these practical circumstances and handle the licensing of these food establishments with flexibility. They simply insist on enforcement, driving these food establishments to the verge of closure. Actually, food establishments and hawkers can play the very significant role of attracting people, and are thus a major pillar of the tourism industry. While it seeks to develop local community economy, the SAR Government should examine its policies thoroughly, so as to make sure that they are not outdated.

With these remarks, I support the motion.

MR KENNETH TING (in Cantonese): Madam President, although we may have different interpretations of local community economy, SMEs are definitely an important part of the local community economy. If we fail to improve the business environment of SMEs, they can hardly drive the prosperity of the local community economy.

To improve the business environment, the Liberal Party thinks that it is most important for the Government to change its usual rigid and ineffective practices. For instance, it should comprehensively simplify the complicated and time-consuming licensing system. Moreover, where circumstances permit, the Government should relax some policies, regulations or provisions on land use such as the legislation on hawkers and town planning, to give small-capital operators more room of the development.

The authorities can also provide more infrastructure and ancillary facilities. For instance, it should give more support in respect of transport arrangements, publicity and promotion, so as to create an environment that is more favourable to the development of local community economy activities for the convenience of the public and operators.

The Liberal Party also thinks that the Government should pay more attention to the needs of SMEs in Hong Kong. At present, there are around 300 000 SMEs in Hong Kong, representing 98% of the total number of enterprises in Hong Kong. Apart from export trade, many SMEs mainly engage in domestic sales and they play a very important role in promoting domestic consumption and driving economic development, hence, they are an important component of the local community economy. Therefore, the Government must look closer at the needs of SMEs and try to give them assistance in terms of capital, market information, marketing and operation. All this is more direct and effective in promoting the development of local community economy than directly showing concern for small vendors or the personal services industry.

Madam President, business costs in Hong Kong are higher than those in mainland cities and many other Asian regions. Hong Kong has high land prices, rents and wages, and operators have to pay various fees, expensive licence fees and government charges, thus, operation is relatively more difficult. Taking the catering industry as an example, the operational expenses are fairly high. Besides rents, salaries and fuel charges which account for more than 50% of the total turnover on average, operators also have to pay sewage charges. All these fees and charges have substantially undermined the competitiveness of local operators. Early this month, the closure of the entire Dun Huang Restaurant line immediately rendered 1 200 people jobless. It has thus highlighted the difficult business environment in Hong Kong.

Although the Government has proposed many relief measures in the Budget this year, in the long run, we suggest that the Government should thoroughly review all existing government charges. It should also reduce charges including the rents of government property before the economy recovers, so as to assist SMEs in reducing business costs.

Madam President, the Liberal Party is of the view that the promotion of the development of the local community economy must be backed up by a good

business environment. With this, we would then be able to attract more investors to Hong Kong and pace up economic recovery, thereby creating more jobs.

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

MR CHAN KWOK-KEUNG (in Cantonese): Madam President, a few months ago, I moved a motion urging the Government to streamline its administrative procedures for the convenience of the people and businesses. The underlying purpose of that motion is to cater for the needs of small business operators and create job opportunities for them.

As rightly pointed out by my FTU colleague, Miss CHAN Yuen-han, those small business operators, hawkers and owners of co-operatives engaging in local community economy activities only have very limited capitals. Although they may not have rich professional knowledge, they can still earn their own living by engaging in small businesses.

Self-employment through business start-up is no doubt a way out for the unemployed, but government assistance in terms of back-up measures is required. Huge enterprises and corporations all have large teams of staff to apply for the various kinds of licences required, and they also employ professionals like lawyers and accountants to work for them, which is why they can always get ahead of others in the market.

In contrast, small business operators may encounter numerous difficulties even in licence application. Since they can only handle simple formalities, the authorities should make things more convenient for them, so as to encourage the unemployed to start their own businesses. For example, to facilitate the start-up and running of small businesses, the authorities may consider the setting up of a "one-stop" service to assist small business operators in applying for business licences, electricity supply, hygiene licences and other services essential to their daily operation.

The authorities may even learn from the relevant business start-up schemes run by the Employees Retraining Board and establish a team of business start-up consultants to offer advice to applicants on business start-up, covering such necessary preparations as the procedures of business licence application, the

requirements of the Fire Services Ordinance and the points to note about goods storage and purchase.

Besides, small business operators need to build up their roots in their local communities; in particular, they will need the support of their neighbours and establish a network of customers. Their relationship with customers is very much personal.

But nowadays, for the sake of easy management and economic efficiency, the shopping arcades of most public housing estates are rented to large retail chains. For example, many of the shopping centres managed by the Housing Authority (HA) are taken up almost entirely by large supermarket chains, and small business operators can only look on with envy.

The Government and the HA should provide a "business environment" for the survival of small business operators by dividing shopping centres into smaller shops. When it comes to the rent policy, consideration should be given to the financial capacity of small business operators, and lower rental levels should be set for them.

The advocacy of local community economy is underlined by the hope that the Government can promote diversified economic development at the macro level and assist small and medium businesses in creating job opportunities. It is also hoped that a labour-intensive economic sector can thus emerge to take on low-skill workers and solve the problem of structural unemployment.

This is precisely the reason for the FTU's concern about the vitality of small business operators. Once an economic ecology composed of small business operators emerges, then, at least, the operators themselves and even their families will have a means of living. In that case, even with the huge impacts of high value-added and high-tech activities, the livelihood of many people who would otherwise become unemployed can be safeguarded.

For the same reason, we hope that the Government can create a better environment for the small and medium manufacturers of Hong Kong, so as to induce them to relocate their production lines back to Hong Kong and to write the next chapter for the local jewellery, toy and garment industries, which was left unwritten some 20 years ago. We do not dare to hope for the return of an industrial era like that of the 1970s, but we do know that many manufacturers

would like to come home, so why is the Government still looking on with folded arms?

Recently, the Hong Kong Polytechnic University has conducted a survey on some 200 Hong Kong manufacturers with production lines in the Mainland. Some 90% of the respondents said that they were willing to come back provided that the Government could put in place some support measures for them. What these manufacturers ask for are only cheaper lands and tax concessions. To the SAR Government, it is simply not a question of "inability", but rather a question of "reluctance".

Following the implementation of the accountability system for principal officials, all the Secretary designates can no longer tell us to be patient while the unemployment rate continues to soar. We hope that they can seriously take forward policies that are conducive to the employment of Hong Kong workers. It is also hoped that they can take the lead and follow through the whole issue.

With these remarks, I support Miss CHAN Yuen-han's amendment.

MRS SELINA CHOW (in Cantonese): Madam President, I do not quite understand what is meant by local community economy, and I only know that one segment of local community economy is made up of businesses which cannot be relocated. If a certain kind of business defies relocation, it must naturally seek to increase its competitiveness, so as to get more local customers, or else many local customers will go elsewhere to buy what they want.

Frankly speaking, the Government is not very good at business and commercial matters. What can the Government do to assist local community economy, or to help those local businesses which cannot be relocated to carry on with their operation or development? The Liberal Party has repeatedly said that the Government should create a friendly business environment. What then is a friendly business environment? We do not ask the Government to offer any subsidy or benefits; we only hope that no one will "stand in others' way". We also hope to see "reduced costs but increased value" and "more attraction but less obstruction". These are basically all the essentials and I hope that the Government can assist businesses that cannot be relocated in achieving all these objectives.

Innovation and creativity may not always be required. I once belonged to the trade, and so I too encourage creativity. But sometimes creativity may not necessarily be the right means to achieve a desired end. Under certain circumstances, instead of creating something new, it would be better for us to continue with the development of existing things. Some businesses used to operate very soundly, but then because of some factors unknown or other circumstances, they have been on a steady decline over the recent years. This may be the result of domestic factors — that is, some may be trying to "stand in others' way"; or, this may be caused by increased external competition. Can we, for example, think of anything that the Hong Kong Government has done, that may have made it "stand in others' way" without itself realizing it?

Admittedly, we have been asking for higher standards of living. In response to our demand, the Government has been trying persistently to raise the various standards, and this has led to the making of many laws and requirements for compliance by business operators. However, while business operators are required to meet all these standards, the Government has not provided them with any assistance, whether in terms of education and the provision of required facilities.

I wish in particular to say a few words on the worst-hit area of the retail sector, that is, the "five guilds" or the food supplies industry. Food is most important to people because it is part of their living, and the associated businesses are definitely incapable of relocation. But if we look at the "five guilds", we will all see that their business environment has been ever deteriorating. We may also look at the government facilities provided at wholesale and retail markets. We just do not know why, but it seems that the only concerns of the Government are the imposition of charges for the facilities under its management and the "user pays principle"; rental increases have never stopped, but there has been no rental reduction at all. There has been no improvement to the facilities provided by the Government, but the operators concerned are constantly asked to raise their service standards. Do Members agree that the operators concerned are being oppressed?

Earlier on, some Members talked about the monopoly of large consortia, criticizing them for oppressing small business operators. Actually, in Hong Kong, as in other major cities, both large business operators and small ones are part of the local community economy, and they are equally significant in value. The key therefore lies in balancing their interests. Let us not forget that the

supermarkets located in many housing estates were in fact first established at the request of the residents or other shop operators, who hope that the presence of brand shops or supermarkets in their housing estates can help increase the volume of visitors. Without the presence of any such major business concerns or the so-called "anchor tenants", the operation of small businesses in housing estates will become even more difficult. One of the problems encountered by housing estate shop operators, one which the Legislative Council is also very concerned about, is the market-linked rent policy adopted by the Government. But is there any market linkage in respect of the facilities provided by the Government or the business practices it requires? There is none in reality.

Let me talk about the food supplies industry again. Let us take the sale of chickens as an example. Why is the price of a chicken in Hong Kong some \$40, but just \$10 or so in Shenzhen, while the chickens may come from the same farm? Why has the Government not thought about this question? Have any hurdles or supplies problems led to the higher prices of chickens in Hong Kong? The prices of chickens here are so much higher than those in the Mainland that those people who want to eat chicken may go to Shenzhen. In that case, what is the point of discussing local community economy? This is only one of the many examples.

There is another example. Earlier on, the Government put in place a central slaughtering system for geese and ducks, so the slaughtering of geese and ducks are no longer allowed in Hong Kong. Thus there are now no geese and ducks for sale in local markets. Did the Government think about the consequences when it formulated this policy? If the Government wishes to develop local community economy, it must first consult the operators of businesses that cannot be relocated and find out what they need. I always have the feeling that the Government is not open enough, and it has not listened enough to the views of business operators. The Government will not consult those going to be most affected but will just go its own way. This is not going to be helpful at all.

I still wish to spend some time on responding to Mr Fred LI's remarks. The Liberal Party strongly supports fair competition, but we do not support the enactment of any fair competition legislation, the reason being that such legislation will only victimize the vast majority of small business operators without affecting the large business operators. Once such legislation is enacted by the Government, those companies that have the means to hire lawyers will

find no cause for worry. But in contrast, small business operators may have to suffer.

Thank you, Madam President.

MR NG LEUNG-SING (in Cantonese): Madam President, the expression "local community economy" was widely debated among members of the community recently. Although a number of people in the community supported this idea and made a lot of practical recommendations, some still remained at the theoretical level of argument, and some tended to pour cold water on the new idea. Some press commentaries even described the coining of this new expression reckless, careless and superficial, and likened the idea of local community economy to the socialist ideology of planned economy. Some people also considered the new idea a violation of the free economy doctrine, while some deemed it inappropriate for the Government to "keep changing its tricks and introducing new gimmicks". Some people even likened the local community economy to "people of the same group gaining profits from each other", so to speak.

Regardless of whether the expression "local community economy" can be fully and clearly defined, this concept has at least led to many elaborations and interpretations. The so-called local community economy covers economic activities based on the domestic demands of an economic system. The scale or scope of these activities, mainly conducted in a labour-extensive manner, is relatively small. Led mainly by finance, import and export, logistics, and so on, Hong Kong is an export-oriented economy. It must head towards innovation and high value-addedness. According to the interpretation mentioned above, it is naturally not possible for the local community economy to become the major direction and foundation of Hong Kong's future economic development. The Financial Secretary has actually clarified this point already. However, Hong Kong is now going through an extraordinary period of economic transformation and high unemployment. In particular, some low-skilled unemployed persons find tremendous difficulties in re-entering the job market. I believe the Government has found a good and correct direction in taking short-term measures to boost the local community economy, so as to provide room for employment of some of the unemployed, and relieve the unemployment pressure felt by the community. It is definitely not only trying to help the local workers through encouraging "people of the same group gaining profits from each other".

Let us look at the example of helping local workers to become home helpers. I have constantly urged the Government to consider and promote this proposal, including the provision of on-the-job training similar to the Youth Work Experience and Training Scheme, and complement this by re-examining the current policy on foreign domestic helpers. Of course, this does not mean I hope to develop home helper service into a major industry of Hong Kong. However, this industry can create tens of thousands of jobs. It can indeed achieve the positive effect of improving employment, increasing the income of low-skilled workers, stimulating domestic consumption, and promoting social stability.

Hong Kong has all along upheld free economy. Today, we have been given to understand that Hong Kong has still been ranked high on the list of the world's freest economies. However, we must note that the essence of free economy is pragmatism and expediency. This applies particularly to policy-making and administration by the Government. For this reason, one must not act like a rigid theorist, who regards a certain concept, such as the so-called *laissez-faire* policy, as a heavenly doctrine. Once the Government comes up with any policy ideas related to actual social needs, it will be described as violating the active non-intervention principle. This is indeed similar to the ideological struggles previously taken place in the Mainland. It has been disputed in the Mainland as to whether market economy should be considered socialist or capitalist. Furthermore, the public in general has started to see that the tradition passed on by the British Hong Kong Administration has become obsolete. The active non-intervention economic philosophy has turned into a political philosophy encouraging people not to do anything for fear of making mistakes. While this might be useful for upholding colonial rule at that time, it is obviously inappropriate to this new era of the SAR.

Of course, the Government's new policy initiative of promoting the local community economy does not mean the Government is going to teach us how to do business. Neither does it mean the Government is going to make people operate roadside cafes in Sai Kung, or to be a peddler in Ap Liu Street. The role of the Government in promoting the local community economy is to, in the light of the need of the public to explore business opportunities, provide appropriate and reasonably convenient legislation and administrative vetting procedures. The role of the Government is not just confined to a regulator of market activities. What is more, it should act as a facilitator of market activities. It is essential for the Government to actively gauge the public's actual need in

starting businesses and initiate complementary actions. Front-line officers are required not only to act according to the established rules and procedures, but also to actively examine and ascertain if there is a gap between enforcement and actual operation to let the management to know where the problem lies. This will enable contingency measures to be taken promptly so that a good business environment can be created. These officers cover the front-line officers mentioned by the Housing Authority earlier. Instead of simply enforcing the so-called established policies and rules in dealing with business affairs, they must act flexibly with a view to expeditiously renting out shops to the public. They must not cause any delay to the seizure of business opportunities.

This rule applies to every government department — in order to promote the local community economy, it is most important to set up a reasonable and streamlined framework and procedures to enable prompt reflection of views and adjustment of management, accord priority to the urgent needs of the public and clients, and provide more conveniences for business operators.

Madam President, I so submit.

MR TOMMY CHEUNG (in Cantonese): Madam President, even Mrs Selina CHOW says that she does not know what is meant by local community economy, so I really dare not say that I know what it is.

But boosting domestic consumption, improving employment opportunities and promoting culture and tourism all do seem to me the objectives of local community economy. Currently, the unemployment rate is at the record-high level of "7% going to be 8%". So, it is only understandable that people all wish to assist low-skilled workers or the unemployed in securing employment.

It is of course important to ease the problem of unemployment, but the Government must at the same time look after the business environment of medium and small businesses. Unfortunately, besides failing to assist them, the Government has even drawn up contradictory policies and exercised discrimination in enforcement. This has led to the deterioration of the business environment. I can give several examples here.

There has been a new development in the local catering industry over the past few years, called "private kitchens" or "home-made dishes". At the

beginning, there were only one or two "private kitchens" offering non-Cantonese dishes. But now the dishes of practically all provinces or countries are available. Basically, it is a good thing for the catering industry to have more investors who can bring in a greater variety of cuisine. But I believe most private kitchens are not licensed and subject to any formal regulation. This leads to concerns over their hygiene and fire and building safety on the one hand, and customers' health and neighbourhood nuisance on the other.

Besides, the Government's inaction towards the springing up of so many "private kitchens" is absolutely unfair to all those food establishments and restaurants duly licensed under the law, because the latter have to meet all sorts of business expenses such as the general restaurant licence fee, business registration fee, liquor licence fee, rates, sewage charges and trade effluent surcharge. If they are lucky enough to make any profit, they also have to pay profits tax. And, they are also required to make monthly mandatory provident fund contributions. In contrast, "private kitchens" are unlicensed, and thus do not have to pay the various kinds of fees mentioned above. In brief, they do not have to shoulder heavy business costs, and this has led to unfair competition. Consumers who patronize "private kitchens" do not enjoy any protection, and when things go wrong, legally operated food establishments will also be victimized. For instance, in the past, whenever there was any food poisoning caused by the unclean food sold by cooked food hawkers, people would also lay the blame wrongly on food establishments. I believe that the profit decline of the catering industry over the past two to three years must be in one way or another related to the opening of "private kitchens".

During the meetings between the catering industry and the Food and Environmental Hygiene Department (FEHD), I did solemnly and seriously raise this problem for discussion, in the hope that the authorities could do something to clamp down on illegal food establishments. But according to government officials, since "private kitchens" are mostly located upstairs, not in any conspicuous shops along the streets, it will be very difficult for FEHD staff to spot their existence. Government officials also say that they have considered the idea of "test" patronage. But since "private kitchens" usually entertain regular customers only (in some cases even these customers have to book a table several months in advance), operators can "conspire" with their customers beforehand, and when there is a licence inspection, their customers will say that they are just friends dropping in for a meal. So, it is claimed that supervision is very difficult.

I very much agree that the catering industry must make incessant efforts to improve the quality of services and food, so as to attract consumers. I also agree very strongly that consumers should have the right to choose where to go for good food. However, the authorities must be impartial in enforcement, or else all the legislation on public health and food safety will be rendered useless.

I am not convinced that the Government is unable to do anything about "private kitchens". Even in the case of those people running vice establishments, gambling dens and drug syndicates, the police still manage to bring them to justice, so there is no reason why the FEHD is unable to do anything about "private kitchens", to close them down, when they are all fully booked every evening. This question is especially justified, now that many "private kitchens" have also started to put up advertisements in the papers. Under the recently enacted Public Health and Municipal Services (Amendment) Ordinance, the Director of Food and Environmental Hygiene is empowered to issue closure orders against unlicensed food establishments. Why do the authorities not exercise this power? I urge the authorities to closely monitor this problem and report to the Legislative Council on the latest situation of "private kitchens". At the same time, the authorities must actively explore ways that can effectively supervise "private kitchens", so as to restore investors' confidence and provide a fair business environment.

The next issue I wish to discuss is the hawker policy. With a long history and being such a special feature of Hong Kong, hawking can be described as the best example of local community economy. Although the Liberal Party maintains that Hong Kong should develop in the direction of knowledge-based economy in the long run, at this time when hundreds of thousands of people are out of work, we would not criticize those people who are forced to resort to hawking as a means of fending for their families. But because of the Government's unequal treatment of hawkers and shop owners in enforcement, I am compelled to air my grievances.

If the Government allows the continued existence of hawkers, it must pay attention to the impact and nuisance caused by mobile hawkers and stalls to shop owners. In Hong Kong, shops located in places with high pedestrian flows are very expensive, often with an exorbitant rent of some \$100 per sq ft. But we can often see hawkers or people promoting goods outside a shop, and very often the goods are similar to those sold by the shop. Since these hawkers do not have to pay any rent, the prices of their goods are of course lower, and by

hawking outside people's shops, they are definitely guilty of "snatching others' rice-bowls".

However, the authorities will usually adopt what they call a "flexible" but in effect lenient approach to this problem. In the whole of 2001, the authorities initiated only 10 prosecutions against mobile stalls of hawkers, a number which is totally disproportionate to the high incidence of hawker stalls causing obstruction to shops. The way in which the authorities treat shop owners is much harsher. For instance, when a trash can or broom is put outside a food establishment, or when goods are stacked just a little bit outside a shop, the FEHD and the police will immediately prosecute the owner, and every year, there are more than 1 000 such prosecutions. Why is there such an unequal treatment? Is this fair?

I hope the authorities can offer an explanation on the lack of policy co-ordination and enforcement inconsistency described above. Is all this just a mere coincidence, or a deliberate attempt to ignore the law? Has the Government already changed its policy and decided to do nothing about unlicensed "private kitchens" and hawker obstruction to shop business, now that the economy continues to decline and there is a need to arrest the soaring unemployment rate? The Liberal Party supports local community economy, but it also thinks that while promoting local community economy, nothing should be allowed to affect the business of shop owners and their business environment, because through their investment and employment of staff, small business owners have cast a vote of confidence in Hong Kong.

Mr SIN Chung-kai has talked about his industry, and now I also wish to talk about mine. The Karaoke Establishments Ordinance, which will take effect next month, will deal a very heavy blow to the industry. Actually, ever since there was news about enactment of the relevant bill, many people originally wishing to invest in the karaoke business have changed their mind. Subsequent to a case of arson, we have enacted a piece of legislation which is very harsh. That is why we hope that the Government can be more cautious when enacting similar laws in the future. The closure of the Treasure Restaurant group has affected many suppliers in addition to plunging 2 000 people into unemployment.

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

DR RAYMOND HO (in Cantonese): Madam President, the economy of Hong Kong in recent years has lost its past vigour, and the unemployment rate has broken the records again and again. In order to break away from the current predicament, the Government must try to open new sources of revenue in addition to cutting expenditure. What I mean here is not the introduction of any new taxes. Rather, I am referring to using our existing resources to open up new horizons. The promotion of local community economy is a pretty good idea.

Although Hong Kong is not exactly a picturesque place, not at all comparable to Guilin in the Mainland and Switzerland in Europe, its harbour is at least one of the best three in the world, and its mountains are magnificent too. Hong Kong is also full of many other appealing characteristics that put it in a good position to develop tourism and local community economy. By Asian standards, Hong Kong is an affluent place; many of its people like to go abroad for sightseeing and shopping, and this was especially the case before the financial turmoil in 1997. In general, they love the lakes and mountains in Europe and the fashion of France and Japan. Despite the recession in recent years and the general drop in the number of out-bound travellers, many people still go to Shenzhen for consumption and shopping. All this, however, has negative impact on our own economy. There are actually many places in Hong Kong which can be developed into tourist spots. As the saying goes, "those living on a mountain live off the mountain; those living near the water live off the water". So, why do we not make use of our existing resources to develop local community economy, to encourage our people to stay in Hong Kong for consumption, and thus to create job opportunities? Of course, while we seek to promote local community economy, we must at the same time formulate other matching measures. For instance, we must keep Hong Kong clean, so that consumers can have a comfortable environment to make their spending. We must also keep Hong Kong free of corruption and create a good business environment, so that investors will have confidence in us.

Although the development of local community economy can help revive our economy, we must also note one point: the market of Hong Kong is after all a very tiny one, so we cannot possibly rely entirely on local community economy to boost our overall economic development. In addition, business costs in Hong Kong are higher than those in other places of Asia. Therefore, in the long run,

we must aim at high value-added activities and develop overseas markets. Moreover, owing to the Government's vigorous development of higher education, there will be marked structural changes to our labour market 10 years from now. Currently, our labour market is made up chiefly of low-skilled workers with low education qualifications, so the promotion of local community economy will bring these workers employment opportunities. But 10 years later, when the students now graduate and join the labour market, the backbone of our workforce will no longer be people with low skills and low qualifications. When that time comes, we should make the best use of our manpower and turn Hong Kong into a knowledge-based economy with emphasis on high value-added activities.

To sum up, I am convinced that the development of local community economy can increase job opportunities and help revive our economy. If the Government really intends to develop local community economy, I think it must first do some preparations beforehand. It must listen to the views of as many people as possible and provide assistance whenever necessary, so as to achieve the best result and avoid any wastage of resources caused by unclear policies.

Madam President, I so submit.

MISS CYD HO (in Cantonese): Madam President, it is indeed very delightful that with the only exception of the Liberal Party, all of us are talking about economic matters today. But it is surprising that the Liberal Party does not understand what is meant by local community economy. Mrs Sophie LEUNG was the only one from the Liberal Party to have expressed her personal views on this topic, and even Mrs Selina CHOW said that she did not know too much about it.

Honestly speaking, the term "local community economy" is a novel idea to Hong Kong. The Financial Secretary has given his interpretation, and so have Members belonging to the FTU. But I would like to talk about the reason why all of us should wish to discuss local community economy. In a word, the reason is that given the very high unemployment rate lately, we all wish that there can be more job opportunities. If our economy was in good shape now, if the employment rate was 100% and no one was unemployed, I suppose we would not have bothered whether there is any "local" elements in our economy. Had

this been the case, local community economy would have become a cultural rather than economic agenda.

Why do we suddenly think that local community economy activities can solve the unemployment problem, provide job opportunities? I think the main reason is that many unemployed workers are actually skilled, not low-skilled; they do possess skills, only that their education levels cannot enable them to switch immediately to other occupations such as financial services and information technology. As a result, when the external factors turn bad, they will be the first ones to lose their jobs, and they must then look to the local services market for opportunities. Unfortunately, in recent years, even large enterprises and consortia have become interested in retail and services businesses. Since many small merchants are unable to compete with large enterprises, they may have to close down their businesses, and so, many more people thus have to seek jobs again or join the unemployed ranks. That is why many Members have raised the idea of anti-monopoly, in the hope of ensuring the continued survival of small business operators. But I think that this is only one sector of local community economy, not its entirety.

I very much agree with Mr Fred LI that our economy is export-oriented. So, even if we now launch initiatives in respect of local community economy, we can at best create some jobs for the moment only, in the sense that the currently unemployed may right away invest in small businesses, with each of them creating two to three jobs, for example. This can certainly help Hong Kong for the moment. But in the long run, we must raise the purchasing power of Hong Kong people; to raise purchasing power, we have to make foreign exchange earnings because ours is not a self-sufficient economy. Therefore, I hope that the concept of local community economy discussed above can be broadened to cover some creative and high value-added economic activities that can increase employment opportunities.

Local community economy is not just about local supply meeting domestic demand. Local products and services may also be used to meet external demand. The entertainment industry, covering film-making, phonograms, idol packaging, and so on, are areas where we can boast excellence. These are our strengths, all locally produced and developed. They can all be exported besides being used to cater for the everyday needs of Hong Kong people. I very much hope that our skilled workers, such as those from the garment, porcelain and

handicraft industries, can join hands with business operators and open up haute consumption markets through market packaging. I trust this will not only raise domestic consumption desire, but also induce people to spend their money in Hong Kong. I also hope that these markets can attract inward consumption.

If the Government intends to promote local community economy merely by allocating lands for businesses like flea markets and ladies' markets, I must say that this is just not enough. As pointed out by a Member earlier, there may turn out to be 18 ladies' markets in the 18 districts. But can there be so many ladies going out for shopping?

The Government should help nurture creative businesses and streamline the many different formalities, instead of just offering loans without showing any attitude of encouragement. The government loan of \$100,000 for each retrainee is one example, and honestly, when I voted on this, I worried somehow that the retrainees might well lose all their money in the end. So, instead of doing this, the Government should provide as much assistance as possible to creative businesses or streamline the relevant procedures. There are in fact some precedents.

Early this year, for example, there was a winter carnival in Hung Hom, which attracted 1.4 million visits in just one month. The operator was even able to increase the admission fee twice — quite an achievement indeed. In the end, the revenue was close to \$100 million. Not too long ago, there was also a function called the Euro Christmas, which attracted 1.1 million visits. All these events have at least induced Hong Kong people to stay, instead of going to Shenzhen. There are still many vacant land lots in Hong Kong, and tenders from production companies should be invited for the organization of creative carnivals. Instead of lending \$100,000 to each retrainee and \$40,000 to a university graduate for the purpose of business start-up, the Government may consider the idea of holding a contest on business start-up plans and award money to the winners, so that they can put their plans into practice. Some of the more creative plans coming out of the contest may also arouse the interest of business investors. I think the most important aspect to local community economy is creativity. There must be originality in both product development and promotion. I hope that our existing skills and workforce can join hands with creative entrepreneurs in opening up a much larger haute consumption

market. The Government needs not tell people how they can be creative. It only needs to provide an environment conducive business.

Everyone here would like to see Hong Kong prosper. I will support the original motion and all the neutral and well-intentioned amendments.

MR ALBERT CHAN (in Cantonese): Madam President, the major cities in China are all planning to embark on economic internationalization and globalization, but the Government of Hong Kong is stressing that our economy should be localized. This makes me both sad and disappointed. I do not know whether this is already all that is about the economic philosophy and theory upheld by Financial Secretary Antony LEUNG. If yes, I must say that his philosophy and theory will only lead Hong Kong down a blind alley.

When we talk about economic activities in the 21st century, we often mention globalization. The Financial Secretary now talks about local community economy; I just do not know whether he is just trying to say the opposite, to show that he is different and to coin new terms. When I was a freshman at university, I read some theories about local community economy, and one example was the economy in the Canadian Red Indian reserves. Since there was no economic activity in these reserves, 90% of the people there were unemployed and had to live on social security. There was thus a need to develop some local community economy activities in these reserves. Traditional Red Indian art and handicraft products such as paintings, sculptures, and so on, were made and sold in cities to tourists.

We have been discussing this topic for a very long time today, but many Members have said that they do not quite know what the Financial Secretary means by local community economy. I have been listening to this debate for a long time, but I still fail to catch the point. So, I can only wait for an explanation from the Financial Secretary later on in this meeting. I honestly do not know what local community economy is all about, nor do I know how it can offer any help to the economy of a metropolis and international financial centre like Hong Kong.

Recently, because of the fever of local community economy, the Home Affairs Bureau has set up area committees in many districts to promote local community economy. I do not know what achievements there can be in the

future. In some places, Sai Kung for example, some food establishments and roadside cafeterias have been set up, but the press reported that these cafeterias have not attracted any new customers, and are thus unable to boost the economy. In Tsuen Wan, functions about gold ornaments were organized by the Government and goldsmith's shops during certain festivals. But these may just be an example of "pulling oneself up by one's bootstrap". I fail to see any innovative elements there, nor, in particular, can I see any benefits to employment and the economy as a whole.

Madam President, over the years, the Hong Kong Government has been behaving like what seems to me "the spoiled son of a rich father". In the past, the people of Hong Kong set up many successful industries and enterprises, but the Hong Kong Government simply destroyed them one by one and did not value them at all. I can give several examples.

The first example is the lumber pit at Yam O, the biggest of its kind in Hong Kong. In 1991, the pit was forced to reduce by half in size due to the development of the Lantau link, and this led to the wastage of half of the lumber stored by the pit. As a result of this development, Hong Kong lost its status as a lumber centre, and the development of the lumber industry was affected. Many lumber merchants have recently moved to the Mainland for business development. This was what happened to the lumber pit. It was destroyed by the Hong Kong Government.

The second example is the very familiar case of Wah Kai Industrial Centre. There were some 300 factory operators in Wah Kai Industrial Centre, and at least 100 of them were forced to close down because of land resumption by the Government. Such was the policy of the Government. Some of the factories were in fact the only ones of their kind in Hong Kong. One of these, the one I know more about, was the only manufacturer of dog leads in Hong Kong. The Hong Kong Government did not offer any assistance to these factory operators; this is one thing, and worse still, the Government even destroyed them. The Government has never offered them any assistance in restoring their operation in Hong Kong. So, what is the point of discussing local community economy? What the Government has been doing is actually destroying the existing industries of Hong Kong.

The third example is the land resumption in connection with Area 40 in Tsuen Wan. The lands there have been resumed, and the construction of luxury

apartments is underway there. There were three iron foundries in Area 40. There were totally seven iron foundries in Hong Kong, and three were located in Tsuen Wan. These three foundries already met the fate of land resumption during the Mass Transit Railway development of the colonial era. At that time, Dr HAYES assisted these plants in finding sites along Route Twisk in Area 40 to restore and develop their business. These iron foundries were mainly engaged in the supply of spare parts for shipbuilding, including motors and propellers. In case a ship is out of order, or the propellers are damaged, new ones have to be made, and all these spare parts used to be supplied by these foundries. But the three iron foundries have been destroyed by the Government. They wished to restore their operation elsewhere in Hong Kong, but the Government refused to give them any help. They were willing to purchase lands to erect new works, but the Government turned down their proposal.

There are numerous such examples, so I just do not know why the government officials can still have the face to talk about assisting local community economy development. If the Government had not destroyed any existing industries and factories, several hundred factories would still be in operation now. Therefore, lie no more to me. Maybe the Financial Secretary does not like to hear any negative comments, and so, he simply left shortly after I had started speaking. *(Laughter)* Madam President, perhaps this is what makes me so popular. *(Laughter)*

Madam President, many Members have commented that the key to Hong Kong's economic success in the 1960s and 1970s was the development of SMEs. But the vitality of SMEs has been stangled by various government policies; they no longer have any more chances now. The acts of the Government have led many SMEs to move to the Mainland for development, but they in fact want very much to stay in Hong Kong. The only thing is that the Hong Kong Government has not offered them any assistance. So far, more than 100 factories have moved to the Mainland for development.

Madam President, the debate topic today is local community economy. But as I said at the very beginning, I do not know what kind of local community economy the Government is referring to, nor do many Members. Besides, at a time when mainland cities are embarking on globalization and internationalization, I can only sigh at seeing that Hong Kong is returning to local community economy. I really do not know what to say.

MR AMBROSE LAU (in Cantonese): Madam President, since the concept of local community economy was first put forward, it has been interpreted very differently by different people. Earlier on, the Financial Secretary, Mr Antony LEUNG, said at a meeting of the Panel on Financial Affairs that the attention to local community economy represented just a very small portion of the entire Budget. He added that the promotion of local community economy was meant only to assist low-skilled and low-qualification workers, who represented half of our workforce, in securing employment. He further pointed out that local community economy should not be the main solution to the economic problems faced by Hong Kong, emphasizing that Hong Kong must adopt a high value-added and outward-looking approach in its development if it is to improve its economy.

Over the past few years, the Government has been advocating openly that Hong Kong must develop high value-added industries, but very little has been achieved so far. In the meantime, the Government's inaction towards the accelerated draining of local industries, including the services industries, have led to the continued decline of Hong Kong economy and the consequent difficulties encountered by all trades and industries. All industries, high value-added ones and low value-added ones capable of employing large numbers of workers, are now at a loss, reminding me of one famous line from the great Tang poet BAI Ju Yi: "Scoured the Great Void and the Yellow Fountains, but failed in either to find the one he searched for."

The Government's policies are full of contradictions, and not only this, it also seems to have attached just a very minor importance to local community economy. Local community economy is defined like this in the Budget: "This local community economy covers a wide range of activity, including cultural, recreational, sports, social and personal services; and there are many different types of players, such as small traders, local domestic helpers and fitness instructors." Thus defined, though local community economy "covers a wide range of activity", its essence is however very confined. What will become of Hong Kong if several hundred thousand unemployed people all rush to set up fortune telling stalls in the streets? Besides, the situation with domestic demand is also very worrying, as, up to this month, prices have kept on falling for 44 months in a row. With continuing deflation, though prices are low, people are just not willing to spend money. The result is further dwindling of domestic demand. Another side to inadequate demand is excessive supply. The development of local community economy is intended to mend the "seeping

ceiling", that is to deal with the rising unemployment rate, but then this is hindered by "incessant rain", that is, deflation. Therefore, under the current deflation, an increase in the number of hawkers will inevitably lead to a new kind of excessive supply, thus causing more shops to close down.

Madam President, the Hong Kong Progressive Alliance (HKPA) maintains that the development of local community economy must require a new mindset. Since the aim of developing local community economy is to assist the unemployed in securing employment, it stands to reason that we should seek to find out the cause of the rising unemployment rate. The cause is actually the continuous draining of the domestic economy, and this trend has even come to affect SMEs. The current deterioration of the business environment has dealt a very severe blow to SMEs. Despite the different interpretations of local community economy, to Hong Kong, "local" must mean Hong Kong itself. There is no doubt about this, and what have been supporting the Hong Kong economy, or the local economy, and what have been the major solution to unemployment, are SMEs, which altogether hire more than 60% of our workforce. According to statistics, as at June 2001, only 300 054 SMEs were left, 150 000 less when compared with the figure of 450 000 in the peak period. However, these 300 054 SMEs still employed as many as 1 406 300 people in 2001. Therefore, if the Government is really sincere in developing local community economy to ameliorate unemployment, it must put in place more policies and concessions for the large number of local SMEs which are caught in difficulties now. Only a better business environment for SMEs can ensure that there are more jobs.

Madam President, in a so-called "dual economy", a concept related to local community economy, the first element should be high value-added industries offering few employment opportunities; the second element should be low value-added but labour-intensive industries offering lots of job opportunities. The HKPA maintains that all industries, regardless of their value-addedness, can be broadly classified as part of the local economy as long as they are based in Hong Kong, can provide jobs to Hong Kong people and can bring tax revenue to the Treasury. This broad definition has the merit of avoiding a narrow definition of local community economy and doing away with all those conceptual arguments over definitions. As Mr DENG Xiaoping once said, "It does not matter whether we have a white cat or a black cat; any cat that catches mice is a good cat." The HKPA thinks that the development of local community economy should make reference to this famous comment.

Madam President, in conclusion, if we are to reduce unemployment, we must first give assistance to SMEs, for they can take on huge numbers of workers; second, the restrictions on small businesses must be relaxed, and then the Government should, taking account of Hong Kong's situation, take the lead in promoting green and marine industries. In brief, the Government must never tie up its own hands. Instead, it should free its interpretation of local community economy from a confined mindset and regressive attitude. If not, if the Government continues to be so indecisive, all industries, be they high value-added or low value-added, will be at a loss.

Madam President, I so submit.

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

(No Member responded)

PRESIDENT (in Cantonese): Mrs Sophie LEUNG, you may now speak on the two amendments. You have up to five minutes.

MRS SOPHIE LEUNG (in Cantonese): Madam President, I shall be very brief because I do not wish to waste too much of Members' time.

The Liberal Party moved a motion on improving the business environment last year, and this evening, I am pleased to hear that quite a number of Members also think that the business environment should be improved. As for the amendments proposed by the two Members today, I would say that from a broader perspective, they can serve to perfect the proposals made in the original motion.

Miss CHAN Yuen-han and Mr Fred LI have referred respectively to a "fair" business environment and a business environment with a "level playing field". I wish point out that the Liberal Party has all along supported fair competition. But in our interpretation, a fair business environment should mean the striking of a balance among the original operators, new operators and consumers.

On the "creation" of a fair business environment or a business environment with a level playing field, the Liberal Party is of the view that "creation" is not an appropriate word to use. The reason is that this word actually implies that a fair business environment is currently absent in Hong Kong. The reality is quite the opposite, however, because the key to Hong Kong's success has precisely been its adherence to free economy or free market principles; Hong Kong has just been rated as the freest economy by *The Economic Freedom of the World Report*. Therefore, basically, I do not quite agree to the use of this word. But since we do not wish to waste any time on the wordings today, we will support Miss CHAN Yuen-han's amendment.

As for Mr Fred LI's amendment, I have to say that he has advanced many arguments. With respect to fair competition, in particular, he almost touched upon the enactment of a fair competition law. But then, in the end, he took others' opinions and stopped carrying forward his argument.

I think we should focus on the motion topic today in its own right. We hope that Miss CHAN Yuen-han's amendment can be passed, so that the word "competition" in Mr Fred LI's amendment will not appear in the amended motion. We will support this.

I think the most important point is our consensus that we simply should not "rob Peter just to help Paul". As long as the cake for all, that is, our overall economy, is large enough, everyone of us will be able to have a bigger share of our economic success.

Thank you, Madam President.

PRESIDENT (in Cantonese): Financial Secretary, good morning. You may now speak.

FINANCIAL SECRETARY (in Cantonese): Good morning, Madam President. Local community economy is an important component of Hong Kong economy. During times of recession, it is all the more important to develop the local community economy to promote consumption, create employment opportunities and, in particular, provide more opportunities to people who have neither high academic qualifications nor high skills. Hence, I am very glad that Mrs Sophie

LEUNG has proposed the motion today to urge the Government to adopt proactive measures to promote the development of local community economy. I hereby thank the Honourable Members who have spoken on the motion for their many invaluable views.

Today, I should like to take this opportunity to expound again on the various aspects of local community economy. Firstly, I will explain what local community economy is by describing briefly the scope of local community economy and giving some examples of the relevant economic activities. Secondly, I will highlight the roles of the Government in promoting the development of the local community economy, the functions of the market as well as the importance of public participation. Thirdly, I will describe briefly the progress made by the Government in promoting the development of local community economy; and fourthly, clarify a few common questions relating to the local community economy.

To begin with, let me explain once again that local community economy is not anything new. As we all know, the local community economy has been in existence all along and is part of our overall economic activities. It is closely related to our daily life and covers a wide range of activities, including cultural, recreational, leisure, dining and wining, personal and a variety of small trading activities. We can have a part in the local community economy activities by enjoying folk arts performances, hiring fitness instructors, participating in social dance classes, employing local domestic helpers, enjoying specialty cuisine, visiting the "poor people's night clubs", and so on.

Generally speaking, the local community economy has four major characteristics and the first one is diversity in forms. I note that many people consider the local community economy the same as small trader economy. This is a misunderstanding. People holding this view have overlooked the local community economy's diversity of forms. As I mentioned just now, small trader economy is only one form of local community economy, other economic activities like cultural, recreational, leisure, dining and wining, sports and personal services are also parts of the local community economy.

Second, display of local culture. I believe Members will all agree that the success or otherwise of the local community economy depends largely on whether or not the relevant activities can give play to their respective strengths and highlight Hong Kong's unique characteristics to attract consumers. As such,

even if a certain local community economy activity can prosper in a certain district, it just may not be copied to other districts. If the activity should be introduced indiscriminately into any other districts, it may obtain the opposite result and give rise to vicious competition rather than favourable economic effects.

Third, promotion of local consumption. We believe genuine local community economy activities should be able to create additional business opportunities and bring "new money", rather than further thinning out the existing business.

Fourth, creation of employment opportunities. In addition to bringing additional economic benefits and promoting domestic consumption, local community economy activities can also provide workers of different qualifications and skills, and particularly those of lower academic qualifications and lower skill levels, with employment opportunities.

Next I should like to speak on the roles of the Government in promoting the development of local community economy, the functions of the market and the importance of public participation.

In the 2002-03 Budget speech, I mentioned that the role of the Government was to be a proactive market enabler. Based on this principle, the strategy of the Government in promoting the development of local community economy is market-led. Yet at the same time, the Government will also proactively formulate policies and provide relevant facilities to give full play to community wisdom, with a view to boosting the development of a great diversity of local community economy activities.

Here, I should like to highlight the importance of community wisdom. The Government deeply believes that the local residents, being the closest to the community and having the most profound understanding of the characteristics of the relevant district including its strengths and weaknesses, should be able to make suggestions on local community economy activities that can best display the local culture. We understand that because it is not enough to rely sole on the Government's internal deliberations, we must make the best use of community wisdom. I will explain later on the specific measures of the Government to draw on the community wisdom.

The Government holds that local community economy activities should be developed on the basis of the free operation of the market and implemented through investments made by the private sector. The Government should not and will not participate directly in any investment, decision-making process or operation relating to the local community economy activities. This market-led principle has been Hong Kong's proven economic principle and is extensively accepted by the public and the business sector. In fact, the market has already developed many local community economy activities in accordance with the free economy rules without any government participation or promotional efforts.

Nevertheless, we have also noted some economic activities in the local community economy are currently denied conditions for full development. Perhaps some government policies, regulations or restrictions on land use have limited the room of development of such activities. Or perhaps it is due to the lack of enough peripheral basic facilities or matching facilities, or the insufficient publicity efforts that the relevant activities cannot prosper.

To tackle the aforementioned problems, the major role of the Government is to relax the restrictions, as well as promote and co-ordinate the relevant efforts. The forms of support the Government can offer in this respect include relaxing as far as possible and reasonable certain government policies, regulations and restrictions on land use, providing basic and matching facilities, as well as helping in promotional and publicity efforts. That way, an environment which is more conducive to the development of local community economy activities can be created for the greater convenience of both the public and business operators.

The Government will make use of its resources and manpower in different fields to play the "relaxation", promotion and co-ordination roles. These include improving road situations through the Transport Department and other relevant departments, carrying out landscaping works with the minor works project vote of the Home Affairs Department (HAD) or the resources of the Highways Department, and conducting publicity activities to promote the local community economy among the people. Further still, the Government will also strive to link the various local community economy activities with each other to achieve an accumulated effect.

As regards the progress achieved, I will first give Members a brief account of the internal structure of the Government and the division of work among government departments.

I have already set up a high-level inter-departmental working group under my chairmanship. The members of the working group include officials from the Home Affairs Bureau, the HAD, Tourism Commission, Food and Environmental Hygiene Department, as well as Leisure and Cultural Services Department. Besides, representative of other Policy Bureaux and departments will also attend the meetings of the working group where necessary.

The major responsibility of the inter-departmental working group is to lead the various government departments to promote the development of local community economy, and to handle the more difficult issues concerned. On the day-to-day operational level, the HAD and its 18 District Officers will play the role of a co-ordinator, acting as the focal point of contact with the community and co-ordinating government efforts in the provision of facilitation. The HAD will ensure that each and every local community economy proposal receives due attention and that the Government assesses the proposals comprehensively rather than from the angle of one single policy.

The HAD has all along been responsible for co-ordinating the work of the various government departments relating to district matters. It has thus accumulated substantial experience in this context and established many effective communication channels within the Government. After careful consideration, I have come to the conclusion that it should be more suitable to task the HAD with the role of a co-ordinator. As I have said on different occasions, the HAD and its 18 District Officers will strengthen their co-ordinating role on the existing basis, with a view to co-ordinating the efforts of different government departments to promote the development of local community economy in a more efficient, better and more pragmatic manner.

For each of the local community economy proposals received, the Government will designate a department as a "lead department", which will be responsible for the provision of government facilitation, including co-ordinating the efforts of other government departments. The selection of "lead department" is based mainly on the involvement of the relevant department in the proposal or the key role it plays in the facilitation and co-ordination process. Taking the outdoor cafes at Sai Kung as an example, the responsible "lead

departments" are the Food and Environmental Hygiene Department and the Tourism Commission. Nevertheless, regardless of which department is the "lead department", the HAD will still be the overall co-ordinator responsible for keeping a close watch on the progress made by the relevant department in providing government facilitation. If the progress made is not satisfactory enough, the HAD and its District Officers will co-ordinate the various efforts in due course to strive for the expeditious implementation of the relevant facilitation measures.

I have mentioned earlier on that the Government would attach great importance to community wisdom in promoting the development of local community economy. In this connection, the Government particularly relies on the support of the community and especially the participation and support of District Councils. I am very glad to note that the 18 District Councils have responded actively to the appeal made by the Government and that all of them have either set up local community economy working groups or expand the terms of reference of existing working groups to cover local community economy. The Government believes that through the work of the District Councils, the efforts of the local residents in different districts can be mobilized to draw on collective wisdom to put forward a great variety of local community economy activities in light of the respective characteristics and realistic situation of the 18 districts. In addition to soliciting opinions, the Government also needs the relevant District Councils to express their views on a certain project's influence on the different aspects of the district and to discuss whether or not to support the proposed project concerned.

In seeking to draw on community wisdom, the HAD also actively meets with the various sectors of society, including different business associations and operators in different trades and industries, to extensively solicit specific suggestions for promoting the local community economy. Besides, members of the public can also submit their opinions to the HAD or any of its District Officers.

Meanwhile, the Government is actively looking into proposals in respect of local community economy suggestions made by the District Councils and other members of the public, with a view to implementing and facilitating the more feasible ones as expeditiously as possible. That having been said, I must point out that the Government is unable to implement and facilitate all the proposals. Generally speaking, the Government will take into account the

following points when considering providing facilitation for or giving priority to the proposals received:

Firstly, whether or not the proposal concerned is reasonable, whether it will be in conflict with other social interests or affect gravely the implementation of other policies;

Secondly, whether the economic effects of the proposal, including "business potentials", can create employment opportunities or lead to vicious competition with the operators nearby;

Thirdly, whether the proposal is cost-effective and sustainable. In this connection, the proposal should be submitted together with a comprehensive project plan if possible;

Fourthly, whether or not the parties making the proposal or the interested investors have the required amount of capital to implement it;

Fifthly, whether the proposal has obtained support from the relevant district, including the District Council, the operators nearby and the residents living in the vicinity; and

Sixthly, whether the proposal will give rise to adverse effects like noise pollution, traffic confusion, hygiene problems, and so on.

Before I conclude, I should like to take this opportunity to explain several issues commonly related to the local community economy.

Recently, there seems to be a misunderstanding that to develop the local community economy, the Government must tolerate many economic activities which are unlawful currently, including unlicensed hawking, unlawful expansion of food establishment, and so on, and the Government will be criticized for not attaching importance to the local community economy when government departments try to discharge their law enforcement duties in accordance with the relevant legislation. This view is wrong. Upholding the rule of law is one of the important pillars supporting the success of the Hong Kong economy, and that is why the Government will continue to observe the laws of Hong Kong in promoting the development of local community economy. The Government certainly understands that one of the important measures to promote the

development of local community economy is to "relax restrictions", including amending the outdated policies and statutory requirements, and adjusting the law enforcement standards of government departments through lawful means, with a view to creating a more favourable environment for the development of local community economy.

The second issue is related to the relationship between the local community economy and tourism industry. The Government considers that whether or not they can attract different kinds of customers is one of the key factors affecting the success or otherwise of local community economy activities. I believe Members will all agree that, regardless of whether the customers are local residents or overseas visitors, local community economy activities that can attract more customers will stand a greater chance of success. Hence, there should be some room for co-operation and promotion between the local community economy and the tourism industry. The HAD will work in close collaboration with the Tourism Commission to ensure that local community economy activities relating to the tourism industry can be implemented smoothly.

The third issue is on fair competition. Fair competition has all along been upheld in the Hong Kong community. In fact, fair competition is one of the cornerstones on which the local community economy can be promoted. Under the major premise of fair competition, the Government welcomes very much the participation of all parties in the local community economy, regardless of whether they are large-scale enterprises or small and medium sized ones, and whether they are overseas investors or local investors.

If we are to make the development of local community economy a success, it is essential that the Government, members of the community and the representative councils (including the Legislative Council and the District Councils) put in concerted efforts and co-operate with each other. The Government believes that with our joint efforts, we can certainly help to facilitate the development of the local community economy through such tripartite negotiation and co-ordination, and thereby promote domestic consumption, create employment opportunities and highlight Hong Kong's unique characteristics.

Thank you.

PRESIDENT (in Cantonese): I now call upon Miss CHAN Yuen-han to move her amendment to the motion.

MISS CHAN YUEN-HAN (in Cantonese): Madam President, I move that Mrs Sophie LEUNG's motion be amended, as printed on the Agenda.

Miss CHAN Yuen-han moved the following amendment: (Translation)

"To add "diversified development of" after "That, in order to promote"; to delete "adopt proactive measures" after "the Government", and substitute with "amend outdated policies and statutory requirements, enhance co-ordination among the various departments and optimize the use of existing local resources, so as"; and to delete "improving the" after "and spare no efforts in", and substitute with "creating a better and fair". "

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Miss CHAN Yuen-han to Mrs Sophie LEUNG's motion, be passed.

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

(Members raised their hands)

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

(No hands raised)

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

PRESIDENT (in Cantonese): Mr Fred LI, as Miss CHAN Yuen-han's amendment has been passed, I have given you leave to revise the terms of your amendment, as set out in the paper which has been circularized to Members on 25 June. I have also accepted the House Committee's recommendation that when you move your revised amendment, you have up to three minutes to explain the revised wording in your amendment.

MR FRED LI (in Cantonese): Madam President, I am not feeling very well, sorry.

Madam President, I move that Mrs Sophie LEUNG's motion as amended by Miss CHAN Yuen-han, be further amended by my revised amendment, as set out in the paper which has been circularized to Members on 25 June.

Madam President, to put it very simply, I only wish to add "enable small and medium enterprises to participate actively in" to Miss CHAN Yuen-han's amendment.

Madam President, my speech has not used up the three minutes.

Mr Fred LI moved the following revised amendment: (Translation)

"To delete "strengthen" after "creating a better and fair business environment, in order to", and substitute with "enable small and medium enterprises to participate actively in"."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That Mr Fred LI's amendment to Mrs Sophie LEUNG's motion as amended by Miss CHAN Yuen-han, be passed.

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

(Members raised their hands)

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

(No hands raised)

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

PRESIDENT (in Cantonese): Mrs Sophie LEUNG, you may now reply, but I do not think that you will speak up to the time limit, because you still have nine minutes four seconds left.

MRS SOPHIE LEUNG (in Cantonese): Madam President, I have deliberately reserved nine minutes for what I wish to say, but I am not going to use up all the nine minutes left.

Many Members have spoken today; some of the them said that we had allowed our industries to move away from Hong Kong, and this remark has filled me with all sorts of feelings and thoughts. Some also mentioned the setting up of a boundary industrial zone in the river bend area, but I am not going to talk about all these points. I think not only the Government, but also the pressure created by the myopia of society, is responsible for the relocation of our industries. We really must find out the source of such pressure. But I do not wish to discuss this point now.

I wish instead to say a few words on the policy of positive non-intervention advocated by Sir Philip HADDON-CAVE in the late 1970s and early 1980s. I maintain that this policy should now be withdrawn. Let me explain my point by means of an analogy. Suppose three barges are now putting up a most magnificent fireworks display in the harbour of Hong Kong, with the sky being painted by one pattern of beautiful fireworks after another. There is of course no reason for us to intervene, for this will only spoil the display, and we may also get burnt as a result. However, we must still get more fireworks ready on the wings, so that they can be used to keep the show going.

This is very much similar to the situation in Hong Kong in the late 1970s and early 1980s, which simply required no intervention at all. At that time, we had manufacturing industries, and the tourism industry, and the financial industry, and also the services industry. We were literally fully occupied, and there was even a shortage of local workers. Why then should the Government intervene? A policy of positive non-intervention was naturally appropriate at that time.

However, it is quite beyond one's imagination that at a time when all this is already history, we are still clinging desperately to the policy of positive non-intervention. I must thank the incumbent Financial Secretary for saying that the Government's role should be to grasp the trends of economic development and create an enabling environment for the market. We must bear this point in mind. I hope that our new administration, I mean, the new accountable officials, can formulate policies on the basis of this.

Many Members have talked about unemployment, so let me also share my thoughts with them. The success of the overall economy is founded on the performance of its individual components or units, and the latter is in turn founded on the quality of people. The incoming senior officials must read one book if they wish to solve the unemployment problem. And, I think all those who worry about unemployment should also read this book. But they should not read this book from its beginning; they must start from the question on Page 241. When they start to read the whole book after looking at this question, they will understand what an individual can do in the overall economy, and they will also know how they can retain their jobs against the background of widespread unemployment. If all of us can accept the viewpoints of this book, then we will definitely be able to upgrade the quality of our society as a whole. This book is written by two very famous professors who may indeed qualify as Nobel Laureates. This book is entitled *Built to Last*, written by James COLLINS and Jerry PORRAS. I hope all of us can read this book. I also hope the incoming principal officials can read it.

Some Members mentioned the point that we have watched the relocation of our industries with folded arms, and that we have stifled the development of our own industries. It is indeed true that we have abandoned one very important industry. If we still have this industry now, we will be making billions of dollars. This industry is shipbuilding. In the 1970s, the pleasure cruises manufactured by the local shipbuilding industry were the most popular in Californian exhibitions. But we stifled this industry and it thus moved to

Taiwan. Why did this happen? It was because the senior government officials at that time knew nothing about business and commerce and just did everything by the book. If we are to reverse the current situation, reverse the economic conditions now, we must not follow the established practices only; we must learn from the book I have mentioned.

Thank you, Madam President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Mrs Sophie LEUNG, as amended by Miss CHAN Yuen-han and Mr Fred LI, be passed.

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

(Members raised their hands)

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

(No hands raised)

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

NEXT MEETING

PRESIDENT (in Cantonese): I am very grateful to those Members who have persevered up to this moment. Thanks to their perseverance, we will not have to continue with our meeting tomorrow.

I now adjourn the Council until 2.30 pm on Wednesday, 3 July 2002.

Adjourned accordingly at eight minutes to One o'clock in the morning.

Annex I**WRITTEN ANSWER****Written answer by the Secretary for Security to Mr NG Leung-sing's supplementary question to Question 2**

If a citizen considers that the police have not handled cases of removal of dead bodies properly, he can complain to the police officers at the scene, or lodge complaints to police officers on duty at any of the police stations. If the citizen is emotionally disturbed and requests for assistance, in general, the police will help the person concerned to seek professional assistance depending on the circumstances of the case (for example, family service centre of the Social Welfare Department, clinical psychology service of the Hospital Authority, and so on). In case of an emergency, the police will call for ambulance and refer the case to the accident and emergency department under the Hospital Authority to follow up.

Annex II**WRITTEN ANSWER****Written answer by the Secretary for Commerce, Industry and Technology to Mr HUI Cheung-ching's supplementary question to Question 4**

There is no information in relation to foreign investments in Hong Kong's wine manufacturing industry. The Dutiable Commodities Ordinance (Cap. 109) stipulates that no person shall manufacture alcoholic liquor except under a manufacturer's licence issued by the Commissioner for Customs and Excise under the said Ordinance. The Commissioner of Customs and Excise has not received any applications for a manufacturer's licence in the recent two years.

Annex III**NOISE CONTROL (AMENDMENT) BILL 2001****COMMITTEE STAGE**Amendments to be moved by the Secretary for the Environment and Food

<u>Clause</u>	<u>Amendment Proposed</u>
1(2)	By deleting "and Food" and substituting ", Transport and Works".
2	In the proposed section 28B(1)(c)(ii), by adding "but before the 2nd anniversary of that date" after "person".
3	In the proposed Schedule, in section 1(c)(i), by adding "but before the 2nd anniversary of that date" after "you".

Annex IV**EMPLOYEES COMPENSATION ASSISTANCE
(AMENDMENT) BILL 2002****COMMITTEE STAGE**Amendments to be moved by the Secretary for Education and Manpower

<u>Clause</u>	<u>Amendment Proposed</u>
1(2)	<p>By deleting the clause and substituting -</p> <p>"(2) Subject to subsection (3), this Ordinance shall come into operation on 1 July 2002.</p> <p>(3) Section 26, section 30, insofar as it relates to section 46A(2) to (8) of the principal Ordinance as amended by this Ordinance, and section 6 of the Schedule, shall come into operation on a day to be appointed by the Secretary for Economic Development and Labour by notice published in the Gazette."</p>
3(b)	<p>(a) In the proposed definition of "eligible person", in paragraph (a)(ii), by adding "whether before or" after "in the case of the death of the injured employee".</p> <p>(b) By adding -</p> <p>"prescribed monthly amount (extra)" (訂明每月數額(額外)) means the amount specified in Part 1A of Schedule 4;</p> <p>"severely injured relevant eligible person" (重傷的有關合資格人士), in relation to a relief payment, means an eligible person -</p> <p>(a) who falls within paragraph (a)(i) of the definition of "eligible person";</p>

ClauseAmendment Proposed

- (b) who suffers from paraplegia or quadriplegia as a result of the employment-related injury concerned such that he is unable to perform the essential actions of life without the care and attention of another person; and
 - (c) in respect of whom a court of competent jurisdiction in Hong Kong has, in relation to the employment-related injury concerned, awarded expenses for care and attention by another person in respect of the period after the award is made;".
- 7(d) In the proposed section 17(2), by deleting every thing after "subsection (1)" and substituting "irrespective of whether the notice concerned under section 20 is published in the Gazette before, on or after the commencement of this subsection."
- 8(d) In the proposed section 18(2), by deleting every thing after "subsection (1)" and substituting "irrespective of whether the notice concerned under section 20 is published in the Gazette before, on or after the commencement of this subsection."
- 12 (a) In the proposed section 20A, by adding -
 - "(4) Where -
 - (a) an eligible person falls within paragraph (a)(ii) of the definition of "eligible person";

ClauseAmendment Proposed

- (b) the death of the injured employee concerned occurs before damages have been awarded; and
- (c) any amount of damages for which the employer concerned is liable is unable to be recovered from the employer,

then the eligible person shall be deemed to be an eligible person who falls within subsection (1) in respect of those damages notwithstanding that the eligible person -

- (d) is not mentioned in the judgment or order concerned mentioned in subsection (2); and
- (e) is unable to take any proceedings mentioned in subsection (3).".

- (b) In the proposed section 20B, by adding -

"(1A) Subject to section 20A(2) and subsection (2), the aggregate amount of relief payment to one or more eligible persons who fall within section 20A(4) in the case of a particular injured employee shall be the amount of damages for which the employer concerned is liable to pay in relation to the accident concerned after that amount is reduced by -

- (a) the amount of compensation which has been paid or is payable under the Employees' Compensation Ordinance (Cap. 282) in

ClauseAmendment Proposed

respect of the injured employee in relation to that accident; and

(b) the amount, if any, of those damages already paid by the employer."

(c) In the proposed section 20C(2)(b), by adding ", together with, in the case of an eligible person who is a severely injured relevant eligible person, the prescribed monthly amount (extra)" after "higher".

(d) In the proposed section 20D -

(i) by renumbering it as subsection (1);

(ii) in subsection (1), by adding "(other than a prescribed monthly amount (extra))" after "section 20C(2)(b)";

(iii) by adding -

"(2) A prescribed monthly amount (extra) under section 20C(2)(b) shall be payable until -

(a) subject to section 20G, the amount of relief payment has been fully paid; or

(b) the severely injured relevant eligible person entitled to receive such payment -

(i) dies; or

ClauseAmendment Proposed

- (ii) has been fully paid the amount to which he is entitled, whether as relief payment or payment of damages from the employer or insurer concerned, including any combination thereof,

whichever is the earlier."

14(c) By deleting the proposed section 22(6) and substituting -

"(6) Subject to the provisions of this Ordinance, the Board may vary a determination under this section to take account of -

- (a) a person who becomes an eligible person on or after the date of the determination; or
- (b) the existence of an eligible person which was not known to the Board before that date."

17 (a) In the proposed section 25A -

(i) by deleting "(1) If" and substituting "If";

(ii) in paragraph (a) -

(A) by adding "to join in the proceedings as a party in accordance with Order 15,

ClauseAmendment Proposed

rule 6 of the Rules of the High Court (Cap. 4 sub. leg.) or Order 15, rule 6 of the Rules of the District Court (Cap. 336 sub. leg.), as the case may require," after "court";

(B) in subparagraph (iv), by adding "or" after "proceedings;"

(iii) in paragraph (b) -

(A) by deleting "third";

(B) by adding "or Order 15, rule 6 of the Rules of the District Court (Cap. 336 sub. leg.), as the case may require" after "(Cap. 4 sub. leg.)";

(iv) in paragraph (c) -

(A) by deleting "third";

(B) by adding "or Order 15, rule 6 of the Rules of the District Court (Cap. 336 sub. leg.), as the case may require" after "(Cap. 4 sub. leg.)";

(b) In the proposed section 25B -

(i) in subsection (2), by adding ", or failed to," after "cannot";

(ii) by deleting subsection (3) and substituting -

"(3) A person who has served a notice under subsection (1) on the Board and who intends, within 45 days

ClauseAmendment Proposed

after the date on which the notice has been so served, to -

- (a) enter into an agreement with the other party in respect of the settlement of the claim to which the notice relates; or
- (b) obtain any judgement against the other party in respect of the claim to which the notices relates,

shall, subject to subsection (3A), not less than 10 days before the date of such agreement or judgement, as the case may be, serve a notice in writing on the Board informing the Board that the person intends to enter into an agreement or obtain a judgement, as the case may be, in respect of that claim within 45 days after the date on which the first-mentioned notice has been served on the Board.

(3A) The Board may shorten the period of 10 days specified in subsection (3) in the case of a person who satisfies the Board, by notice in writing served on the Board, that there are good reasons why the person cannot, or failed to, comply with that subsection in relation to that period.";

ClauseAmendment Proposed

(iii) by deleting subclause (4)(a) and substituting -

"(a) separate notices are required under subsection (1) in respect of a claim for compensation and a claim for damages;" .

19(b) By deleting the proposed section 28(4) and (5) and substituting -

"(4) If an offer made under subsection (1) is not accepted by a person, and in subsequent proceedings in respect of the claim to which the offer relates the person is awarded an amount not more than the amount offered by the Board, then the Board -

(a) shall not be required to pay more than the amount as awarded by the court or tribunal concerned; and

(b) shall not be liable to pay the costs incurred by the person after the date of the offer to which the claim relates." .

23 In the proposed section 36A -

(a) in subsection (2), by deleting "subsection (3)" and substituting "subsections (3) and (3A)";

(b) in subsection (3), by deleting "The" and substituting "Subject to subsection (3A), the";

(c) by adding -

"(3A) Where -

ClauseAmendment Proposed

- (a) an employer has contravened section 40(1) of the Employees' Compensation Ordinance (Cap. 282) ("first contravention");
- (b) a notice in writing under subsection (5)(a) has been served on the employer in respect of the first contravention; and
- (c) the employer has, not later than 24 months after the date on which that notice was so served, again contravened section 40(1) of that Ordinance ("second contravention"),

then, in the case of the second contravention, the amount of surcharge payable by the employer under subsection (1) by virtue of subsection (2) or (3) shall be multiplied by a factor of 2.";

- (d) by deleting subsections (6) and (7) and substituting -

"(6) An employer who is not satisfied with a determination of the Board as specified in a final notice under subsection (5)(b) may appeal against the determination to the District Court not later than 30 days after the final notice is served on the employer.

ClauseAmendment Proposed

(7) The District Court may in a particular case extend the period specified in subsection (6) where it thinks fit to do so.

(7A) On an appeal under subsection (6), the District Court may -

- (a) by order confirm, vary or cancel the determination of the Board as specified in the final notice the subject of the appeal;
- (b) make such order as to costs as it thinks fit."

29 In the proposed section 45A, by deleting "教育統籌局".

30 In the proposed section 46A -

- (a) in subsection (5), by deleting "31(b)" and substituting "31";
- (b) by adding -

"(6A) Schedule 2 is repealed."

32 In the proposed Schedule 4, by adding, after Part 1, the following
-

"PART 1A

PRESCRIBED MONTHLY AMOUNT (EXTRA)

\$10,000".

EMPLOYEES COMPENSATION ASSISTANCE
(AMENDMENT) BILL 2002

COMMITTEE STAGE

Amendments to be moved by the Honourable Audrey EU Yuet-mee

Clause

Amendment Proposed

- 3(b) In the proposed definition of "eligible person", in paragraph (a)(ii), by adding -

"(D) if there is no surviving spouse or cohabitee, surviving child and surviving parent, as mentioned in sub-subparagraph (A), (B) or (C), any surviving brother or sister of the injured employee who is a dependent of the injured employee and under the age of 21 at the time of death of the injured employee;".

- 12 (a) In the proposed section 20C(3), by deleting "A surviving child who was an eligible person falling within paragraph (a)(ii)(B) of the definition of "eligible person" at the time of the death of the injured employee" and substituting -

"A surviving child or a surviving brother or sister who was an eligible person falling within paragraph (a)(ii)(B) or (D) of the definition of "eligible person" (as the case may be) at the time of the death of the injured employee".

- (b) In the proposed section 20E(a), by adding "or (D)" after "paragraph (a)(ii)(B)".