

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 25 June 2003

The Council met at half-past Two o'clock

MEMBERS PRESENT:

THE PRESIDENT

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

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

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

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

THE HONOURABLE CYD HO SAU-LAN

THE HONOURABLE ALBERT HO CHUN-YAN

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

THE HONOURABLE LEE CHEUK-YAN

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

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

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

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

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

THE HONOURABLE NG LEUNG-SING, J.P.

THE HONOURABLE MARGARET NG

THE HONOURABLE MRS SELINA CHOW LIANG SHUK-YEE, G.B.S., 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 BERNARD CHAN, J.P.

THE HONOURABLE CHAN KAM-LAM, J.P.

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, G.B.S., 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.

DR THE HONOURABLE LAW CHI-KWONG, J.P.

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

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

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

THE HONOURABLE LI FUNG-YING, J.P.

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

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, J.P.

MEMBER ABSENT:

THE HONOURABLE CHAN YUEN-HAN, J.P.

PUBLIC OFFICERS ATTENDING:

THE HONOURABLE DONALD TSANG YAM-KUEN, G.B.M., 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, G.B.M., J.P.
THE SECRETARY FOR JUSTICE

THE HONOURABLE HENRY TANG YING-YEN, G.B.S., J.P.
SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY

THE HONOURABLE MICHAEL SUEN MING-YEUNG, G.B.S., J.P.
SECRETARY FOR HOUSING, PLANNING AND LANDS

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

THE HONOURABLE MRS REGINA IP LAU SUK-YEE, G.B.S., J.P.
SECRETARY FOR SECURITY

DR THE HONOURABLE SARAH LIAO SAU-TUNG, J.P.
SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

THE HONOURABLE FREDERICK MA SI-HANG, J.P.
SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY

THE HONOURABLE STEPHEN LAM SUI-LUNG, J.P.
SECRETARY FOR CONSTITUTIONAL AFFAIRS

CLERKS IN ATTENDANCE:

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

MR LAW KAM-SANG, J.P., DEPUTY 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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Fixed Penalty (Public Cleanliness Offences) (Amendment) Regulation 2003	155/2003
Prisons (Hostel) (Amendment) Order 2003	156/2003
Rules of the High Court (Amendment) Rules 2003	157/2003

Other Papers

No. 90 — Report by the Trustee of the Correctional Services
Children's Education Trust for the period from
1st September 2001 to 31st August 2002

No. 91 — Report by the Commissioner of Correctional Services
on the administration of the Prisoners' Welfare Fund
for the year ended 31 March 2003

No. 92 — Clothing Industry Training Authority
Annual Report 2002

Report of the Panel on Housing 2002/2003

Report of the Panel on Security 2002/2003

Report of the Panel on Constitutional Affairs 2002/2003

Report of the Bills Committee on Evidence (Miscellaneous Amendments)
Bill 2002

Report of the Bills Committee on Revenue Bill 2003

Report of the Bills Committee on Revenue (No. 2) Bill 2003

ADDRESSES

PRESIDENT (in Cantonese): Addresses. Mr CHAN Kam-lam will address the Council on the Report of the Panel on Housing 2002/2003.

Report of the Panel on Housing 2002/2003

MR CHAN KAM-LAM (in Cantonese): Madam President, in my capacity as Chairman of the Panel on Housing, I table the Report of the Panel on Housing 2002/2003 and give a brief account on several major areas of work mentioned in the Report.

The Panel supports the reorganization of the former Housing Bureau and Housing Department (HD) into a single organization, but pointed out that there was room for further streamlining in the directorate establishment. Consideration should also be given to clarifying the role of the new housing organization after the Housing Authority (HA) became an advisory body. In addition, members welcome the statement delivered by the Secretary for Housing, Planning and Lands on 13 November 2002 which aimed to rationalize the various housing targets, strategies as well as measures, and to let all stakeholders to have a clear understanding of the role of the Government in respect of housing. However, there were divergent views on the decision taken by the Administration on the cessation of the Home Ownership Scheme (HOS). Some members considered that these measures would serve as a clear indication of the Government's non-interventionist policy in the residential property market, which in turn would help stabilize the property market. Others considered that a surge in property prices would reduce the competitiveness of Hong Kong and the cessation of HOS production would force the low-income families to buy flats in the private sector. Moreover, without the sale proceeds from HOS, the HA would have to subsidize the production of public rental housing (PRH) using its capital reserve.

On the disposal arrangements for the overhung HOS flats, some members supported the proposed sale of these flats to Green Form applicants while others considered it at variance with the Government's pledge to withdraw from the property market. On modifying the lease of Private Sector Participation Scheme projects to enable the developers concerned to sell the flats in open market, members were concerned that a sudden surge in flat supply would run

contrary to the Administration's pledge to stabilize the property market. Regarding the proposal to convert the overhung HOS blocks into guesthouses, some members welcomed the proposal as this would provide an alternative choice of accommodation to meet the demand which was expected to increase after the opening of the Hong Kong Disneyland. Others considered it a government intervention which was not conducive to the development of hotels and service apartments. Members however unanimously agreed to the proposed conversion to PRH which was the most straightforward and simplest way to dispose of overhung HOS flats.

Members supported in principle the introduction of the new Home Assistance Loan Scheme (HALS) to replace the Home Purchase Loan Scheme and the Home Starter Loan Scheme. Given the stringent financial situation of the HA, queries had been raised on whether the HA could provide the interest-free HALS on a continuous basis. They suggested that consideration should be given to providing interest-bearing loans to HALS recipients so that the interest generated could be used to assist more eligible applicants.

On the sale of top-up loans under the Sandwich Class Housing Scheme to the Hong Kong Mortgage Corporation (HKMC) by the Housing Society (HS), the Panel noted that the HKMC was prepared to offer debt restructuring to loan recipients, however, some members held the view that this could only serve as a short-term solution. Long-term measures such as an across-the-board reduction of the interest rate for the top-up loans would be required to alleviate the financial burden of loan recipients. For those loan recipients who had rescinded their mortgage contracts, consideration should be given by the HS to rehousing them in rental housing flats so that they would not be rendered homeless.

On the review of income and asset limits for public housing applicants, some members were dissatisfied that at a time of economic recession, not only had the authorities failed to assist low-income families to tide over their difficulties, on the contrary, the income and asset limits for applicants on the PRH waiting list were reduced and many people would be forced out of the safety net of PRH and lose their eligibility to apply for PRH. In view of the huge deficit of the HA, some members however also noted that there was a need to ensure prudent use of public money for such purposes as housing subsidies. In view of this, members agreed to adhere to the formula for adjusting the waiting list income and asset limits. In the end, the Panel passed a motion urging the HA not to adjust the waiting list income and asset limits for the year 2003-04.

The Panel was also very concerned about the proposal to remove security of tenure provisions in the Landlord and Tenant (Consolidation) Ordinance. Concern had been raised that the proposed relaxation might drive up rents in the private sector, thereby unduly affecting the tenants, particularly elderly singletons and dwellers living in cubicles and bedspace apartments, who might have difficulties in finding suitable alternative accommodation. In view of the far-reaching implications of the proposed relaxation, members urged the Administration to consider amalgamating the essentials of various options and to take into full account the views received before reaching a decision on the option to be adopted.

The Panel welcomed the Law Reform Commission's proposal to introduce a Vendor's Information Form into the secondary market, but considered the proposed cooling-off period of three working days for both the vendor and the purchaser too short. On the primary market, members held the view that developers should be required to specify the defect liability period for individual items in the sales brochures. Preliminary agreements should contain standard provisions in relation to Deed of Mutual Covenant. Consideration should also be given to standardizing the definitions of saleable and usable area for reference of both the construction industry and the public to avoid confusion.

Question had been raised on the efficacy of single-operator markets given the many complaints against single operators from stall-holders. Members urged the HA to conduct an overhaul of the policy on single-operator markets. Instead of letting an entire market to a single tenant, they were of the view that consideration should be given for the HD to outsource the management of the market while maintaining its role as landlord in the letting of market stalls. This would ensure that stall-holders in all HA markets would be treated equally.

The other main points of the Panel's work are set out in the Report tabled. Madam President, I so submit. Thank you.

PRESIDENT (in Cantonese): Mr LAU Kong-wah will address the Council on the Report of the Panel on Security 2002/2003.

Report of the Panel on Security 2002/2003

MR LAU KONG-WAH (in Cantonese): Madam President, in my capacity as Chairman of the Panel on Security, I would like to table before this Council the report on the work of the Panel in 2002-03, and highlight a few major areas of the work of the Panel.

Regarding the Consultation Document on Proposals to Implement Article 23 of the Basic Law (the Consultation Document) issued by the Administration on 24 September 2002, the Panel on Security and the Panel on Administration of Justice and Legal Services held five joint meetings between 26 September 2002 to 17 January 2003 to discuss the Consultation Document with the Administration. In addition, the two Panels held another seven joint meetings between November and December 2002 to listen to the views of deputations on the Consultation Document.

Following the three-month public consultation exercise, the Administration announced the outcome of the consultation exercise and issued a Compendium of Submissions on 28 January 2003. The two Panels held a joint meeting on 6 February 2003 to discuss the Compendium with the Administration.

Some members were dissatisfied with the way in which the Administration had dealt with the submissions received in compiling the Compendium. These members considered that the Administration should not simply classify the views received into three categories. They considered that the Administration should also analyse and summarize the views expressed. They also pointed out that some organizations had complained that their submissions were either not included in the Compendium or wrongly classified.

The Administration had apologized for the errors made in the Compendium, and called on those who did not agree with the classification of their submissions to notify the Security Bureau in writing so that amendments could be made. The Administration informed members that an addendum would be issued and a CD-ROM on the updated Compendium would be prepared and made available to the public. The updated Compendium would also be available on the Security Bureau's webpage.

Another joint meeting of the two Panels was held on 17 June 2003 to discuss the Administration's proposed scheme of categorization and consider the views of the Research Team on Compendium of Submissions on Article 23 of the Basic Law of the Department of Statistics and Actuarial Science of the University of Hong Kong. The Administration agreed to exchange views with the Research Team on the classification proposed by it after the meeting.

In the wake of an open verdict by the Coroner's Court on the death of an inmate, CHEUNG Chi-kin, at Siu Lam Psychiatric Centre (SLPC) in November 2001, the Panel held three meetings, including a joint meeting with the Panel on Health Services, to discuss issues arising from the case. The Panel also visited the SLPC to gain a fuller understanding of its operation.

Members agreed that the Administration has to report to the Panel, a year later, on the implementation progress and details of the recommendations made in the report of the special task group, such as the medical, psychiatric and nursing staff arrangements, nursing practices and procedures in relation to medication and its monitoring system, the use of dispensary sheet, the closed circuit television monitoring system and related guidelines, in particular supervision of the implementation of various new practices and procedures.

The Panel on Security and the Panel on Health Services will hold a joint meeting in July this year to discuss the opinion made by medical experts on the death of the inmate to the Administration.

Other issues discussed by the Panel included measures to combat terrorist activities in Hong Kong, the crime situation in 2002, rationalization of immigration office network, cross-boundary fishing and criminal activities conducted by mainland fishing vessels, Hong Kong's work on combating money laundering and terrorist financing, immigration policy on capital investment entrant, new admission scheme for mainland talents and professionals, and strategies to combat psychotropic substance abuse. The Panel was consulted on the proposed United Nations (Anti-Terrorism Measures) (Amendment) Bill and a number of public works projects, including the construction of a headquarters building of the Independent Commission Against Corruption, the Marine Police Outer Waters District Headquarters and Marine Police North Division as well as boundary-crossing facilities at Shenzhen Western Corridor under the "co-location" arrangement.

Thank you, Madam President.

PRESIDENT (in Cantonese): Mr Andrew WONG will address the Council on the Report of the Panel on Constitutional Affairs 2002/2003.

Report of the Panel on Constitutional Affairs 2002/2003

MR ANDREW WONG (in Cantonese): Madam President, in my capacity as Chairman of the Panel on Constitutional Affairs, I would like to highlight a few major issues discussed by the Panel in the 2002-03 Session.

Firstly, the Accountability System for Principal Officials. Following the implementation of the Accountability System for Principle Officials on 1 July 2002, the Panel discussed the provisions of the Code for Principal Officials under the Accountability System which dealt with prevention of conflict of interest. The Code was gazetted on 28 June 2002.

After considering the views of members, the Administration agreed that declarations made by principal officials and other Executive Council Members should include information on the usage of the properties (in addition to the location), and in cases where the Chief Executive had given written consent to company directorships held by principal officials and other Executive Council Members, the names and nature of business of the companies concerned.

Some members suggested that the Administration should implement measures to improve the transparency of the declaration system, such as requiring principal officials to disclose liabilities, partners and shareholders of foreign companies or British Virgin Islands companies used for holding financial interests/assets, and resign from company directorships which were held in a personal capacity. These members also expressed concern that family trusts, instead of blind trusts as required under the Code for Principal Officials under the Accountability System, had been set up by some principal officials to manage their assets. They suggested that the Administration should ensure that trusts set up by principal officials were controlled and operated in such a way that all matters concerning the investment, management and disposal of the trust assets were left entirely to the trustees. The Administration agreed to review the relevant declaration system.

In January this year, the Administration submitted to the Panel an interim report on the implementation of the accountability system. The report includes

review of the working relationship between Policy Bureaux and departments, and the number and ranking of the 16 Permanent Secretaries. A few members considered that there was scope for further downgrading the ranking of Permanent Secretary posts. A member was of the view that under the accountability system, Permanent Secretaries should be of a sufficiently high rank in order to preserve the integrity of the Civil Service.

Secondly, the vehicle-purchase incident in respect of the Financial Secretary. Arising from public concern over the incident of the Financial Secretary purchasing a vehicle shortly before the increase in motor vehicle first registration tax, the Financial Secretary was invited to explain the incident to the Panel.

Some members expressed doubts about the first report submitted by the Financial Secretary to the Chief Executive, as the Secretary had not disclosed all the relevant information in the report. The Financial Secretary had failed to declare his purchase of a new car at the meeting of the Executive Council, and had made no reference to his resignation in the second report submitted to the Chief Executive. Those members also considered that the Chief Executive had been too hasty in coming to a conclusion on the matter by simply relying on the Financial Secretary's two written reports. Some other members considered that as the Chief Executive had come to the conclusion that the Financial Secretary's act amounted to gross negligence and had already made a formal criticism, the matter should be put to an end as early as possible.

In the light of the above incident, the Panel also discussed the procedures of appointment and removal of principal officials under the accountability system. A member considered that a formal mechanism should be established to deal with serious incidents involving principal officials. For example, a thorough and independent investigation should be conducted, and the report on the investigation should be made public. Another member suggested that a formal impeachment procedure, similar in operation to that for the impeachment of Chief Executive under Article 73(9) of the Basic Law, should be introduced to deal with cases of serious misconduct of principal officials.

Thirdly, issues related to 2003 District Council elections and 2004 Legislative Council election. The Administration briefed the Panel on a number of proposals on electoral arrangements relating to the second term District Council elections and the third term Legislative Council election. The

Administration has also briefed the Panel on the issues associated with the implementation of an automatic voter registration system and the problem of infringement of privacy involved. The Administration concluded that an automatic voter registration system should not be implemented for the time being, but should retain the registration on application system.

Fourthly, issues related to constitutional development. The Panel also discussed the constitutional development of the Hong Kong Special Administrative Region after 2007. Some members expressed concern about the lack of progress of the review. They considered the Administration should commence the review as soon as possible in order to allow sufficient time for public consultation.

The Administration advised the Panel that the public consultation exercise on constitutional development would likely be conducted sometime in 2004 or 2005. As regards the scope of the review, the Administration was studying whether the reference to "the method for selecting the Chief Executives for the terms subsequent to the year 2007" in paragraph 7 of Annex I to the Basic Law should include the method for selecting the third term Chief Executive in 2007. The Administration had yet to come to a view on the legal interpretation of the relevant reference in paragraph 7 of Annex I to the Basic Law.

The Panel held a meeting on 16 June to invite the public to give views on the interpretation of paragraph 7 of Annex I to the Basic Law, and whether the method for selecting the third term Chief Executive in 2007 should be included in the review of constitutional development to be conducted by the Administration in 2004 or 2005. A total of 374 individuals/organizations had made submissions to the Panel, and 35 of them had given oral representations.

Madam President, these are my short remarks, and Members may wish to refer to the full report for details.

Madam President, I so submit.

ORAL ANSWERS TO QUESTIONS

PRESIDENT (in Cantonese): First question.

Reception of Radio Broadcasts Inside Road Tunnels

1. **DR DAVID CHU** (in Cantonese): *Madam President, the Administration advised this Council in June last year that, in view of the unclear reception of radio broadcasts inside some of the road tunnels, action was in hand to upgrade the Radio Re-broadcasting Systems (RRS) of the tunnels concerned. As I have still received complaints recently from the public in this regard, will the Government inform this Council of the progress of such upgrading works?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): Madam President, all road tunnels in Hong Kong are installed with RRS which transmit radio signals from broadcasting stations into the tunnel tubes enabling motorists to listen to different radio channels.

To ensure the quality of the re-broadcast radio signals, the Administration conducts regular checks and undertakes improvement measures to address the radio reception problems in individual tunnels. The progress and programmes of such improvement works are detailed as follows:

For the Shing Mun Tunnel and Tseung Kwan O Tunnel, the radio signals received were relatively weak in the past because of interference from the local landscape. The main components of the RRS in the Shing Mun Tunnel were replaced and equalizers were installed in the Tseung Kwan O Tunnel in September 2002 to enhance the radio signals from the relevant broadcasting stations so that motorists can listen more clearly to the broadcasts from various channels. I believe that the situation has now been improved.

As regards the old Airport Tunnel, Aberdeen Tunnel and Lion Rock Tunnel, the radio signals received at either end of the tunnels come from different repeater broadcasting stations, thus affecting the quality of radio reception in the tunnels. These tunnels will be provided with Radio Data Systems to enable automatic tracking of radio signals inside the tunnel tubes. Worn-out parts will also be replaced to upgrade the functions of the RRS and improve the quality of reception. The upgrading works at the old Airport Tunnel and Aberdeen Tunnel are expected to complete in mid-2004. As for the Lion Rock Tunnel, the improvement works for the RRS, which form part of the upgrading works of the entire traffic control and surveillance system, are expected to complete in mid-2005.

The RRS of the Cross Harbour Tunnel was designed some 30 years ago and is now reaching the end of its serviceable life. Action is in hand to replace the existing RRS so as to upgrade the re-broadcasting functions. The project is expected to complete in mid-2004.

As regards the four "Build, Operate and Transfer" (BOT) tunnels, the Administration has been closely monitoring the quality of radio reception inside the tunnel tubes. The tunnel operators will make suitable improvements according to the performance of individual RRS. For instance, the RRS at the Tate's Cairn Tunnel was replaced in September 2001. The main components of the RRS at the Eastern Harbour Crossing were replaced in 2001 and 2002 and the RRS will be replaced in phases in 2004 and 2008. The Administration will continue to work closely with the tunnel operators and propose improvement measures as appropriate.

MR AMBROSE LAU (in Cantonese): *Madam President, the Government has mentioned in the main reply that the upgrading works at the old Airport Tunnel, Aberdeen Tunnel and Cross Harbour Tunnel will not be completed until mid-2004, and the works at the Lion Rock Tunnel will be completed even later in mid-2005. Given the slow progress of these projects, may I ask the Government whether efficiency will be enhanced to ensure the early completion of these projects? If not, why not?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): Madam President, the progress of these upgrading works depends on the maintenance programme of the tunnels. We have to talk to the tunnel operators before we can give an answer on whether these projects can be expedited.

MR CHAN KWOK-KEUNG (in Cantonese): *Madam President, may I ask the Government whether complaints about unclear radio reception in tunnels have been lodged over the past two years? And which radio channels have this problem?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): Madam President, from 2000 to 2002, the Transport Department, the Transport Complaints Unit and the Office of the Telecommunications Authority (OFTA) have respectively received one, six and three complaint cases about problems of the RRS in tunnels. In 2000, one case was lodged against the Cross Harbour Tunnel; in 2001 and 2002, one case was lodged against the Lion Rock Tunnel each year; in 2001, one case was lodged against the Shing Mun Tunnel; in 2001, 2002 and 2003, one case was lodged against the Aberdeen Tunnel each year; in 2001 and 2003, one and two cases were lodged against the Eastern Harbour Crossing respectively; in 2003, one case was lodged against the Tate's Cairn Tunnel; in 2001 and 2003, one case was lodged against the Cheung Tsing Tunnel each year. From these figures, we can see that there have been only a dozen or so complaints over these three years. Tunnels which have not been subjects of complaint include the old Airport Tunnel, Tseung Kwan O Tunnel, Western Harbour Crossing, Tai Lam Tunnel and Discovery Bay Tunnel.

DR TANG SIU-TONG (in Cantonese): *Madam President, the Government has mentioned in the first paragraph of the main reply that all road tunnels are installed with RRS which enable motorists to listen to different radio channels. If motorists cannot receive the radio broadcasts, then is it the responsibility of the Government or that of the tunnel operator?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): Madam President, the contract between the Government and the tunnel operator stipulates that the tunnel operator is responsible for the repairs and maintenance of the RRS as required by the Government, which should be carried out to the satisfaction of the Commissioner for Transport. The OFTA conducts regular checks on the RRS of all road tunnels once every two months to monitor the quality of reception.

MR NG LEUNG-SING (in Cantonese): *Madam President, at present, special announcements are broadcast in tunnels, which often interrupt the radio reception of the motorists. May I ask the Secretary whether a separate channel will be used to provide this service in future so that radio reception by motorists will not be interrupted?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): Madam President, I share Mr NG's feelings. Sometimes, when I am listening to the news or a detective story, I am dissatisfied when it is suddenly interrupted by those special announcements. However, I believe the tunnel operators make those announcements in the hope that motorists will hear them. If a separate channel is used, this purpose will be defeated. In general, those announcements are on road safety, which are broadcast only in special circumstances. For example, if special arrangement of two-way traffic in a single tube is in place, which usually happens during night time, this piece of information will be broadcast from time to time to remind motorists to remain vigilant and pay attention to road safety. Moreover, motorists will also be made aware of slippery road surface on rainy days and cautioned to drive carefully. Therefore, I think it is not possible to use a separate channel to broadcast these messages.

MISS CHOY SO-YUK (in Cantonese): *Madam President, I was surprised to hear the Secretary say that only a small number of complaints had been received. I can now redirect some complaints to the Secretary: Motorists are never able to listen to radio broadcasts inside the Eastern Harbour Crossing and Tate's Cairn Tunnel. Once they enter these two tunnels, only some strange noise will be heard. The Secretary mentioned in the last paragraph of the main reply that the RRS at the Eastern Harbour Crossing had been replaced. But I really do not understand why motorists are still always unable to listen to radio broadcasts now. May I ask the Secretary how the Government monitors the proper functioning of the RRS? Why is radio reception still impossible? I think the Government should not wait until a complaint is lodged to take action. May I ask the Secretary whether tests will be conducted inside tunnels after the completion of upgrading works?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): Madam President, I have said earlier that since the OFTA is responsible for monitoring the quality of reception, it conducts regular checks once every two months. As Members have raised so many complaints today, I will follow them up. I have made enquiries with the OFTA and the information on hand today is actually provided by it. As for the role of the Transport Department, the Department will require the tunnel operator to make improvement if it is found not in compliance with the requirements so that the quality of reception will be assured. If the tunnel operator refuses to take

follow-up action or the action taken is found to be unsatisfactory, a warning will be issued and recorded. This will certainly affect the chances of the tunnel operator in bidding for the management contract in future.

DR LUI MING-WAH (in Cantonese): *Madam President, I was very pleased when I read the first paragraph of the main reply, thinking that the radio reception in road tunnels had actually been improved. In fact, I will use the tunnels at least two to three times daily but never once can I listen clearly to radio broadcasts. Why? If the RRS in the tunnels have actually been improved, it is not necessary for motorists to switch channels when they enter tunnels. However, at present, motorists have to switch channels constantly if they want to continue to listen to the broadcasts. A good RRS should not be like this. If the Secretary thinks that radio reception is clear in tunnels, I will suggest the Government to conduct tests in every tunnel again.*

PRESIDENT (in Cantonese): Dr LUI, please come to your supplementary direct and not to give your comments.

DR LUI MING-WAH (in Cantonese): *Madam President, my supplementary question is: Why is that what the Secretary has said in the first paragraph of the main reply is just the opposite of what many people think? (Laughter)*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): Madam President, since radio signals come from different sources and repeater broadcasting stations, the frequency varies slightly to that of a motorist is listening to. I have had this experience too. During the investigation, tunnel operators show us that radio signals can actually be detected. If the radio signals received at either end of certain tunnels come from different repeater broadcasting stations, the variation will even be greater. In tracking those radio signals, motorists will find the broadcasts being interrupted and that is because of the relay. It also depends on the power of the tracking device. I have mentioned earlier that the radio reception of several tunnels is particularly poor, because the radio signals received at either end of those tunnels come from different repeater broadcasting stations. Variation between the overall frequency of the other tunnels and that at either end of the tunnels depends on the

difference between the broadcasting stations and the systems of the tunnels, as well as the frequency used by motorists before entering the tunnels. I have also taken this matter up with the OFTA. The OFTA gave me a card which indicates the best reception frequency at various locations. We have learnt that there is really a difference which sometimes amounts to over one unit to over two units.

MR HUI CHEUNG-CHING (in Cantonese): *Madam President, the Secretary has said in the second paragraph of the main reply that the Administration conducts regular checks on the quality of re-broadcast radio signals in tunnels. May I ask the Secretary how often "regular" means?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): *Madam President, the OFTA conducts tests on the RRS of all road tunnels once every two months.*

MR LAU KONG-WAH (in Cantonese): *Madam President, because of the locations of my residence and my constituency, I often use tunnels. In my experience, among the various tunnels, the one that has the worst radio reception is the Eastern Harbour Crossing. Whenever I enter that tunnel, I have to switch channels to continue to listen to radio broadcasts. However, the Secretary has said that the upgrading works of that tunnel will be completed as late as 2008. There are five years between now and the year of 2008. Although the Eastern Harbour Crossing has made a lot of profits and has applied for an increase in toll, motorists have to switch channels to continue to listen to radio broadcasts every day in these five years. Will the Secretary talk to the operator of the Eastern Harbour Crossing again for immediate improvement of the situation?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): *Madam President, the Eastern Harbour Crossing installed equalizers and digital traffic data broadcasting facilities, as well as upgraded the antenna of its northbound tube in 2001 and 2002 respectively. However, such works have not been able to improve the radio reception significantly. Therefore, a series of upgrading works will follow. The re-broadcasting*

facilities for amplitude modulation (AM) and frequency modulation (FM) will be replaced in October 2004 and 2008 respectively. It is quite a long process. We will talk to the tunnel operator again to see whether actual problems or funding problems are involved.

PRESIDENT (in Cantonese): This Council has spent more than 16 minutes on this question. Last supplementary question.

MR HENRY WU (in Cantonese): *Madam President, I would like to follow up the reply given by the Secretary just now. In fact, whether a system is good or not sometimes depends on the project costs. Although the installation of these systems inside tunnels is mandatory, specifications of such systems are not stipulated. Therefore, complaints are frequently received. At present, some tunnel operators are going to install these systems and some have already had them installed. May I ask the Secretary of the costs of these projects? Are the costs so high that the toll payable by motorists will be affected?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): Madam President, the costs for the replacement of the RRS mainly depend on the length of the tunnel and the landscape. As most of the replacement proposals are at the planning stage, the data of individual projects are not available at the moment. However, we have made some evaluations. According to past experiences, the cost for a complete replacement of RRS varies from \$500,000 to \$2 million. As for minor projects like the replacement of components of the RRS and installation of additional facilities to improve the quality of reception, the costs are around \$100,000.

PRESIDENT (in Cantonese): Second question.

Vietnamese Boat People Not Obtaining Hong Kong Permanent Resident Status

2. **MR JAMES TO** (in Cantonese): *Madam President, will the Government inform this Council:*

- (a) *of the number of Vietnamese boat people in Hong Kong who have not yet obtained the Hong Kong permanent resident status so far, and the number of years for which they have ordinarily resided in Hong Kong;*
- (b) *of the reasons for these Vietnamese boat people not having obtained the Hong Kong permanent resident status; and*
- (c) *how they can obtain the Hong Kong permanent resident status?*

SECRETARY FOR SECURITY (in Cantonese): Madam President, here is the reply to parts (a) and (b) of Mr James TO's question.

At present, there are 1 414 Vietnamese boat people staying in Hong Kong. They have not yet obtained the Hong Kong permanent resident status as, among other reasons, they have not fulfilled the residence requirement of permanent residents. Among these Vietnamese boat people, 1 396 of them are eligible to apply for settlement in Hong Kong under the Widened Local Resettlement Scheme (the Scheme). Among the eligible applicants, 1 380 have already been granted permission to reside in Hong Kong under the Scheme. Fifteen others who are serving their sentences will be granted permission to reside in Hong Kong in accordance with the Scheme upon their release. Besides, there is one eligible Vietnamese who still remains in Hong Kong but has not yet applied for settlement.

After acquiring permission to reside in Hong Kong through the Scheme, the above Vietnamese boat people must fulfil the requirements of Article 24 para 2(4) of the Basic Law such as having entered Hong Kong with valid travel documents, having ordinarily resided in Hong Kong for a continuous period of not less than seven years and having taken Hong Kong as their place of permanent residence, if they wish to obtain the status as permanent residents. As the Scheme was launched in February 2000, the above Vietnamese boat people have ordinarily resided in Hong Kong at most for more than three years.

There are 18 Vietnamese boat people who are ineligible to apply for settlement in Hong Kong under the Scheme. The Vietnamese Government has already pledged to take all of them back. They are still stranded in Hong Kong because there are various factors holding up their removal, such as serving

sentences, awaiting completion of the removal procedures or further review of their refugee status. According to the Immigration Ordinance, the 18 Vietnamese boat people in question will not be regarded as ordinarily residing in Hong Kong pending removal.

Since all the Vietnamese boat people mentioned above have ordinarily resided in Hong Kong for less than seven years or are not regarded as ordinarily residing in Hong Kong during their stay here, they have not yet obtained the Hong Kong permanent resident status.

Here is the reply to part (c) of the question.

According to Article 24 para 2(4) of the Basic Law, persons not of Chinese nationality who have entered Hong Kong with valid travel documents, have ordinarily resided in Hong Kong for a continuous period of not less than seven years and have taken Hong Kong as their place of permanent residence before or after the establishment of the Hong Kong Special Administrative Region are regarded as permanent residents of Hong Kong.

Vietnamese boat people who are allowed to reside in Hong Kong under the Scheme and issued with identity cards for non-permanent residents may apply to the Immigration Department (ImmD) for a travel document known as "Document of Identity". After they have left and returned to Hong Kong with such a travel document, have ordinarily resided in Hong Kong for a continuous period of not less than seven years, and have taken Hong Kong as their place of permanent residence, they may apply to the ImmD for verifying their eligibility as Hong Kong permanent residents.

MR JAMES TO (in Cantonese): *Madam President, in the second paragraph of the main reply, the Secretary seems to be explaining Article 24 para 2(4) of the Basic Law, saying that only after acquiring permission to reside in Hong Kong through the Scheme would the required seven years of ordinary residence in Hong Kong begin to be counted. However, since a lot of Vietnamese boat people — while many of them are refugees — have already resided in Hong Kong for 10 to 20 years, if they entered Hong Kong with valid travel documents then, can this be interpreted that once their identity as refugees was confirmed (that is, at an earlier time) and after they have obtained the Refugee Identity Cards, from then on, they will be regarded as ordinarily residing in Hong Kong? If so, is it*

true that many of them are already qualified for obtaining the Hong Kong permanent resident status?

SECRETARY FOR SECURITY (in Cantonese): Madam President, perhaps I should explain the widened local resettlement policy. This policy was announced three-odd years ago. At that time, the Government explained that people who were eligible included those Vietnamese refugees who had arrived in Hong Kong before 9 January 1998 and had never left Hong Kong since, as well as those Vietnamese boat people who met the following criteria: those Vietnamese refugees who were refused entry by the Vietnamese Government on the grounds of non-Vietnamese nationality, and were also refused entry by other countries, who already arrived in Hong Kong before 9 January 1998 when Hong Kong abolished the policy of being the port of first asylum, and had never left Hong Kong since, or had not been screened by the ImmD as being coming from mainland China. Therefore, if they have been screened as refugees or have been received by other countries, they actually are not eligible under the Scheme.

As regards whether they have entered Hong Kong with valid travel documents or whether they being boat people, refugees or in detention meet the requirement, section 2(4) of the Immigration Ordinance has already defined that. Article 24 para 2(4) of the Basic Law, which states the requirement of how persons not of Chinese nationality can obtain the right of abode in Hong Kong, has only given an outline. It says that they should have entered Hong Kong with valid travel documents before or after the establishment of the Hong Kong Special Administrative Region, have ordinarily resided in Hong Kong for a continuous period of not less than seven years and have taken Hong Kong as their place of permanent residence. However, section 2(4) of the Immigration Ordinance has defined that under certain circumstances, people are not regarded to be ordinarily residing in Hong Kong, including those who remain in Hong Kong with the status of refugees or who are being detained in Hong Kong. According to this provision of the Immigration Ordinance, if they reside in Hong Kong with the status of refugees or are detained in Hong Kong, they will not be regarded as ordinarily residing in Hong Kong. When implementing the Scheme, staff of the ImmD have already clearly explained to them all the related provisions in the laws of Hong Kong, including the Basic Law and the Immigration Ordinance. When they meet the relevant requirements, they can tender their applications.

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

MR JAMES TO (in Cantonese): *Yes, Madam President. The Secretary has not answered my question, maybe because the question is rather technical. Let me put it simpler. After 1997, we have section 2(4) of the Immigration Ordinance as mentioned by the Secretary. However, if they had already obtained the refugee status and already resided in Hong Kong for seven years before 1997, would they have effectively obtained the permanent resident status after 1 July 1997?*

PRESIDENT (in Cantonese): Mr TO, what is your question?

MR JAMES TO (in Cantonese): *Madam President, I have mentioned that they have been residing in Hong Kong for about 20 years. Some of them had already resided in Hong Kong for more than seven years before 1997, while some of them may have only resided for six years after 1997.*

PRESIDENT (in Cantonese): Mr TO, are you asking the Secretary whether these people can become Hong Kong permanent residents?

MR JAMES TO (in Cantonese): *Yes, Madam President.*

SECRETARY FOR SECURITY (in Cantonese): Madam President, I understand what Mr James TO meant. He was saying that after 1997, the Immigration Ordinance has already defined the situation. However, how should we deal with the situation before the reunification in 1997? We certainly have to consider whether, according to common law, detention in Hong Kong or staying in Hong Kong with refugee status complies with the definition of ordinary residence in Hong Kong. In this connection, the ImmD has once doubted whether the period during which they are detained in Hong Kong or staying in Hong Kong with the refugee status pending removal to other places would fall into the definition of ordinary residence in Hong Kong.

MR LEUNG FU-WAH (in Cantonese): *Madam President, in the third paragraph of the main reply, the Secretary said that there are 18 Vietnamese boat people who are ineligible to apply for settlement in Hong Kong under the Scheme, but there are various factors holding up their removal. When I inspected the prison in my capacity as Justice of the Peace, I heard the staff of the Correctional Services Department say that the Vietnamese Government had already indicated that it would take them back, but they would return to Vietnam on the condition that the Vietnamese Government undertakes not to sentence them to death. The Vietnamese Government said that it has not yet taken prosecution against them, so they just stay in Hong Kong, and it has been such a very long period of time. This turns out to be the situation mentioned in the third paragraph of the main reply. Does the Government have any solution in this regard?*

SECRETARY FOR SECURITY (in Cantonese): *Madam President, it is true that 18 Vietnamese boat people are ineligible under the Scheme. While 14 of them are still serving their sentences, three of them are being detained and awaiting completion of the removal procedures. As Mr LEUNG Fu-wah said, they admitted that they have committed serious crimes in Vietnam and will be sentenced to death when they return to Vietnam. They pleaded us not to send them back on humanitarian grounds. Considering the humanitarian grounds, we are currently in discussion with the Vietnamese Government whether these boat people will be sentenced to death once they are back in the country because of the crimes committed by them. And we are still waiting for a reply.*

MR ALBERT HO (in Cantonese): *Madam President, I would like to follow up the last part of the Secretary's reply to the supplementary question of Mr James TO. To those thousand-odd Vietnamese boat people staying in Hong Kong, before and after the reunification, many of them have been residing in Hong Kong for about 20 years and working here for a very long time. May I ask the Secretary whether the Administration will look into the circumstances of each and every case and then seek legal advice in order to ascertain that some of them have already fulfilled the general requirement of seven years of residence? The Secretary at least has the responsibility of allowing them to obtain the permanent resident status, so that they can solve many of the difficulties encountered in daily life.*

SECRETARY FOR SECURITY (in Cantonese): Madam President, I have studied this subject matter before. However, I am not sure whether Mr Albert HO remembers a case. If I have not recalled it incorrectly, a foreigner has challenged the ImmD of its decision in approving the right of abode. The point of argument at that time was about the definition of a continuous period of seven years. Should that be a continuous period of seven years immediately before the submission of application, or should that be a continuous period of seven years any time before the submission of application? I remember that the Government won the case, and thus, it has to be a continuous period of seven years immediately before the submission of application. Even though they had already stayed in Hong Kong for 10 years as refugees before the reunification, they cannot, after the provisions of the Immigration Ordinance that I read out just now took effect, calculate the continuous period of seven years before the reunification. On the basis of law, it is impossible for the ImmD to accept their applications. In fact, it has been three-odd years since and we have already explained the relevant legislation to them. Once they are qualified, they can submit applications. The approval of these people as permanent residents should not have any problem.

MR LAU KONG-WAH (in Cantonese): *Madam President, I would like to follow up Mr LEUNG Fu-wah's supplementary question concerning the 18 boat people. The Secretary said that the Vietnamese Government is willing to take all of them back, but neither do they want to leave, nor can they become Hong Kong residents. Then, what would be the result?*

SECRETARY FOR SECURITY (in Cantonese): Madam President, it is a very difficult problem, and we have to make a choice on it. From the humanitarian point of view, if we cannot obtain an assurance from the Vietnamese Government, once they are repatriated to Vietnam, they may have to face death sentences. Then, people will think that we are not humane. However, on the other hand, they themselves have admitted that they have committed serious crimes, meaning that their character and morals are questionable. If we do not repatriate them and let them stay in Hong Kong, would that be in the interest of Hong Kong? In the light of this, we are still considering what to do.

MR LAU KONG-WAH (in Cantonese): *Madam President, the Secretary has still not answered what the result would be.*

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

SECRETARY FOR SECURITY (in Cantonese): Madam President, I think that ultimately we still have to wait for a clearer reply from the Vietnamese Government before we can make any decision. It will be either to repatriate them or to accept them.

MR NG LEUNG-SING (in Cantonese): *Madam President, does the Secretary know the reason for the one eligible Vietnamese, who is still staying in Hong Kong, not yet submitting his application? If he continues to stay here, will the Government take other actions on him? If he does not submit an application, will he lose the qualification?*

SECRETARY FOR SECURITY (in Cantonese): Madam President, is the Vietnamese mentioned by Mr NG Leung-sing among the 18 Vietnamese boat people? Let me check the main reply.

In the main reply, it is said that there is one eligible Vietnamese who still remains in Hong Kong but has not yet applied for settlement. If he is eligible, even he does not submit his application after stalling for a long time, his qualification will not be lost. Insofar as I understand it, they do not submit applications may sometimes because they still want to be refugees, in the hope that foreign countries would accept them. If they apply for settlement in Hong Kong, there is no chance that they will be accepted by foreign countries.

MR ALBERT HO (in Cantonese): *Madam President, as the Secretary also understands, the background of this group of Vietnamese boat people is very special, especially when some of them have already been living in Hong Kong for 20 years, while some have been working in Hong Kong for more than seven years. In view of this, does the Secretary think that according to Article 24 of the Basic Law, the Director of Immigration or the Government may exercise discretion*

outside the ambit of the relevant ordinance to grant them permanent resident status? I would like to add one more point. Can there be another interpretation, meaning that apart from Article 24 which provides that under the circumstances, their permanent resident status will be recognized, the Administration can also recognize or grant them permanent resident status by way of legislation or discretion?

SECRETARY FOR SECURITY (in Cantonese): Madam President, under section 13 of the Immigration Ordinance, the Director of Immigration has discretion only to allow certain illegal immigrants or persons without entry permits to stay in Hong Kong.

As regards the granting of right of abode, we have to act according to the Basic Law. Of course, the interpretation of the Director of Immigration may be subject to judicial review and challenge, and this did happen in the past. However, the decision of the Director cannot deviate from the good faith of government officials in the Basic Law. Therefore, it is not possible for the Director of Immigration to grant them right of abode outside the Basic Law.

PRESIDENT (in Cantonese): This Council has spent more than 16 minutes on this question. We shall now proceed to the third question.

HKMA Vetting Applications for Replacing Senior Staff of Banks

3. **MR MARTIN LEE** (in Cantonese): *Madam President, regarding the recent replacement of the chief executive of the BOC Hong Kong (Holdings) Limited (BOC Hong Kong), will the Government inform this Council whether it knows:*

- (a) *if the Hong Kong Monetary Authority (HKMA) has an established procedure for vetting and approving banks' applications for replacing their senior management staff; if so, of the details of the procedure and the time required for vetting and approving these applications;*

- (b) *the time taken by the HKMA to approve the BOC Hong Kong's application for replacing its chief executive; whether there is any difference between vetting and approving this application and other similar applications; if so, the reasons for that; and*
- (c) *when the HKMA was vetting and approving the BOC Hong Kong's application for replacing its chief executive, the reasons for the replacement given to the HKMA?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam President,

- (a) According to section 71 of the Banking Ordinance, the Monetary Authority must be satisfied that the applicants are fit and proper persons for the posts of directors or chief executives of the relevant authorized institutions before he will give his approval. The HKMA follows an established procedure in its review and approval.

As explained by the HKMA, upon receiving an application for approval, the HKMA will have regard to the applicant's reputation and character and consider his qualifications in order to determine whether he has the relevant capabilities, knowledge, experience, and soundness of judgement to perform his functions. At the same time, the HKMA will check with relevant local or overseas authorities to see if there exists any negative information about the applicant. This is to ensure that the applicant has neither committed any offence nor has any record of dishonest acts. However the HKMA will not repeat its effort in checking where an earlier check has been made by it with the same local authorities in the past three years in relation to another appointment of the same applicant, or with authorities in relevant overseas jurisdictions within which the applicant has not worked since a previous vetting.

Thus, the specific length of time required in the HKMA's review and approval process depends on the required number of checks with other authorities and how long these authorities take to provide the HKMA with the required information. If, for example, an

applicant is already a director of an authorized institution and the appointment for the director's post was made and approved by the HKMA within the past three years, the HKMA will be able to complete the review and approval process of the current application within a very short period. In the past year, there were 36 applications of this kind, of which seven cases were reviewed and approved within one working day; one case within two working days; nine cases within three working days; and four cases within four working days. The applicants of these 21 cases came from different banks, which are headquartered or owned by banks in nine different jurisdictions. On the other hand, if the applicant has worked overseas but the relevant overseas authorities have not responded to the HKMA's request for information within a reasonable period of time, or further clarification is required with regard to the response from such authorities, the review and approval process can take as long as a few months.

- (b) The HKMA must not disclose information of individuals or individual authorized institutions obtained by it in the discharge of its supervisory functions. However as I said earlier, the HKMA may, in certain cases, complete the vetting and approval process of senior management changes in banks within a few days. The time required in the case of BOC Hong Kong's chief executive post was about the same as that required in similar cases. There is also no difference in the principle and procedure being adopted.
- (c) As bound by the secrecy provisions under the Banking Ordinance, the HKMA cannot disclose information of individual banks.

MR MARTIN LEE (in Cantonese): *Madam President, the Secretary has used some important wordings in part (a) of the main reply, that is "As explained by the HKMA". May I ask the Secretary whether he did, before answering this question, personally ascertain if the HKMA was telling the truth or whether it was only saying that casually, misleading also the Secretary? This is because as far as I understand it, the case is different from what the banking sector is saying, that the review and approval procedure could not have been completed so quickly.*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam President, the HKMA is an independent body responsible for supervising banks. It has explained clearly to me that it acted in accordance with the established policy and procedure in reviewing and approving the appointment of the new chief executive, and followed up the reason for replacing the chief executive of the BOC Hong Kong with the party concerned. Therefore, I do not think it is necessary to check again as to why the BOC Hong Kong replaced its chief executive.

DR DAVID LI (in Cantonese): *Madam President, I think this reply by the Secretary is utterly unusual. This is because this year, my bank has to*

PRESIDENT (in Cantonese): Dr LI, please ask your supplementary question.

DR DAVID LI: *Madam President, it presently takes a month or more for the HKMA to confirm even serving local banking executives in their posts. Will the HKMA pledge to apply the same standards to local, overseas and Chinese banking executives in future?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam President, I would like to thank Dr David LI for raising this supplementary question. I have said earlier that in many cases, the review and approval process could be completed within a very short period, but I will not comment on individual cases. The explanation given to me by the HKMA is that regardless of whether it is a local bank or an overseas bank, the procedures and way of handling matters are identical.

MR BERNARD CHAN (in Cantonese): *Madam President, the Secretary has mentioned in his main reply that if it has checked with a certain authority in the past three years, the authority concerned will not repeat its efforts to check again. Moreover, earlier, the Secretary has also touched on the part relating to chief executives and directors. If in its initial checking, the person concerned is purely applying to assume the post of director but later also applies to become the chief executive, will the HKMA refrain from undertaking another check*

because it has already conducted a check on that person? Or is it necessary for the authority to make a new check because of the different nature of the post applied for, and the responsibility is also heavier? Will the authority think that he also satisfies the requirements in the other aspects because it has confirmed that he can assume the post of director?

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam President, just as I have said earlier, in approving these applications, the HKMA will consider the experience of the applicant and whether he has any record of dishonest acts, and so on. Therefore, regardless of whether it is reviewing and approving an application for assuming the post of chief executive or director, the HKMA will adopt the same procedures. As regards the time required, there is virtually no difference.

MR SIN CHUNG-KAI (in Cantonese): *Madam President, the supplementary question I would like to raise is related to the third paragraph of part (a) of the Secretary's main reply. It is mentioned inter alia that if an applicant is already a director of an authorized institution and the appointment has been approved by the HKMA, the review and approval time will be shorter under such circumstances. In this Council, we have a Member who is a serving chief executive of a bank and he is also the representative of the banking sector. However, his application took four weeks to approve, that is, the application was made on 28 April and was only approved on 24 May. Why? Is there any inequitable treatment here? Why is it that the time for reviewing and approving certain new appointment could be as short as half a day while that for one who has been working in a certain bank for a long period was so long? May I ask the Secretary if he has clarified there was no unfairness applied by the HKMA? Can the Secretary refrain from using the phrase "As explained by the HKMA" in making his reply?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam President, I am sorry for I will not comment on individual cases because of the legislation. Nevertheless, just as I have explained earlier, the HKMA is an independent supervisory body. It has assured us that it handled the relevant matters in accordance with the general procedures. Thus, there is no reason that I should think it has done anything improper.

MS CYD HO (in Cantonese): *Madam President, the Secretary has said in the main reply earlier that there have been many cases in which the HKMA has completed the review and approval quickly. In this connection, may I ask the Secretary if there have been other cases in which the time for review and approval is shorter than that for this appointment of the BOC Hong Kong? If not, what is the difference in the number of days between this application by the BOC Hong Kong and the case second to this in terms of the time required for review and approval? Does the Secretary have the relevant information on hand to give us a prompt reply?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): *Madam President, the HKMA cannot disclose information of individuals or individual authorized institutions obtained by it in the discharge of its supervisory functions. However, as I have said in the main reply, there are also many cases in which the review and approval process has been completed within a very short period. Nevertheless, as I have explained just now, I cannot disclose the information on individual cases. I hope Ms HO can understand this.*

MS CYD HO (in Cantonese): *Madam President, I am not asking for the names of banks or individuals, but only whether there are such cases. If not, taking the case whereby the review and approval time is more or less the same as that for the application by the BOC Hong Kong, what is the difference in the number of days between them?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): *Madam President, just as I have said in the main reply earlier, the time spent by the HKMA this time in reviewing and approving the application by the BOC Hong Kong was about the same as that spent in other similar cases. Ms Cyd HO asked for the difference in time between this and the other case. In this regard, I cannot give an answer immediately. With Ms Cyd HO's indulgence, I can furnish a written reply. (Appendix I)*

MR HENRY WU (in Cantonese): *Madam President, the Secretary's replies to the supplementary questions were all on the replacement, that is, the new successor, what I want to ask now is about the one being replaced. Madam*

President, I raise this supplementary because the position is so very important, the authority should understand why he left the post, and many other professional sectors also need to report to their respective supervisory authorities similar replacements. In this connection, may I ask the Secretary if he knows whether it is necessary for the HKMA to know why a certain person is replaced? If not, why not? If yes, then is the reason the same for this case and past cases?

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam President, bound by the secrecy provision in the Banking Ordinance, the HKMA cannot disclose information on individual banks. Generally speaking, in reviewing and approving an application by a bank to replace its chief executive, the HKMA will approach the bank or the overseas supervisory authority concerned in order to understand the actual circumstances or the reason.

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

MR HENRY WU (in Cantonese): *Madam President, the Secretary has not answered my supplementary question. The Secretary again referred to the new successor, but I asked about the one who left, that is, the one being replaced. May I ask if the HKMA was aware why that person had to be replaced? If the HKMA did not even know why that person had to be replaced, it could not have reviewed and approved the application.*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam President, my answer just now was that the case was the same for the one being replaced.

MR JAMES TO (in Cantonese): *Madam President, referring to the Banking Ordinance, I believe the secrecy provision mentioned by the Secretary is section 120(4)(h). It is stated inter alia that with the consent of that person (that is, the person who provides the information), the HKMA can make disclosures. As it may be necessary to respond now or on other occasions in public interest or for*

the public's general concern about this issue, may I ask the Secretary if he has asked the HKMA, or has he through the HKMA asked the party who provided this information, for example, the BOC Hong Kong, whether it agrees to the Government disclosing such information? If yes, was the answer an "No"? If not, why not?

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam President, my reply is I do not think it is necessary to ask. This is because the HKMA as a supervisory authority has already exercised its supervisory power to oblige banks to appoint auditors to find out what has gone wrong in its loans. In this regard, I think the HKMA's practice is already consistent with public interest. As to whether it is necessary to effect further supervision through other channels, for example, the Securities and Futures Commission (SFC), as far as I know, the SFC and the HKMA maintain regular contact, and since the BOC Hong Kong is a listed company, therefore, they have already done a lot from another angle.

MR JAMES TO (in Cantonese): *Madam President, the Secretary has answered my supplementary question wrongly. I asked whether the HKMA had made enquires. I did not ask the Secretary if he had asked the HKMA. I asked if the HKMA had asked the person who provided the information if he agreed to the HKMA or other people disclosing the relevant information.*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam President, I have made it very clear just now that I have not asked the HKMA. Just as I said earlier, the HKMA is bound by the secrecy provision in many aspects. Therefore, it cannot make disclosures.

MR JAMES TO (in Cantonese): *Madam President, is the Secretary saying that the HKMA is also bound by section 120 of the Ordinance in asking the applicant for its consent for disclosure? Is it correct to understand his words in this way?*

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

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam President, I have something more to say. The HKMA does have the right to make such enquires, just as Mr James TO has said. However, insofar as I understand it, the HKMA has not made such enquires.

MR ALBERT HO (in Cantonese): *Madam President, in handling this review and approval of the replacement of the chief executive of the BOC Hong Kong, the HKMA has been criticized by a senior banker who is also the representative of the banking sector in this Council. The image or impartiality of the HKMA has thus been called into question. Furthermore, in answering questions raised in this Council today, the Secretary has been refusing to answer and to clarify. Under such circumstances, what can be done in the Secretary's opinion to help the HKMA or the Government rebuild an image which is credible to the public?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam President, first of all, I do not think the credibility of the HKMA has been undermined as a result of this incident. Just as I have explained earlier, the review and approval time for many cases is very short, and we cannot comment on individual incidents. Therefore, if we say that the credibility of the HKMA has been undermined, it will be an overstatement. As to whether we are in a position to clarify the credibility of the HKMA, given that the public has all along approved of the remarkable performance of the HKMA in supervising the banking sector of Hong Kong, I believe I need not sing the HKMA any praises here.

PRESIDENT (in Cantonese): We have spent over 18 minutes on this question. This is the last supplementary question.

MR MARTIN LEE (in Cantonese): *Madam President, as far as I understand it, this incident makes the banking sector feel that approval of applications by large banks will be quick whereas that of small banks will take a longer time. The approval of the application by the BOC Hong Kong has been particularly quick, to the extent that it is "exceptional". Could the Secretary reply in writing the time taken by the HKMA on each of the occasions to review and approve individual applications by banks to replace their chief executives during the past three years?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam President, the answer is positive. I will certainly give a reply in writing to Mr LEE and all Members. (Appendix II)

PRESIDENT (in Cantonese): Fourth question. As Mr LEUNG Yiu-chung has not been able to attend this meeting on time, Mr LEUNG has given consent for Mr LEE Cheuk-yan ask this question in his place.

Proposed Incinerator Process in Tuen Mun

4. **MR LEUNG YIU-CHUNG** (in Cantonese): *Madam President, on the 27th of last month, the Director of Environmental Protection published a notice under the Air Pollution Control Ordinance (APCO) stating that it had received an application from the Green Island Cement Company Limited (GIC) for a licence to conduct an "incinerator" process in its Tuen Mun plant, and that objections to the granting of the licence should be made within 30 days. In this connection, will the Government inform this Council:*

- (a) *whether independent persons will be appointed to conduct an objective analysis of the objections received; if so, of the details of the arrangement; if not, the reasons for that;*
- (b) *how it will practically consider such objections and when the result of the application will be announced; and*
- (c) *whether, in respect of the application, an independent and impartial environmental impact assessment (EIA) has been conducted; if so, of the assessment results; if not, the reasons for that?*

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

- (a) The Hong Kong University of Science and Technology and the GIC have jointly obtained funding from the University-Industry Collaboration Programme under the Innovation and Technology Fund to carry out a pilot project on the development of an

"Integrated Co-combustion Cement Production Facility" at Tap Shek Kok in Tuen Mun. The total operating time of the pilot project is about four months. Since the project involves the operation of a plant with a capacity to burn waste or refuse of more than 0.5 tonne per hour, it is a specified process under the APCO and the project proponent is required to apply to the Environmental Protection Department (EPD) for a licence. In accordance with the APCO, the EPD authorized the GIC to publish a notice in newspapers regarding its application and made the application available for public inspection. The GIC published the notice on 27 May 2003.

Under the APCO, within a period of 30 days after the notice was published, that is, from 27 May 2003 to 26 June 2003, any person may object to the granting of the licence on the grounds that:

- (i) the specified process would tend to inhibit the attainment or maintenance of any relevant air quality objective; or
- (ii) the emission of noxious or offensive emissions would be, or likely to be, prejudicial to health.

As the APCO already prescribes the specific requirements that the EPD should follow in processing the application, the EPD will not appoint any independent person to analyse the objections received.

- (b) The EPD will consider the grounds on which objections can be raised under the APCO and also make reference to the methods and objective standards set out in the relevant guidelines, including the Guidance Note on the Best Practicable Means and the Guidelines on Choice of Models and Model Parameters. The APCO provides that the EPD may not grant or refuse to grant the licence earlier than 40 days after the publication of the notice regarding the application (that is not earlier than 6 July 2003). Since the EPD is still processing the application, it cannot fix the date on which a decision will be made.
- (c) As the pilot project is small in scale and its installed refuse burning capacity will not exceed 50 tonnes per day, there is no need for an

EIA to be conducted for the pilot project under the Environmental Impact Assessment Ordinance.

MR LEE CHEUK-YAN (in Cantonese): *Madam President, the Secretary has ruled out in her main reply the appointment of any independent person to conduct an analysis. However, the problem is, the company for which the Secretary used to serve also is a participant in the programme. It is reported that this private company for which the Secretary previously served before assuming her present office had acted on behalf of the GIC to apply for a licence to conduct an incinerator process in 2002 and to submit an EIA in last October respectively. Would there be a conflict of interest or how can the Secretary avoid making the people feel that there might be a conflict of interest if the application of the relevant licence is assessed by the EPD, which is under the Secretary? Would it be a better approach if independent persons are appointed to conduct an assessment? Therefore, has the company for which the Secretary used to work participated in the programme, and how can she make the people feel that there is no conflict of interest?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): Madam President, I would like to take this opportunity to explain the situation. On 31 July 2002, I officially terminated my employment contract with the CH2M HILL (China) Limited (CH2M HILL), and assumed office as the Secretary for the Environment, Transport and Works on 1 August 2002. From that day onwards, I do not have any connection with CH2M HILL, nor do I hold any share in that company. Being an American corporation, CH2M HILL is a multinational environmental engineering company with more than 12 000 employees. As far as I can recall, CH2M HILL was awarded a contract by the Hong Kong University of Science and Technology in early 2001 to apply on its behalf for a licence to conduct a specified process in order to implement a pilot project in Tuen Mun. However, I played absolutely no part in the project then. As I was the Managing Director and the ISO Quality Director of CH2M HILL at that time, I was aware of the project.

In assessing any applications, the EPD would arrive at a decision according to the relevant regulations and outcomes of professional assessments. The decisions of the EPD will absolutely not be affected by my position as the Secretary or my relationship with the company which I have previously served,

not to mention the fact that there is no more relationship. The decisions of approving or rejecting certain projects will have nothing to do with the identity of the company submitting the applications. I hope Members can understand that there is no question of conflict of interest. I wish to stress that, insofar as this project is concerned, we have been acting in accordance with the usual practice of the Government. Regarding these scientific innovations and applications, we would adopt an open mind and play a supervisory role. Therefore, we shall strictly abide by the regulations, and would decide if the project should be approved for implementation by assessing whether or not the relevant application meets the environmental standards.

DR LAW CHI-KWONG (in Cantonese): *Madam President, the Secretary mentions in part (a) of the main reply that the grounds for objection to the grant of the licence are items (i) and (ii). The greatest concern and worry of the Tuen Mun residents is whether offensive stench would be emitted by such waste in the course of transportation which may affect the residents. May I ask the Secretary, as far as the main reply is concerned, if this will not constitute a ground for objection to the issue of a licence?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): Madam President, regarding the project of making Tap Shek Kok as the site for an incinerator process, we have taken into account the fact that the road concerned also lead to a landfill in the west. I am not saying that the whole area will be affected by offensive smell. In fact, that area is an industrial area, and the process under application does not conflict with the existing operation and work of the entire area.

DR LAW CHI-KWONG (in Cantonese): *Madam President, my supplementary question is, as Tuen Mun residents may feel that refuse will be transported to Tap Shek Kok from many different directions, not just passing through the road, they worry that the refuse collection vehicles might emit stench in the course of transportation or cause other consequences. Is it true that, basing on the reply of the Secretary, such worries and reasons do not constitute any solid ground for consideration by the EPD in deciding whether or not a licence should be issued?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): Madam President, we consider the two factors against the provisions of the Ordinance, that is, whether the process could meet the relevant air quality objective, and whether it is the best practicable means, and there is no need to consider the transportation aspect. However, as far as refuse transportation is concerned, we may supervise the transportation process according to some other guidelines. There are certain standards for refuse collection vehicles in their transportation of refuse in any district, not just in Tuen Mun. For example, such vehicles must be installed with sealed compartments, and there must not be any spillage in transit, so that the overall hygiene and safety of the urban area will not be affected.

DR RAYMOND HO: *Madam President, this Integrated Co-combustion Cement Production Facility is proposed by the Green Island Cement Company Limited. As I understand it, it is a new process which has not been undertaken in Hong Kong. As regards the Guidance Note on the Best Practicable Means and the Guidelines on Choice of Models and Model Parameters, would the Secretary for the Environment, Transport and Works inform this Council whether or not the Guidelines and the Guidance Note actually cover all new processes like this? If not, will they be updated and revised?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS:

Madam President, the technology applied to this specified process is actually well-known. However, it involves the integration of two different sets of technology, and that is why it requires testing. The combustion process itself is not new. We are not considering a new process of combustion that we do not know what pollutants will be emitted from the process. We are very well aware of what will be emitted. The question here is, first of all, whether the cement kiln can sustain the temperature of over a thousand degrees centigrade during its process when garbage is added to the kiln. Actually, this process has been used elsewhere, but because of the nature of the garbage varies from place to place, it requires testing in local condition. That means it depends on what kind of garbage is sent to the kiln. It may lower the temperature, it may not form the clinker as expected, or it may not be able to sustain the temperature as required. And also with this kiln, the applicant has supplied a flue, which is equipped with

air pollution reduction installations, such as activated charcoal filtration and a quenching device. All these have been shown to be working, because the whole flue mechanism is actually a purchased product. But by combining the two systems together, we need to make sure that it does not cause any unexpected result.

This particular project is actually designed by a professor at the Hong Kong University of Science and Technology, and we have every respect that there is sufficient technical and professional knowledge that it is worthwhile for testing at an application level. For this kind of academic research, there is a certain gap between actual application and laboratory testing. That is why the Innovation and Technology Fund supports this item. I might just add that for environmental industry, this is particularly important. Although we are making use of known technology, we need certain degree of integration and local application to make sure that it actually works in Hong Kong. Within our Air Pollution Control Ordinance, the Guidance Note on the Best Practicable Means and the Guidelines have actually included all these emission evaluations which are required for this particular testing.

MISS CHOY SO-YUK: *Madam President, the Secretary, in part (c) of the main reply, states that as the refuse burning capacity will not exceed 50 tonnes per day, an EIA is not necessary. However, since this project has aroused so much public concern and actually quite a bit of protest, would the Government consider asking the project proponents to conduct an EIA in this case?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS: Madam President, the Environmental Impact Assessment Ordinance has very specific requirement as to what is a designated project and it is defined as 50 tonnes. If the burning capacity of any incinerator project falls below this quantity, we are not able to force the applicant to carry out an EIA. We can, of course, ask the applicants whether they would be willing to do so, but otherwise, there is no legal right for the Government to require an EIA.

PRESIDENT (in Cantonese): Fifth question.

Applications by Private Developers for Change of Land Use

5. **MR LAU PING-CHEUNG** (in Cantonese): *Madam President, regarding applications for change of land use made by private developers under section 16 of the Town Planning Ordinance (the Ordinance) and through other means, will the Government inform this Council:*

- (a) *whether it has a policy to reduce the number of approvals given to applications by private developers for change of land use; the criteria adopted by the Town Planning Board (TPB) for vetting and approving applications made in the two ways mentioned above; the channels through which applicants may seek a review of or lodge an appeal against the application results;*
- (b) *exclusive of New Territories small house applications, of the respective numbers of applications for change of land use made by private developers in the two ways mentioned above, in each of the past five years, the duration of the case which involved the longest vetting time, and the vetting time for the applications which got the earliest approval; the current number of outstanding applications, as well as the estimated number of applications that may be approved; and*
- (c) *in relation to the applications made in these two ways in each of the past five years, of the respective numbers of residential developments approved, the floor areas and the numbers of flats to be produced by each development, as well as the amounts of land premium derived by the authorities from each development?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese):
Madam President, my reply to the three parts of the question is as follows:

- (a) It is the policy of the Government to ensure that the planning of land use meets the long-term development needs of Hong Kong. In view of the changing demands of the market and the community, the existing town planning system has provided means for private developers to apply for change of land use.

These means include submitting to the TPB proposals for amendments to statutory plans and planning applications under section 16 of the Ordinance. In considering these proposals or applications, the TPB would take into account a number of factors, mainly the planning intention and the impacts of the proposed development on the traffic, landscape, environment and infrastructure of the surrounding areas. Professional advice from the relevant government departments and the views of local stakeholders would also be taken into account. The TPB operates independently. It has not set any quota for the number of applications to be approved.

Where an applicant is aggrieved by a decision of the TPB on a planning application made under section 16 of the Ordinance, the applicant may, within 21 days of being notified of the decision of the TPB, request for a review of the decision under section 17 of the Ordinance. The review must be conducted within three months after receipt of the application. An applicant who is still dissatisfied with the decision of the review may lodge an appeal within 60 days from the date of notification of the decision of the TPB under section 17B. The appeal will be heard by the Town Planning Appeal Board, which is independent of the TPB.

The procedures for handling of proposals for amendments to statutory plans are basically the same as that of planning applications. If endorsed, the proposed amendments will be gazetted as required by the Ordinance. If the proposal is not accepted, the proponent may revise his proposal based on the grounds for refusal, or provide new justifications in respect of the original proposal for the reconsideration of the TPB.

- (b) The respective numbers of planning applications and proposals for amendments to statutory plans submitted by private developers in the past five years are at Annex 1. The figures include developments of different sizes and nature such as commercial developments, residential developments and change of use of industrial premises, and so on.

Under the Ordinance, the TPB is required to consider planning applications submitted under section 16 of the Ordinance within two months upon receipt of such applications. For proposals for amendments to statutory plans, no timeframe for consideration is specified in the law. Nevertheless, the Planning Department has given the performance pledge that these proposals will be submitted to the TPB for consideration within three months. At present, there are 33 planning applications and 44 proposals for amendments to statutory plans which have yet to be considered by the TPB, 74 of which have been deferred at the request of the applicants, mostly because they need more time to prepare additional information and justifications for the reference of the TPB. As the nature of each of the applications is different, we cannot estimate the number of applications that will be approved.

- (c) Detailed information on the number of approved private residential developments involving change of land use by means of planning applications and proposed amendments to statutory plans, together with the floor area involved, the estimated number of flats that can be produced and the amount of land premium derived from modification of the land lease in respect of each of these developments in the past five years is set out at Annex 2.

It is based on market demand and other relevant factors that developers would decide whether or not to proceed with any particular residential development. Moreover, applying for planning permission or amendment to statutory plans is only part of the entire development process. To complete a development project, there are still other procedures, including modifying the land lease conditions, payment of modification premium, submitting building plans in accordance with the Buildings Ordinance and carrying out the construction works, and so on.

Annex 1

The numbers of planning applications and proposals for amendments to statutory plans submitted by private developers in the past five years

<i>Categories</i>	<i>1998</i>	<i>1999</i>	<i>2000</i>	<i>2001</i>	<i>2002</i>
(1) Applications submitted under section 16 of the Ordinance (Notes 1 and 2)	350	379	357	300	317
(2) Proposals for amendments to statutory plans (Notes 2 and 3)	64	66	45	27	28

Notes: (1) Applications for small house development and temporary use are excluded.

(2) Applications/requests withdrawn by applicants are excluded.

(3) Rezoning requests mainly involving the "Village Type Development" zone are excluded.

Annex 2

The number of planning applications and amendments to statutory plans for private residential developments approved in the past five years (Note 1)

<i>Categories</i>	<i>1998</i>	<i>1999</i>	<i>2000</i>	<i>2001</i>	<i>2002</i>	<i>Total</i>
Planning applications approved under section 16 of the Ordinance	9	12	11	6	4	42
Proposals for amendments to statutory plans approved	5	10	6	4	3	28

Details as follows:

(a) Planning applications approved under section 16 of the Ordinance

<i>Item No.</i>	<i>Floor area (sq m) (Note 2)</i>	<i>Estimated no. of flats (Note 2)</i>	<i>Land premium paid for lease modification or land exchange (Note 3)</i>
1.	98 200	939	(Note 4)
2.	10 303	174	(Note 4)
3.	3 290	49	(Note 4)
4.	4 533	75	(Note 4)
5.	1 195	20	(Note 4)
6.	80 415	1 592	(Note 4)
7.	1 737	34	(Note 4)
8.	2 647	312	(Note 4)
9.	3 395	78	(Note 4)
10.	57 325	992	(Note 4)
11.	11 074	160	(Note 4)
12.	12 546	216	(Note 4)
13.	11 645	272	(Note 4)
14.	117 568	1 819	(Note 4)
15.	63 000	1 088	(Note 4)
16.	2 663	30	(Note 4)
17.	12 310	210	(Note 4)
18.	3 280	37	(Note 4)
19.	5 063	58	(Note 4)
20.	8 261	88	(Note 4)
21.	7 323	142	(Note 4)
22.	7 713	123	(Note 4)
23.	2 840	34	(Note 4)
24.	2 317	26	(Note 4)
25.	1 840	36	(Note 4)
26.	12 007	180	(Note 4)
27.	2 480	21	(Note 4)
28.	400	1	(Note 4)
29.	5 117	104	(Note 4)
30.	1 400	8	(Note 4)
31.	41 281	297	(Note 4)
32.	985	12	(Note 4)
33.	91 300	1 600	(Note 4)
34.	1 167	12	(Note 4)
35.	345 400	5 184	(Note 4)
36.	11 365	114	\$145,450,000
37.	15 440	58	(Note 4)
38.	159 277	3 520	\$2,038,390,000
39.	70 200	420	\$485,000,000
40.	5 543	78	(Note 4)
41.	97 449	1 278	(Note 4)
42.	18 960	320	(Note 4)

(b) Proposals for amendments to statutory plans approved

<i>Item No.</i>	<i>Floor area (sq m) (Note 2)</i>	<i>Estimated no. of flats (Note 2)</i>	<i>Land premium paid for lease modification or land exchange (Note 3)</i>
1.	25 290	432	(Note 4)
2.	76 000	1 056	(Note 4)
3.	28 100	562	(Note 4)
4.	158 900	2 112	(Note 4)
5.	581 000	8 300	(Note 4)
6.	18 025	272	(Note 4)
7.	10 636	80	(Note 4)
8.	428 903	3 166	(Note 4)
9.	52 156	612	(Note 4)
10.	7 258	74	(Note 4)
11.	83 850	1 067	(Note 4)
12.	3 641	76	(Note 4)
13.	1 840	12	(Note 4)
14.	369 349	5 144	(Note 4)
15.	4 238	12	(Note 4)
16.	186 372	1 453	(Note 4)
17.	49 134	758	\$24,080,000
18.	1 299	9	(Note 4)
19.	26 418	220	(Note 4)
20.	918	5	(Note 4)
21.	55 388	965	(Note 4)
22.	15 341	418	\$110,000,000
23.	76 268	1 316	(Note 4)
24.	6 120	112	(Note 4)
25.	90 941	2 040	(Note 4)
26.	24 460	414	(Note 4)
27.	5 017	112	(Note 4)
28.	9 133	164	(Note 4)
29.	5 171	100	(Note 4)

- Notes:
- (1) Repeated applications for the same site and applications for minor relaxation of development restrictions are excluded.
 - (2) For applications approved for the first time in the past five years, subsequent changes in floor area or number of flats are taken into account. As for applications approved before that period, amendments made in the past five years are excluded.
 - (3) Not every development will involve lease modification or land exchange. The figures only indicate the amount of land premium received by the Government after the lease modification is completed. Applications for lease modification or land exchange are made by the developer who, after obtaining approval to change land use, will decide on the basis of business considerations whether or not to proceed with the development, including negotiating with the Government on lease modification or land exchange and the land premium to be paid.
 - (4) Includes no application for lease modification/land exchange is received, lease modification/land exchange not yet completed, no need to apply for lease modification/land exchange, or the concerned application has been withdrawn by the applicant.

MR LAU PING-CHEUNG (in Cantonese): *Madam President, I thank the Secretary for his reply. In the latter part of part (a) of the main reply, it is mentioned that the procedures for processing proposals for amendments to statutory plans are basically the same as that of planning applications. If the amendment proposal is not accepted, the proponent may revise his proposal for the reconsideration of the TPB. However, the main reply did not mention whether there is an appeal mechanism, similar to that of planning applications, for proposed amendments to statutory plans. If there is no appeal mechanism, how long the TPB will take in its consideration? Has the Government undertaken to provide a reply within a certain timeframe?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): *Madam President, sorry, I do not have the information on hand to indicate whether an appeal mechanism is in place. I do not wish to mislead Members. With your indulgence, I shall provide a reply in writing. (Appendix III)*

MR WONG SING-CHI (in Cantonese): *Madam President, nowadays, many people would criticize the land planning and development in Hong Kong of being boring or even monotonous. May I ask the Secretary whether new factors of consideration would be introduced in the future? For example, if a development is designed with some innovative concepts in its planning, that is, it has some new concepts, or it is a creative development, or a sustainable development, or when green applications are involved, will the Government give priorities to such developments in considering their applications for change of land use?*

PRESIDENT (in Cantonese): *Mr WONG Sing-chi, can you associate your supplementary with the main question and the reply of the Secretary?*

MR WONG SING-CHI (in Cantonese): *Yes, Madam President. In part (a) of the main reply, the Secretary mentions that, in deciding whether certain developments would be approved, a number of factors would be taken into account. May I ask the Secretary if some newer factors of consideration would be introduced to enable our land planning to be developed in a more innovative way, thereby preventing it from becoming monotonous?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): Madam President, as Members are aware, the plans released by the TPB can be classified into several categories: Some are land uses that are normally permitted. They are clearly stipulated under certain categories, which can be implemented without securing permissions. Besides, for those land uses listed in Column 2, they have to seek the approval of the TPB before they can be implemented. I have also mentioned this intent a moment ago, that is, such land uses may have impacts on the environment, traffic and infrastructure. However, the TPB may think that, under certain circumstances, if the issues in connection with the sites in question or the way they will be utilized are found to be acceptable after discussions, they may also be approved. Therefore, that applications can be made under section 16 of the Ordinance is a channel through which such needs are met. In this way, flexibility is provided in the consideration process. I do not know if this is the new consideration factor just proposed by Mr WONG Sing-chi. Anyway, this is a channel for us to handle some issues as exceptions.

DR RAYMOND HO (in Cantonese): *Madam President, the Government sometimes may spend up to five years, ten years or even longer on conducting planning studies. Very often, all the developments in the area or district being studied are suspended. If planning applications or applications for change of land use in these districts are made by private developers during this period, what criteria will the Government adopt in vetting such applications or whether such applications are not processed at all?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): Madam President, first of all, I would like to clarify that, just as I have mentioned in the main reply, all such applications are submitted to the TPB according to the relevant legislation. The TPB will classify such applications into two categories: First, land uses that are usually approved; second, some land uses that require the submission of applications; and even if they are incompatible with the original planned land use, applications may still be submitted. Therefore, even if the plan is being amended, or the land use has been designated, the proponent may submit an application to the TPB for changing the land use if he so wishes. Of course, as the TPB considers the applications, as I have just said, it will consider mainly the impacts of the proposed development on the original planning intention, traffic, landscape,

environment and infrastructure of the surrounding areas. In the course of considering the applications, apart from adopting such yardsticks, the TPB will, if practicable, also seek professional advice from relevant government departments; very often, it will also consult local stakeholders and the District Councils on the applications before making a decision which would serve the best interest of all parties concerned.

DR RAYMOND HO (in Cantonese): *Madam President, the procedures just mentioned by the Secretary are applicable only after the land uses of the areas being studied have been designated. What I am asking is: What will the Government do and how will the Government set its directions if the land uses have not been designated, that is, when it is still studying the land planning issues? Under such circumstances, will the same processing procedure be adopted as in the reply just provided by the Secretary?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): *Madam President, basically, an application still has to be submitted should such a need arise before we have completed the land planning of a certain area. The TPB will also adopt the criteria mentioned by me in considering the application.*

PRESIDENT (in Cantonese): Sixth question.

Import and Consumption of Wild Animals

6. **MR MICHAEL MAK** (in Cantonese): *Madam President, medical studies have revealed that the coronavirus which has caused atypical pneumonia may have come from wild animals which include masked palm civets. In this regard, will the Government inform this Council:*

- (a) *of the quantity of each species of wild animals imported last year and their uses; the quantity of illegally imported wild animals seized by the relevant departments last year and the number of persons arrested for such offence, as well as the heaviest penalty imposed by the Court on the persons convicted last year;*

- (b) *of the total number of suspected intoxication cases over the last three years in which people were hospitalized after consuming wild animals; and*
- (c) *whether it will consider imposing a total ban on the import of live wild animals for human consumption; if it will, of the details; if not, the reasons for that?*

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

- (a) In 2002, Hong Kong only imported three types of live wild animals for food purposes. These included 710 000 turtles, 150 000 lizards and 59 000 snakes. Major types of wild animals imported as pets in the year were turtles, lizards and hamsters. The number of these animals imported reached about 3.8 million, two million and 59 000 heads respectively. Hong Kong also imported a small number of other wild animals as pets. These included rabbits, chinchillas, snakes, guinea pigs, and Mongolian gerbils.

In 2002, there were 29 cases of illegal importation of wild animals. The Agriculture, Fisheries and Conservation Department (AFCD) seized 850 lizards, 144 turtles plus over 9 000 kg of turtle consignments, 126 snakes, seven rabbits, seven guinea pigs, and one barking deer. A total of 14 persons were convicted as a result. The heaviest penalty imposed by the Court on the persons convicted was \$3,000. This was for an offence of importation of snakes from the Mainland without a valid certificate under the Public Health (Animals and Birds) (Chemical Residues) Regulation (Cap. 139, sub. leg N).

- (b) Food poisoning and Severe Acute Respiratory Syndrome (SARS) are notifiable diseases and the cause of illness will be investigated when reported. In the past three years, the Department of Health did not receive any reports of illness related to the consumption of wild animals.

- (c) We have not permitted, since 1994, the importation of live civet cats for the purpose of preventing rabies in Hong Kong. We have also temporarily suspended the importation of game meat derived from masked palm civets since May this year as a precautionary measure, following the release of the findings by the University of Hong Kong on the presence of coronavirus in masked palm civets. As scientists in the world are still conducting research into whether the coronavirus causing SARS in humans originate from wild animals, we will closely keep in view the relevant findings and developments to see if any further measures should be made for the protection of public health.

MR MICHAEL MAK (in Cantonese): *Madam President, the Mainland has in fact banned the consumption of wild animals, that is, game meat. However, it seems that Hong Kong has not amended the laws to follow the mainland ban on consumption of game meat. The game meat in Hong Kong actually comes from the Mainland. The ban on consumption of game meat by the Mainland is likely because it is proved that, by observation or by experience, game bears a strong relation to human health, especially to the infectious disease recently. May I ask the Government whether it has maintained better communication with the Mainland in understanding why it has banned the consumption of game meat? And why can Hong Kong people still consume game meat?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, Hong Kong has legislation in place governing the consumption of wild animals. If one wishes to import wild animals for food purposes, he has to apply to the Food and Environmental Hygiene Department (FEHD) and obtain a certificate for place of origin to certify that the wild animals are suitable for human consumption. We have a mechanism to ensure public health. In fact, every import of wild animals for food purposes must have the approval of the FEHD.

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

MR MICHAEL MAK (in Cantonese): *Madam President, the Secretary has not answered my supplementary question. The Mainland has already imposed a ban on the consumption of game meat, but we still import game from the Mainland. There are a lot of reasons for the Mainland to ban the consumption of game meat. It is highly possible that game will affect human health.....*

PRESIDENT (in Cantonese): Mr MAK, please come to your follow-up question direct.

MR MICHAEL MAK (in Cantonese): *My supplementary question is whether the Government understands the reasons for the Mainland to ban the consumption of game meat. The Secretary has not answered this part of the supplementary question.*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, we will certainly contact the Mainland in order to understand the result of the study concerned, and will then consider whether it is necessary to amend the existing policy.

DR LO WING-LOK (in Cantonese): *Madam President, I was shocked at seeing the figures provided by the Secretary. I did not realize that Hong Kong people actually consume 150 000 lizards every year. May I ask the Secretary whether there are any measures to ensure that these 710 000 turtles, 150 000 lizards and 59 000 snakes meet the hygiene standard, and that Hong Kong people can still remain healthy after consuming these wild animals?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, Hong Kong has the Public Health (Animals and Birds) Ordinance (Cap. 139) and the Rabies Ordinance (Cap. 421). These Ordinances enable the Government to require provision of health certificates on the wild animals from those who import these animals, as well as to require the authorities in charge of the hygiene of poultry and livestock to certify that these animals will not affect general human health. Besides, the licences of wild

animal traders are issued by the AFCD which will check whether these animals would affect public health before it issues the licence. Therefore, we have already enacted legislation and taken measures to monitor the import of wild animals so as to prevent general public health from being affected.

MR WONG YUNG-KAN (in Cantonese): *Madam President, in part (a) of the main reply, the Secretary has mentioned a lot of figures, which I do not wish to repeat here. Many of them are related to animals, including snakes reared in captivity. May I ask the Government how many people in the trade will be affected if a total ban is imposed on the consumption of wild animals? And what measures will the Government take to help them tide over that crisis?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, we have not estimated the number of people being affected. However, I will ask the AFCD and the FEHD to conduct a review to examine the extent of impact on the traders concerned if a ban is imposed on the import of wild animals for food purposes.

MR FRED LI (in Cantonese): *Madam President, during the meeting of the Panel on Food Safety and Environmental Hygiene yesterday, we did discuss this question and I hope that the Secretary can give an answer to it today. In regard to the definitions of "game" and "wild animals", we feel a little puzzled. In the main reply, the Secretary just now mentioned a tens of thousands of snakes and a hundreds of thousands of turtles. We know that many of these kinds of animals are actually reared in farms and are definitely not wild animals. However, when they are imported, they are called "wild animals" or "game". Should the Government conduct a comprehensive review of this regard now, as a lot of the so-called "game" and "wild animals" may not belong to this category anymore? Will the Secretary conduct a comprehensive review of the legislation on the import of wild animals so as to render the legislation more modernized?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, different laws will lay down different definitions, and not every law relating to wild animals will lay down a definition on "wild animals".

Therefore, we also think that it is necessary to review the legislation to determine whether adjustments have to be made to perfect them. If there is any deficiency in the monitoring work, further action has to be taken.

MR FRED LI (in Cantonese): *Madam President, the Secretary has not answered part of my supplementary question. Will the Government review the definition of "wild animals"?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, we will discuss again whether it is necessary to lay down a definition on "wild animals". As Mr Fred LI said, a lot of animals which used to be called wild animals are now being reared. Do these definitions serve any function? I believe they serve a function in terms of public health. It is because, generally speaking, reared animals are easier to control. For example, it is easier to know whether reared animals will carry diseases that can be transmitted to human beings, whereas wild animals that are not reared are more difficult to control. Therefore, in the course of the review, we will study whether it is necessary to redefine the terms or how to define the terms, so as to perfect our control work.

DR LAW CHI-KWONG (in Cantonese): *Madam President, the content of part (c) of the main reply makes me feel worried, as the Secretary mentioned that he will closely keep in view the relevant findings and developments. However, I believe the Secretary must be aware that apart from the coronavirus which has caused SARS lately, there are many other viruses or germs that can be transmitted to human beings by animals. Will the Secretary consider taking an approach more suitable to the civilized society of Hong Kong, which is to decisively ban the import and consumption of all the animals that genuinely live in the wild?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, I believe when we conduct the review, we will look at this question from the health angle. We will, after considering public health, and whether general public health will be affected, decide whether it is necessary to ban the import of wild animals. Indeed, when we review the existing legislation,

we will discuss whether the import of wild animals will affect public hygiene. The AFCD will pay attention to whether any diseases are prevalent in the places of origin of wild animals, before it issues any licence for the import of these wild animals. Therefore, the existing legislation has already given us power to see whether the wild animals carry any diseases in the places of their origin. Of course, we know that general wild animals may carry diseases transmittable to human beings and livestock, and the risk does exist. But generally speaking, only vertebrates will carry diseases transmittable to human beings. The AFCD will exercise caution in handling the import of these animals, and check whether there are any diseases transmittable to human beings by animals in the places of their origin.

MS CYD HO (in Cantonese): *Madam President, what is more shocking is that in one year, Hong Kong has imported 3.8 million turtles and 2 million lizards. According to the population profile, each family should have 1.5 turtles and one lizard on average. Has the Government followed up the whereabouts of these animals after they have been imported into Hong Kong, that is, they have been re-exported to other places or kept in Hong Kong? Did they die naturally, escape or were dumped in the countryside? Or are they reproducing without control? This may give rise to many ecological changes or viral changes in the animal world. Has the Government done any follow-up work in this regard?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, I was also surprised on reading the figures. *(Laughter)* I have asked my colleagues and their reply was that generally speaking, apart from being imported for local sale, some of these animals will be re-exported. As far as I know, a lot of them will be re-exported to the Mainland. Currently, we do not have a mechanism to check how many animals will be re-exported. I will discuss with my colleagues again to see whether there can be any monitoring on the number of animals formally imported and the number of animals re-exported to the Mainland.

DR LO WING-LOK (in Cantonese): *Madam President, I believe the reason for Mr Michael MAK to raise this question is that he is worried that imported animals will pass diseases on to Hong Kong people. It is unfortunate that the*

main question is about wild animals, so I cannot follow up with a question on the situation of pets like cats and dogs. However, I know that one kind of wild animals is imported for medical purposes, and that is monkeys. May I ask the Secretary how the safe import of this kind of animals is ensured?

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, as I said earlier, any import of wild animals must obtain a licence from the AFCD. And the approval of the AFCD will depend on whether that kind of wild animals carry any disease transmittable to human beings in their place of origin. Besides, the authorities in charge of the hygiene of poultry and livestock in the place of origin have to provide a health certificate to certify that this kind of animals are healthy and do not carry any diseases transmittable to human beings. Therefore, such a mechanism already exists at the present moment.

PRESIDENT (in Cantonese): We have already spent more than 16 minutes on this question. One last supplementary question.

MR MICHAEL MAK (in Cantonese): *Madam President, I hope that the Secretary can at least monitor the health of certain people. Now that there are numerous wild animals being imported, and I do not know the actual number of people working in the trade. Has the Government ever monitor the health of those people working in the shops selling wild animals and in the farms? So far we know that masked palm civets may be the kind of animals causing the outbreak of SARS. May I ask the Secretary whether the Government has monitored this situation?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, the FEHD will monitor the health of wild animals imported for food purposes through the traders, while the AFCD will also monitor the health of wild animals imported as pets.

PRESIDENT (in Cantonese): Oral question time ends here.

WRITTEN ANSWERS TO QUESTIONS**Incidence Rates of SARS Among People with Smoking and Drinking Habits**

7. **MR LAU WONG-FAT** (in Chinese): *Madam President, will the Government inform this Council whether it has conducted a survey to find out, among the persons confirmed to have contracted Severe Acute Respiratory Syndrome (SARS) as at the 15th of this month, the respective numbers of those who have the habit of smoking or drinking, or both, and how the incidence rates of SARS among people with such habits compare with those without; if no survey has been conducted, whether it will conduct such a survey as soon as possible?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Chinese): Madam President, the Department of Health conducted a survey on the smoking status of SARS patients in mid-May 2003. Among the 1 088 patients who were aged 15 or above and responded to the survey, 210 (19.3%) were ever smokers. As regards smoking prevalence in the general population, surveys conducted by the Census and Statistics Department in 2000 showed that 18.2% of the general population aged 15 or above were ever smokers. However, these two sets of figures cannot be meaningfully compared because the population profiles were different. Among the 1 088 SARS patients mentioned above, 275 (25.3%) were health care workers who were known to have very low smoking prevalence. After excluding health care workers, 25.2% of SARS patients aged 15 or above were ever smokers.

Based on the same survey of SARS patients, the mortality rate of ever smokers was 20.0% but that for non-smokers was only 9.7%.

There is no epidemiological information on the risk of contracting SARS in alcoholics. As such, we have no plan to conduct a survey on the drinking habits of SARS patients.

Licences for Selling Meat

8. **DR YEUNG SUM** (in Chinese): *Madam President, currently, fresh provision shops have to apply for relevant licences for selling different types of*

meat and pay annual fees for each of such licences. However, the fee levels of licences for selling meat in the urban areas and in the New Territories are different. In this connection, will the Government inform this Council:

- (a) whether cost recovery is the criterion adopted for setting the fee levels of such licences; if so, why the fee levels of licences for selling meat in the urban areas and in the New Territories are different; if not, the authorities' criteria for setting the fee levels of such licences;*
- (b) when it will standardize the fee levels of licences for selling meat in the urban areas and in the New Territories; and*
- (c) whether it will streamline the classification of licences for selling meat, so that people engaging in the relevant trade can sell different types of meat under one single licence; if it will, when the streamlining will be implemented; if not, the reasons for that?*

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

- (a) In view of the subdued economy over the past few years, the Government has frozen the licence fees for fresh provision shops (FPSs) since they were last revised by the then Provisional Municipal Councils (PMCs). Cost recovery was one of the criteria adopted by the PMCs when setting the level of fees for FPS licences. Due to the difference in operating costs across regions and a unilateral 30% fee reduction made by the Provisional Urban Council in November 1998, the licence fees for FPSs in the New Territories are higher than those applicable to the urban area.
- (b) On 23 April 2003, the Chief Executive announced a package of measures to relieve the impact of the outbreak of Severe Acute Respiratory Syndrome (SARS) on various sectors. This included a six-month moratorium on government fee revision. It is our plan to work towards alignment of the FPS licence fees for the New

Territories and urban area upon expiry of this moratorium. We will take into account, *inter alia*, the overall economic conditions and the views of the relevant Legislative Council panel in drawing up a timetable for this alignment exercise.

- (c) FPS licensees are allowed to sell different types of meat including beef, mutton, pork, fish, poultry and reptiles under a single licence. The licence fee payable is proportional to the number of types of meat offered for sale, subject to a ceiling equivalent to four times the licence fee for selling a single meat item. We will consider streamlining the classification of the FPS licences in the context of the alignment exercise mentioned above.

Proposal to Construct Public Transport Interchange in Shum Shui Po

9. **MR IP KWOK-HIM** (in Chinese): *Madam President, according to the consultant's report on the feasibility of providing major bus interchanges in Sham Shui Po District presented to the Sham Shui Po District Council, there are as many as 54 bus routes passing through Cheung Sha Wan Road and Nathan Road and nearly half of them overlap one another in the southbound direction, thereby causing traffic congestion in that area. The consultant considers that the construction of public transport interchanges (PTIs) and the implementation of bus-bus interchange (BBI) scheme can alleviate the present congestion. In this connection, will the Government inform this Council:*

- (a) *whether it plans to rationalize the bus routes passing through Sham Shui Po District so as to reduce route-overlapping; if so, of the timing for implementation; if not, the reasons for that;*
- (b) *of the factors it takes into account in deciding whether a PTI should be constructed; and*
- (c) *whether it has considered constructing a PTI in Mei Foo; if it has, of the details of its considerations and the estimated timing for implementing the project; if not, the reasons for that?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Chinese): Madam President, the operation of franchised bus services is monitored closely by the Transport Department (TD) and there are ongoing efforts to rationalize bus services where appropriate to improve the efficiency of bus operation, reduce congestion and improve the environment.

Regarding bus services passing through Sham Shui Po District, the TD has developed proposals to rationalize two bus routes to reduce route-overlapping and consulted the relevant District Councils (DCs) earlier this year. In view of the objections from these DCs, the TD is considering modification of the proposals in conjunction with the concerned bus company for further consultation with the relevant DCs. In addition, the TD has also started DC consultation on proposals to divert another five bus routes away from Cheung Sha Wan Road to improve the traffic situation thereat. Subject to DC consultation, these rationalization measures are planned for implementation by end 2003.

In considering the provision of a PTI in a particular area, the TD takes into account all relevant factors including:

- (i) the need for terminal facilities for public transport services in the area taking into account the number of terminating routes in the area;
- (ii) passenger demand for interchange between different routes or modes in the area;
- (iii) availability of terminal facilities in adjacent areas and the availability of on-street facilities to cater for the interchange demand;
- (iv) availability of a suitable site and the relevant site constraints for the construction of a PTI;
- (v) impact on affected passengers and residents in the area;

- (vi) impact on traffic; and
- (vii) other relevant factors such as environmental considerations.

At present, a PTI comprising nine bus bays and three public light bus (PLB) bays is provided near the Mei Foo MTR Station. Passengers can interchange among MTR, bus and PLB services conveniently. Since the existing facilities at Mei Foo are adequate to meet demand, the TD has no plan to construct a new PTI at Mei Foo. In addition, bus passengers can make use of the two BBI schemes involving six bus routes in Sham Shui Po District at Mei Foo bus terminus, Castle Peak Road and Cheung Sha Wan Road. The TD will continue to examine the possibility of introducing more BBI schemes in Sham Shui Po District in conjunction with the bus companies and DCs concerned.

Illegal Immigrants Sentenced to Imprisonment

10. **MR LEE CHEUK-YAN** (in Chinese): *Madam President, will the Government inform this Council of:*

- (a) *the respective numbers of illegal immigrants and visitors to Hong Kong in breach of their conditions of stay who were sentenced to imprisonment by the Court in each of the past three years, broken down by gender, nationality and length of sentence; and*
- (b) *the respective numbers of inmates who were serving their sentences in prison for illegal immigration or breach of conditions of stay as at 31 March this year, broken down by gender and nationality, as well as their percentages in the total number of prison inmates as at that date?*

SECRETARY FOR SECURITY (in Chinese): Madam President,

- (a) In general, prisoners may be sentenced to imprisonment due to conviction of a single offence or multiple offences. The total

numbers of illegal immigrants who were convicted of "remaining in Hong Kong unlawfully" only or together with other offences and were sentenced to imprisonment in 2000, 2001 and 2002 were 1 652, 1 652 and 1 195 respectively. Among these prisoners, 1 233, 1 375 and 933 for the past three years respectively were convicted of such an offence as the only or principal offence (the offence for which the sentence length is the longest among all convicted offences) committed.

As regards legal entrants who were sentenced to imprisonment in 2000, 2001 and 2002, 4 651, 7 006 and 9 842 respectively were convicted of "breach of condition of stay" only or together with other offences. Among these prisoners, 3 657, 5 532 and 8 211 for the past three years respectively were convicted for such an offence as the only or principal offence committed.

Detailed breakdown by nationality, sex, and length of sentence for the past three years is set out in Annex 1.

- (b) As at 31 March 2003, 1 040 illegal immigrants were serving their prison sentence due to conviction of "remaining in Hong Kong unlawfully" only or together with other offences, representing 10% of the total number of sentenced prisoners. Among these prisoners 565 were convicted of such an offence as the only or principal offence committed, representing 5% of the total number of sentenced prisoners.

At the same time, 1 139 legal entrants into Hong Kong were serving their prison sentence due to conviction of "breach of condition of stay" only or together with other offences, representing 11% of the total number of sentenced prisoners. Among these prisoners 776 were convicted of such an offence as the only or principal offence committed, representing 7% of the total number of sentenced prisoners.

Detailed breakdown by nationality and sex is set out in Annex 2.

Annex 1

Admission of Sentenced Illegal Immigrants and Legal Entrants in 2000

<i>Nationality/Sex/ Sentence Length</i>	<i>Illegal Immigrants</i>		<i>Legal Entrants</i>	
	<i>Convicted of "Remaining in Hong Kong Unlawfully" as the only or principal offence</i>	<i>Convicted of "Remaining in Hong Kong Unlawfully" only or together with other offences</i>	<i>Convicted of "Breach of Condition of Stay" as the only or principal offence</i>	<i>Convicted of "Breach of Condition of Stay" only or together with other offences</i>
<i>Chinese (Mainland)</i>				
<i>Male</i>				
< three months	7	9	724	736
Three months - < one year	63	77	202	479
One year - < three years	587	692	1	128
Three years and over	13	160	0	1
Total	670	929	927	1 344
<i>Female</i>				
< three months	3	3	2 016	2 134
Three months - < one year	189	215	348	559
One year - < three years	193	246	0	51
Three years and over	0	0	0	0
Total	385	464	2 364	2 744
<i>Both Sexes</i>				
< three months	10	12	2 740	2 870
Three months - < one year	252	292	550	1 038
One year - < three years	780	938	1	179
Three years and over	13	160	0	1
Total	1 055	1 402	3 291	4 088
<i>Vietnamese</i>				
<i>Male</i>				
< three months	1	2	6	7
Three months - < one year	8	13	3	16
One year - < three years	150	209	0	16
Three years and over	0	5	0	0
Total	159	229	9	39
<i>Female</i>				
< three months	0	0	20	22
Three months - < one year	1	2	0	7
One year - < three years	11	21	1	3
Total	12	23	21	32
<i>Both Sexes</i>				
< three months	1	2	26	29
Three months - < one year	9	15	3	23
One year - < three years	161	230	1	19
Three years and over	0	5	0	0
Total	171	252	30	71

*Nationality/Sex/
Sentence Length*

Illegal Immigrants

Legal Entrants

*Convicted of
"Remaining in Hong
Kong Unlawfully" as
the only or principal
offence*

*Convicted of
"Remaining in Hong
Kong Unlawfully" only
or together with other
offences*

*Convicted of "Breach
of Condition of Stay" as
the only or principal
offence*

*Convicted of "Breach
of Condition of Stay"
only or together with
other offences*

Filipino

Male

< three months	0	0	10	10
Three months - < one year	0	0	7	10
One year - < three years	0	0	0	0
Three years and over	0	0	0	0
Total	0	0	17	20

Female

< three months	0	0	90	90
Three months - < one year	0	0	33	45
One year - < three years	0	0	0	2
Total	0	0	123	137

Both Sexes

< three months	0	0	100	100
Three months - < one year	0	0	40	55
One year - < three years	0	0	0	2
Three years and over	0	0	0	0
Total	0	0	140	157

Pakistani

Male

< three months	0	0	29	31
Three months - < one year	0	0	11	46
One year - < three years	3	3	0	12
Three years and over	0	0	0	0
Total	3	3	40	89

Female

Three months - < one year	0	0	0	0
Total	0	0	0	0

Both Sexes

< three months	0	0	29	31
Three months - < one year	0	0	11	46
One year - < three years	3	3	0	12
Three years and over	0	0	0	0
Total	3	3	40	89

Thai

Male

< three months	0	0	3	5
Three months - < one year	0	0	1	5
One year - < three years	0	0	0	0
Total	0	0	4	10

<i>Nationality/Sex/ Sentence Length</i>	<i>Illegal Immigrants</i>		<i>Legal Entrants</i>	
	<i>Convicted of "Remaining in Hong Kong Unlawfully" as the only or principal offence</i>	<i>Convicted of "Remaining in Hong Kong Unlawfully" only or together with other offences</i>	<i>Convicted of "Breach of Condition of Stay" as the only or principal offence</i>	<i>Convicted of "Breach of Condition of Stay" only or together with other offences</i>
<i>Female</i>				
< three months	0	0	69	88
Three months - < one year	0	0	9	11
One year - < three years	0	0	0	2
Total	0	0	78	101
<i>Both Sexes</i>				
< three months	0	0	72	93
Three months - < one year	0	0	10	16
One year - < three years	0	0	0	2
Total	0	0	82	111
<i>Sri Lankan</i>				
<i>Male</i>				
< three months	0	0	18	19
Three months - < one year	0	0	3	20
One year - < three years	0	0	0	2
Total	0	0	21	41
<i>Female</i>				
< three months	0	0	6	7
Three months - < one year	0	0	0	4
One year - < three years	0	0	0	0
Total	0	0	6	11
<i>Both Sexes</i>				
< three months	0	0	24	26
Three months - < one year	0	0	3	24
One year - < three years	0	0	0	2
Total	0	0	27	52
<i>Other Nations/Territories</i>				
<i>Male</i>				
< three months	0	0	20	22
Three months - < one year	2	2	4	24
One year - < three years	1	1	0	6
Three years and over	0	0	0	0
Total	3	3	24	52
<i>Female</i>				
< three months	0	0	21	28
Three months - < one year	1	1	2	3
One year - < three years	0	0	0	0
Three years and over	0	0	0	0
Total	1	1	23	31

<i>Nationality/Sex/ Sentence Length</i>	<i>Illegal Immigrants</i>		<i>Legal Entrants</i>	
	<i>Convicted of "Remaining in Hong Kong Unlawfully" as the only or principal offence</i>	<i>Convicted of "Remaining in Hong Kong Unlawfully" only or together with other offences</i>	<i>Convicted of "Breach of Condition of Stay" as the only or principal offence</i>	<i>Convicted of "Breach of Condition of Stay" only or together with other offences</i>
<i>Both Sexes</i>				
< three months	0	0	41	50
Three months - < one year	3	3	6	27
One year - < three years	1	1	0	6
Three years and over	0	0	0	0
Total	4	4	47	83
<i>Overall</i>				
<i>Male</i>				
< three months	8	11	810	830
Three months - < one year	73	92	231	600
One year - < three years	741	905	1	164
Three years and over	13	156	0	1
Total	835	1 164	1 042	1 595
<i>Female</i>				
< three months	3	3	2 222	2 369
Three months - < one year	191	218	392	629
One year - < three years	204	267	1	58
Three years and over	0	0	0	0
Total	398	488	2 615	3 056
<i>Both Sexes</i>				
< three months	11	14	3 032	3 199
Three months - < one year	264	310	623	1 229
One year - < three years	945	1 172	2	222
Three years and over	13	156	0	1
Total	1 233	1 652	3 657	4 651

Admission of Sentenced Illegal Immigrants and Legal Entrants in 2001

<i>Nationality/Sex/ Sentence Length</i>	<i>Illegal Immigrants</i>		<i>Legal Entrants</i>	
	<i>Convicted of "Remaining in Hong Kong Unlawfully" as the only or principal offence</i>	<i>Convicted of "Remaining in Hong Kong Unlawfully" only or together with other offences</i>	<i>Convicted of "Breach of Condition of Stay" as the only or principal offence</i>	<i>Convicted of "Breach of Condition of Stay" only or together with other offences</i>
<i>Chinese (Mainland)</i>				
<i>Male</i>				
< three months	8	12	635	644
Three months - < one year	49	52	163	382
One year - < three years	550	617	0	103
Three years and over	12	112	0	0
Total	619	793	798	1 129

<i>Nationality/Sex/ Sentence Length</i>	<i>Illegal Immigrants</i>		<i>Legal Entrants</i>	
	<i>Convicted of "Remaining in Hong Kong Unlawfully" as the only or principal offence</i>	<i>Convicted of "Remaining in Hong Kong Unlawfully" only or together with other offences</i>	<i>Convicted of "Breach of Condition of Stay" as the only or principal offence</i>	<i>Convicted of "Breach of Condition of Stay" only or together with other offences</i>
<i>Female</i>				
< three months	2	2	3 664	4 054
Three months - < one year	226	252	516	827
One year - < three years	423	465	1	78
Three years and over	0	0	0	0
Total	651	719	4 181	4 959
<i>Both Sexes</i>				
< three months	10	14	4 299	4 698
Three months - < one year	275	304	679	1 209
One year - < three years	973	1 082	1	181
Three years and over	12	112	0	0
Total	1 270	1 512	4 979	6 088
<i>Vietnamese</i>				
<i>Male</i>				
< three months	3	3	14	15
Three months - < one year	0	2	2	18
One year - < three years	84	111	0	10
Three years and over	0	4	0	0
Total	87	120	16	43
<i>Female</i>				
< three months	0	0	43	47
Three months - < one year	3	3	10	22
One year - < three years	11	13	0	3
Total	14	16	53	72
<i>Both Sexes</i>				
< three months	3	3	57	62
Three months - < one year	3	5	12	40
One year - < three years	95	124	0	13
Three years and over	0	4	0	0
Total	101	136	69	115
<i>Filipino</i>				
<i>Male</i>				
< three months	0	0	14	14
Three months - < one year	0	0	6	8
One year - < three years	0	0	0	2
Three years and over	0	0	0	0
Total	0	0	20	24
<i>Female</i>				
< three months	0	0	55	57
Three months - < one year	0	0	21	34
One year - < three years	0	0	0	6
Total	0	0	76	97

<i>Nationality/Sex/ Sentence Length</i>	<i>Illegal Immigrants</i>		<i>Legal Entrants</i>	
	<i>Convicted of "Remaining in Hong Kong Unlawfully" as the only or principal offence</i>	<i>Convicted of "Remaining in Hong Kong Unlawfully" only or together with other offences</i>	<i>Convicted of "Breach of Condition of Stay" as the only or principal offence</i>	<i>Convicted of "Breach of Condition of Stay" only or together with other offences</i>
<i>Both Sexes</i>				
< three months	0	0	69	71
Three months - < one year	0	0	27	42
One year - < three years	0	0	0	8
Three years and over	0	0	0	0
Total	0	0	96	121
<i>Pakistani</i>				
<i>Male</i>				
< three months	0	0	60	67
Three months - < one year	0	0	16	85
One year - < three years	0	0	1	19
Total	0	0	77	171
<i>Female</i>				
Three months - < one year	0	0	0	1
Total	0	0	0	1
<i>Both Sexes</i>				
< three months	0	0	60	67
Three months - < one year	0	0	16	86
One year - < three years	0	0	1	19
Total	0	0	77	172
<i>Thai</i>				
<i>Male</i>				
< three months	0	0	4	6
Three months - < one year	0	0	4	4
One year - < three years	0	0	0	1
Three years and over	0	0	0	0
Total	0	0	8	11
<i>Female</i>				
< three months	0	0	197	298
Three months - < one year	0	0	15	19
One year - < three years	0	0	0	3
Total	0	0	212	320
<i>Both Sexes</i>				
< three months	0	0	201	304
Three months - < one year	0	0	19	23
One year - < three years	0	0	0	4
Three years and over	0	0	0	0
Total	0	0	220	331

<i>Nationality/Sex/ Sentence Length</i>	<i>Illegal Immigrants</i>		<i>Legal Entrants</i>	
	<i>Convicted of "Remaining in Hong Kong Unlawfully" as the only or principal offence</i>	<i>Convicted of "Remaining in Hong Kong Unlawfully" only or together with other offences</i>	<i>Convicted of "Breach of Condition of Stay" as the only or principal offence</i>	<i>Convicted of "Breach of Condition of Stay" only or together with other offences</i>
<i>Sri Lankan</i>				
<i>Male</i>				
< three months	0	0	10	21
Three months - < one year	1	1	5	31
One year - < three years	0	0	0	3
Total	1	1	15	55
<i>Female</i>				
< three months	0	0	3	5
Three months - < one year	1	1	3	8
One year - < three years	0	0	0	1
Total	1	1	6	14
<i>Both Sexes</i>				
< three months	0	0	13	26
Three months - < one year	2	2	8	39
One year - < three years	0	0	0	4
Total	2	2	21	69
<i>Other Nations/Territories</i>				
<i>Male</i>				
< three months	0	0	25	30
Three months - < one year	1	1	12	22
One year - < three years	1	1	0	7
Three years and over	0	0	0	0
Total	2	2	37	59
<i>Female</i>				
< three months	0	0	30	36
Three months - < one year	0	0	3	15
One year - < three years	0	0	0	0
Three years and over	0	0	0	0
Total	0	0	33	51
<i>Both Sexes</i>				
< three months	0	0	55	66
Three months - < one year	1	1	15	37
One year - < three years	1	1	0	7
Three years and over	0	0	0	0
Total	2	2	70	110
<i>Overall</i>				
<i>Male</i>				
< three months	11	15	762	797
Three months - < one year	51	56	208	550
One year - < three years	635	729	1	145
Three years and over	12	116	0	0
Total	709	916	971	1 492

<i>Nationality/Sex/ Sentence Length</i>	<i>Illegal Immigrants</i>		<i>Legal Entrants</i>	
	<i>Convicted of "Remaining in Hong Kong Unlawfully" as the only or principal offence</i>	<i>Convicted of "Remaining in Hong Kong Unlawfully" only or together with other offences</i>	<i>Convicted of "Breach of Condition of Stay" as the only or principal offence</i>	<i>Convicted of "Breach of Condition of Stay" only or together with other offences</i>
<i>Female</i>				
< three months	2	2	3 992	4 497
Three months - < one year	230	256	568	926
One year - < three years	434	478	1	91
Three years and over	0	0	0	0
Total	666	736	4 561	5 514
<i>Both Sexes</i>				
< three months	13	17	4 754	5 294
Three months - < one year	281	312	776	1 476
One year - < three years	1 069	1 207	2	236
Three years and over	12	116	0	0
Total	1 375	1 652	5 532	7 006

Admission of Sentenced Illegal Immigrants and Legal Entrants in 2002

<i>Nationality/Sex/ Sentence Length</i>	<i>Illegal Immigrants</i>		<i>Legal Entrants</i>	
	<i>Convicted of "Remaining in Hong Kong Unlawfully" as the only or principal offence</i>	<i>Convicted of "Remaining in Hong Kong Unlawfully" only or together with other offences</i>	<i>Convicted of "Breach of Condition of Stay" as the only or principal offence</i>	<i>Convicted of "Breach of Condition of Stay" only or together with other offences</i>
<i>Chinese (Mainland)</i>				
<i>Male</i>				
< three months	4	7	527	550
Three months - < one year	37	45	291	519
One year - < three years	415	469	3	80
Three years and over	12	127	0	0
Total	468	648	821	1 149
<i>Female</i>				
< three months	3	3	5 935	6 571
Three months - < one year	167	175	829	1 224
One year - < three years	225	238	6	97
Three years and over	0	0	0	0
Total	395	416	6 770	7 892
<i>Both Sexes</i>				
< three months	7	10	6 462	7 121
Three months - < one year	204	220	1 120	1 743
One year - < three years	640	707	9	177
Three years and over	12	127	0	0
Total	863	1 064	7 591	9 041

<i>Nationality/Sex/ Sentence Length</i>	<i>Illegal Immigrants</i>		<i>Legal Entrants</i>	
	<i>Convicted of "Remaining in Hong Kong Unlawfully" as the only or principal offence</i>	<i>Convicted of "Remaining in Hong Kong Unlawfully" only or together with other offences</i>	<i>Convicted of "Breach of Condition of Stay" as the only or principal offence</i>	<i>Convicted of "Breach of Condition of Stay" only or together with other offences</i>
<i>Vietnamese</i>				
<i>Male</i>				
< three months	0	1	6	11
Three months - < one year	1	2	0	5
One year - < three years	54	97	0	7
Three years and over	0	10	0	0
Total	55	110	6	23
<i>Female</i>				
< three months	0	0	45	60
Three months - < one year	1	1	8	25
One year - < three years	10	11	1	7
Total	11	12	54	92
<i>Both Sexes</i>				
< three months	0	1	51	71
Three months - < one year	2	3	8	30
One year - < three years	54	97	0	7
Three years and over	10	21	1	7
Total	66	122	60	115
<i>Filipino</i>				
<i>Male</i>				
< three months	0	0	12	12
Three months - < one year	0	0	5	5
One year - < three years	0	0	1	1
Three years and over	0	0	1	1
Total	0	0	19	19
<i>Female</i>				
< three months	0	0	69	70
Three months - < one year	0	0	74	83
One year - < three years	0	0	2	8
Total	0	0	145	161
<i>Both Sexes</i>				
< three months	0	0	81	82
Three months - < one year	0	0	79	88
One year - < three years	0	0	3	9
Three years and over	0	0	1	1
Total	0	0	164	180
<i>Pakistani</i>				
<i>Male</i>				
< three months	0	0	42	43
Three months - < one year	0	1	17	37
One year - < three years	3	3	2	16
Three years and over	0	0	0	0
Total	3	4	61	96

<i>Nationality/Sex/ Sentence Length</i>	<i>Illegal Immigrants</i>		<i>Legal Entrants</i>	
	<i>Convicted of "Remaining in Hong Kong Unlawfully" as the only or principal offence</i>	<i>Convicted of "Remaining in Hong Kong Unlawfully" only or together with other offences</i>	<i>Convicted of "Breach of Condition of Stay" as the only or principal offence</i>	<i>Convicted of "Breach of Condition of Stay" only or together with other offences</i>
<i>Both Sexes</i>				
< three months	0	0	42	43
Three months - < one year	0	1	17	37
One year - < three years	3	3	2	16
Three years and over	0	0	0	0
Total	3	4	61	96
<i>Thai</i>				
<i>Male</i>				
< three months	0	0	0	2
Three months - < one year	0	0	1	1
One year - < three years	0	0	0	0
Total	0	0	1	3
<i>Female</i>				
< three months	0	0	196	211
Three months - < one year	0	0	11	14
One year - < three years	0	0	0	1
Three years and over	0	0	0	0
Total	0	0	207	226
<i>Both Sexes</i>				
< three months	0	0	196	213
Three months - < one year	0	0	12	15
One year - < three years	0	0	0	1
Three years and over	0	0	0	0
Total	0	0	208	229
<i>Sri Lankan</i>				
<i>Male</i>				
< three months	0	0	23	24
Three months - < one year	0	1	6	12
One year - < three years	0	0	0	1
Three years and over	0	0	0	0
Total	0	1	29	37
<i>Female</i>				
< three months	0	0	3	3
Three months - < one year	0	0	1	3
One year - < three years	0	0	1	3
Total	0	0	5	9
<i>Both Sexes</i>				
< three months	0	0	26	27
Three months - < one year	0	1	7	15
One year - < three years	0	0	1	4
Three years and over	0	0	0	0
Total	0	1	34	46

<i>Nationality/Sex/ Sentence Length</i>	<i>Illegal Immigrants</i>		<i>Legal Entrants</i>	
	<i>Convicted of "Remaining in Hong Kong Unlawfully" as the only or principal offence</i>	<i>Convicted of "Remaining in Hong Kong Unlawfully" only or together with other offences</i>	<i>Convicted of "Breach of Condition of Stay" as the only or principal offence</i>	<i>Convicted of "Breach of Condition of Stay" only or together with other offences</i>
<i>Other Nations/Territories</i>				
<i>Male</i>				
< three months	0	0	26	28
Three months - < one year	0	1	5	18
One year - < three years	0	0	0	11
Three years and over	0	2	0	0
Total	0	3	31	57
<i>Female</i>				
< three months	0	0	52	57
Three months - < one year	0	0	10	17
One year - < three years	1	1	0	1
Three years and over	0	0	0	0
Total	1	1	62	75
<i>Both Sexes</i>				
< three months	0	0	78	85
Three months - < one year	0	1	15	35
One year - < three years	1	1	0	12
Three years and over	0	2	0	0
Total	1	4	93	132
<i>Overall</i>				
<i>Male</i>				
< three months	4	8	636	670
Three months - < one year	38	50	325	597
One year - < three years	472	569	6	116
Three years and over	12	139	1	1
Total	526	766	968	1 384
<i>Female</i>				
< three months	3	3	6 300	6 972
Three months - < one year	168	176	933	1 366
One year - < three years	226	239	9	114
Three years and over	10	11	1	6
Total	407	429	7 243	8 455
<i>Both Sexes</i>				
< three months	7	11	6 936	7 642
Three months - < one year	206	226	1 258	1 963
One year - < three years	698	808	15	230
Three years and over	22	150	2	7
Total	933	1 195	8 211	9 842

Annex 2

No. of Sentenced Illegal Immigrants and Legal Entrants
(As at 31 March 2003)

Nationality	Sex	Illegal Immigrants		Legal Entrants	
		Convicted of "Remaining in Hong Kong Unlawfully" as the only or principal offence	Convicted of "Remaining in Hong Kong Unlawfully" only or together with other offences	Convicted of "Breach of Condition of Stay" as the only or principal offence	Convicted of "Breach of Condition of Stay" only or together with other offences
Chinese (Mainland)	Male	370 (3%)	784 (7%)	89 (1%)	213 (2%)
	Female	112 (1%)	116 (1%)	635 (6%)	817 (8%)
	Both sexes	482 (5%)	900 (8%)	724 (7%)	1 030 (10%)
Vietnamese	Male	68 (1%)	120 (1%)	2 (0%)	5 (0%)
	Female	10 (0%)	10 (0%)	7 (0%)	17 (0%)
	Both sexes	78 (1%)	130 (1%)	9 (0%)	22 (0%)
Pakistani	Male	2 (0%)	4 (0%)	6 (0%)	14 (0%)
	Female				
	Both sexes	2 (0%)	4 (0%)	6 (0%)	14 (0%)
Filipino	Male			3 (0%)	3 (0%)
	Female			15 (0%)	25 (0%)
	Both sexes			18 (0%)	28 (0%)
Indonesian	Male				
	Female			3 (0%)	6 (0%)
	Both sexes			3 (0%)	6 (0%)
Thai	Male			2 (0%)	3 (0%)
	Female			6 (0%)	13 (0%)
	Both sexes			8 (0%)	16 (0%)
Other Nations/ Territories	Male	3 (0%)	6 (0%)	6 (0%)	16 (0%)
	Female			2 (0%)	7 (0%)
	Both sexes	3 (0%)	6 (0%)	8 (0%)	23 (0%)
Overall	Male	443 (4%)	914 (9%)	108 (1%)	254 (2%)
	Female	122 (1%)	126 (1%)	668 (6%)	885 (8%)
	Both sexes	565 (5%)	1 040 (10%)	776 (7%)	1 139 (11%)

Note: Figures in brackets express the number of a particular category of prisoners as a percentage of all sentenced persons in custody. They may not add up to total due to rounding.

Illegal Capturing and Selling of Precious Marine Resources

11. **MR NG LEUNG-SING** (in Chinese): *Madam President, it has been reported that benthic corals and other precious benthos were recently suspected to have been captured illegally from the eastern waters of Hong Kong and transported to the Mainland for sale. In this connection, will the Government inform this Council:*

- (a) whether the benthic resources of the above waters have been captured illegally or damaged; if so, of the details;*
- (b) of the legislation or measures in place to protect such resources from being captured illegally;*
- (c) whether it has co-operated with the relevant authorities in the Mainland to combat the illegal capturing and selling of precious marine resources; if so, of the details and whether such co-operation will be strengthened; and*
- (d) of the ways to enhance public awareness of marine ecosystem conservation?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Chinese): Madam President,

- (a) According to diving surveys carried out by the Agriculture, Fisheries and Conservation Department (AFCD) earlier this month at the locations concerned, including the Tung Ping Chau Marine Park, Yan Chau Tong Marine Park and the coastal waters of Port Island, there were no signs of corals having been removed. The only irregularity spotted was a few corals in the shallow waters of Tung Ping Chau having been overturned. The AFCD believes that those corals might have been accidentally knocked over by boats during low tides. The diving surveyors have already reinstated the corals. The Department will continue to closely monitor the situation.

- (b) Marine parks are designated under the Marine Parks Ordinance for protecting the valuable marine resources, including important coral communities, within Hong Kong waters. We have so far designated three marine parks in the eastern waters of Hong Kong, viz. Yan Chau Tong Marine Park, Hoi Ha Wan Marine Park and Tung Ping Chau Marine Park. Except for fishing by *bona fide* fishermen holding valid permits issued by the AFCD, hunting or removing any animals or plants from marine parks is an offence under the Marine Parks Ordinance. Moreover, many coral species, including stony corals commonly found in Hong Kong waters, are endangered species listed under the Animals and Plants (Protection of Endangered Species) Ordinance. The import, export and possession of those species are subject to licensing controls under the Ordinance.

The AFCD carries out regular patrols and takes enforcement actions under the two Ordinances mentioned above. The Department has also sought the support of the diving community in protecting the marine environment by reporting to the AFCD or the Marine Police any illegal capture activities spotted in Hong Kong waters.

- (c) The AFCD maintains regular liaison with the Guangdong Provincial Bureau of Oceans and Fisheries (GBOF) to deter mainland fishermen from fishing or carrying out other illegal activities in the marine parks of Hong Kong. Under the established mechanism, the AFCD will report to the GBOF the personal particulars of the mainland fishermen caught for committing offences under the Marine Parks Ordinance. The GBOF will conduct investigations and take appropriate enforcement actions against those fishermen. This has proved to be an effective deterrent: the AFCD's record shows that mainland fishermen whose names have been reported to the GBOF are rarely found fishing in our marine parks again. The AFCD will also discuss with the mainland authorities about the recent reports on illegal capturing and selling of precious marine resources and ways to strengthen co-operation with them in tackling any such activities.
- (d) The AFCD organizes educational and publicity activities, including public lectures, seminars and exhibitions, from time to time to

enhance public understanding of the importance of protecting the marine environment of Hong Kong. Publicity materials, including leaflets and booklets, are also distributed to the public for this purpose. Moreover, the AFCD organizes an annual Reef Check to encourage public participation in monitoring the conditions of the corals in Hong Kong waters. The results of the Reef Check are published to raise public awareness and interest in marine conservation.

Control on Land-filling on Agricultural Lots

12. **MR TAM YIU-CHUNG** (in Chinese): *Madam President, it is learnt that some people have carried out land filling on agricultural lots without providing proper drainage facilities. As a result, serious flooding frequently occurs at the comparatively low-lying areas around these lots during heavy downpours, posing a threat to the property and life of the residents concerned. In this regard, will the Government inform this Council:*

- (a) *whether any mechanism is in place to control land filling on agricultural lots; if so, of the details; if not, the reasons for that;*
- (b) *whether it plans to tighten the control on this type of land filling; if so, of the details; and*
- (c) *of its plans to prevent the blockage of drains and other drainage facilities by the construction waste generated from such works?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Chinese):
Madam President, my reply to the three parts of the question is as follows:

- (a) Generally, land filling on agricultural lots does not constitute a breach of the land lease. The Government, therefore, cannot take lease enforcement action against the land owner concerned in respect of his land filling activity on his lot. However, if a clearly defined natural water-course or drain within the lot has been blocked by land filling, then the Government can take lease enforcement against the land owners concerned.

Under the Town Planning Ordinance (Cap. 131), filling of ponds and site formation works in conservation-related zones require planning permission from the Town Planning Board. Without approval, these activities would constitute unauthorized developments in such zones and the Government can take enforcement action under the Town Planning Ordinance.

Also, illegal dumping of soil and waste without the land owner's consent may result in prosecution action by the Environmental Protection Department under the Waste Disposal Ordinance (Cap. 354).

- (b) The Government considers the present monitoring system appropriate and does not have plan to further increase the control over land filling activities on private agricultural lots.
- (c) In order to prevent blockage of the public drainage system by construction waste and natural accumulation of debris, the Drainage Services Department (DSD) has devised a preventive maintenance programme to regularly inspect all drainage facilities and to carry out de-silting as necessary. The DSD also provides a 24-hour telephone hotline for the public to make complaints including blockage of the drainage system.

During serious flooding and emergency situation, the DSD will activate its Emergency and Storm Damage Organization and Emergency Control Centres. Dedicated teams, under the DSD's supervision, will clear emergency drainage blockages. To enhance public awareness of the importance of preventing blockage to the drainage system, the DSD runs TV announcements and distributes publicity pamphlets on these topics.

Notification Mechanism of Infectious Diseases Between Guangdong and Hong Kong

13. **MS CYD HO** (in Chinese): *Madam President, in reply to a question at the Council meeting on 26 February this year, the Secretary for Health, Welfare and Food pointed out that the health authorities in Hong Kong and Guangdong*

Province had already had a reciprocal notification mechanism. The notification mechanism therefore had already existed before the outbreak of atypical pneumonia in Hong Kong in March this year. In this connection, will the Government inform this Council:

- (a) of the types of information exchanged through this notification mechanism, and whether such information includes the names of diseases, transmission means, measures for infection prevention, the number of infected cases, and so on;*
- (b) of the mode of operation of the notification mechanism; in respect of the notification given in writing, the average time required for the health authorities which had been notified to receive the written notifications concerned; whether the notification given by way of telephone communication is confirmed in writing; if so, whether the Hong Kong health authorities are required to make written records of the relevant telephone communications and file such records before the written confirmation of such telephone communications has been received from the Guangdong health authorities; and provide the written confirmations and records of the telephone communications on infectious diseases between the health authorities in Hong Kong and Guangdong from November last year to May this year; and*
- (c) where the telephone communications do not have written confirmations or records, how people other than the officials engaged in the telephone communications can know the contents of the communications?*

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

- (a) There is an established mechanism between the Department of Health in Hong Kong and the Guangdong health authorities for the exchange of information on specific communicable diseases including cholera, viral hepatitis, malaria and HIV/AIDS to monitor the trend of diseases. Information to be exchanged includes the name of diseases, number of cases, number of deaths, age group and causative agents.

In April 2003, Hong Kong and Guangdong Province agreed to expand the notification mechanism by including Severe Acute Respiratory Syndrome (SARS) and other infectious diseases like influenza, dengue fever and tuberculosis. Moreover, in addition to the above-mentioned statistical data, the two sides also agreed to exchange information on clinical treatment, epidemiological investigation, and progress on pathological study relating to SARS.

- (b) Urgent exchange of information on communicable disease is often carried out over the telephone. The aim is to obtain preliminary information and to seek clarification on reports of communicable diseases for risk assessment and preventive action. Formal notifications, if required, are always in written form. Written notifications are sent via fax or e-mail to ensure rapidity of transmission. Meetings, visits and seminars are held where required to enhance collaboration in disease surveillance.
- (c) Officers who receive information under the notification system, irrespective of whether the information is provided in writing or by telephone, will bring to the attention of relevant subject officers for follow-up action as appropriate.

Education for Gifted Students

14. **MR FREDERICK FUNG** (in Chinese): *Madam President, the Fung Hon Chu Gifted Education Centre established by the Education Department ceased to enroll gifted students in early 2000. In this connection, will the Government inform this Council of:*

- (a) *the criteria for assessing gifted students; the number of children assessed to be gifted students in each of the past three years and its percentage in all children of school age in the territory?*
- (b) *the current policies and measures for understanding the educational and emotional needs of gifted students and for helping them in respect of such needs; the amount of money spent on implementing these policies and measures in each of the past three years; how these expenses compare to the expenses spent on gifted education in other territories?*

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

- (a) At present, the Education and Manpower Bureau does not provide specific service to assess a student's giftedness. The Psychological Services Section of the then Education Department adopted the standardized intelligence quotient (IQ) tests and made referrals of gifted students who were assessed to have IQ over 130 and concurrently also exhibited learning, behavioural or emotional problems to the Fung Hon Chu Gifted Education Centre where centre-based enrichment programmes were offered. In early 2000, there were about 1 300 primary and secondary students so referred, which was equivalent to about 0.14% of the student population. Currently, the education sector generally adopts a broad definition of giftedness, using multiple criteria. Therefore, with the introduction of the gifted education policy in Hong Kong, the aforementioned referral practice has ceased to operate since early 2000. The policy, which clearly lays down the school-based approach to nurturing gifted students, has abandoned the Psychological Services Section's unitary approach to assessing only the students' intellectual abilities, in favour of identification of multiple intelligence through multiple methods. Gifted students may demonstrate talents in different areas. For instance, some gifted students have high IQ scores, others may be gifted academically, or in leadership, art or sports. Thus, gifted students are best identified using multiple methods, such as student performance, behavioural checklists, teacher/parent/peer/self nomination, student portfolios, standardized tests, and so on.

The current gifted education policy adopts a three-tier implementation model. The first two levels encourage high ability and gifted students to be nurtured through school-based programmes, while the third level provides off-site support to exceptionally gifted students. Since schools select their own students at the first two levels, the Education and Manpower Bureau therefore does not have the exact number of these gifted students in Hong Kong. Meanwhile, the Fung Hon Chu Gifted Education Centre still provides enrichment programmes to the 1 100 gifted students formerly referred who are now still attending primary and

secondary schools. As for Level 3, the Education and Manpower Bureau has at present 2 050 Secondary Three to Secondary Six students nominated by schools in the "Support Measures for the Exceptionally Gifted Students Scheme", which is about 0.77% of the students in that age group. Due to resource constraint, the Scheme cannot allow students below Secondary Three to participate for the time being.

- (b) Based on the three-tier implementation model mentioned above, the support measures of the Education and Manpower Bureau in relation to the educational and affective needs of gifted students are as follows:

Levels 1 and 2: School-based development programmes

- providing support to schools through the "Cluster School Gifted Project" and the "Seed Project" in implementing school-based gifted programmes to promote gifted education
- organizing teacher training in gifted education
- providing teacher training packages for schools' reference
- developing web-based curriculum resources for schools' reference
- providing enrichment programmes to those gifted students with learning, behavioural and emotional problems at the Fung Hon Chu Gifted Education Centre.

The cost for running the above measures in the past three years was \$8,821,000 — excluding staff cost of the Fung Hon Chu Gifted Education Centre. Details are in Annex I.

Level 3: Offsite support measures

- providing enrichment programmes for exceptionally gifted students

- organizing training programmes for teachers and parents of exceptionally gifted students.

The cost for running the above measures in the past three years was \$3,159,000 — excluding staff cost of the Fung Hon Chu Gifted Education Centre. Details are in Annex II.

Moreover, schools can also use the Capacity Enhancement Grant to provide suitable programmes to cater for the educational and affective needs of their gifted students.

Since gifted education policies covering mode of financing, student population to be covered, enrichment programmes to be arranged, and so on, differ from one territory to the other, it is therefore difficult to compare the expenses on gifted education in Hong Kong with those of other territories.

Annex I

*Expenditure of the "School-based Gifted Programmes" (Levels 1 and 2)
from July 2000 to April 2003 (to the nearest thousand dollars)*

1	Expenditure on six Teacher Training Packages	\$132,000
2	Expenditure on Centre-based Enrichment Programmes	\$1,271,000
	Total:	\$1,403,000

*Expenditure of the Quality Education Fund Project on Developing the Potential of High Ability
Students for Hong Kong — Cluster School Gifted Project (Levels 1 and 2)
from October 2000 to February 2003 (to the nearest thousand dollars)*

1	Expenditure on Teacher Training Programmes	\$23,000
2	Expenditure on Enhancement Programmes for Students	\$132,000
3	Expenditure on Developing Resources Materials (Web construction and conversion)	\$180,000
4	Project Funds to Schools	\$540,000
5	Salary of Project contract staff, including professional staff	\$6,308,000
6	Other Expenses	\$235,000
	Total:	\$7,418,000

Annex II

*Expenditure of the "Support Measures for the Exceptionally Gifted Students Scheme" (Level 3)
from September 2001 to March 2003 (to the nearest thousand dollars)*

1	Expenditure on Teacher Professional Development Programmes	\$475,000
2	Expenditure on Enhancement Programmes for the Exceptionally Gifted Students and/or their Parents	\$2,619,000
3	Seminar/General Talks for the Exceptionally Gifted Students, their Teachers and Parents	\$24,000
4	Other Expenses	\$41,000
Total:		\$3,159,000

Handling of Water Seepage Problems in Private Residential Premises

15. **MR FRED LI** (in Chinese): *Madam President, at present, when occupants of private residential premises suspect that the water seepage problem at the ceilings of their premises has been caused by damaged pipes in the premises on the upper floors, they may request the Food and Environmental Hygiene Department (FEHD) to send its staff to conduct dye testing in those upper floor premises in order to identify the source of water seepage. However, as the staff concerned are often refused entry to the upper floor premises, and are thus unable to conduct such tests, the water seepage problem often drags on for years, and in the end the affected occupants can only resort to protracted and complicated civil proceedings. As the authority is launching a clean Hong Kong campaign at full blast, will the Government inform this Council whether:*

- (a) it has assessed the impact of pipe seepage and leakage in private residential premises on environmental hygiene; if it has, of the assessment results;*
- (b) it will introduce testing methods which are based on new technologies to enable easier and more precise identification of the source of water seepage; and*
- (c) it will devise a mechanism to facilitate expeditious and easy solutions to such problems?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Chinese):

Madam President, water seepage in the ceilings of private buildings is basically an issue of building management and maintenance. In general, the building owners should engage a professional to submit a report on the source of water seepage to facilitate resolution of the problem through negotiation with the party causing the ceiling water seepage.

As a precaution, the Government from time to time impresses on the public the importance of building management and maintenance. Owners are reminded of their responsibility to carry out regular maintenance of water pipes, drainage pipes and waterproof membranes to prevent water seepage. For cases involving public hygiene, building safety and wastage of water, the Government would exercise its statutory powers, including the power of entering the premises concerned for investigation, to handle the water seepage problem.

The replies to the three parts of the question are as follows:

- (a) Based on the government's experience of handling cases of water seepage complaints, water seepage problems (including pipe seepage and leakage) usually occur in older multi-storey buildings and involve individual units of adjacent floors. While water seepage may cause inconvenience to or create nuisance for individual residents, in the majority of cases it does not create serious environmental hygiene problems for the buildings.
- (b) To improve the methodology for identifying the source of water seepage, we have commissioned a consultancy study on the technologies for rapid detection of water seepage sources. The consultant will also formulate technical guidelines on the scope and types of investigation works on water seepage for the use of government departments and building professionals. The consultancy study commenced in late 2001 and the study report is now being drafted. We will consider the recommendations of the consultancy report and their feasibility carefully upon completion of the report.
- (c) As mentioned above, building owners should resolve the water seepage problem through negotiation with the parties causing the ceiling water seepage. If the seepage involves the common areas

of the building, owners may seek assistance from the owners' corporations or the building management companies. If the seepage causes environmental hygiene problems, wastage of water or structural safety problems, the Government already has an established mechanism for taking follow-up actions in light of the circumstances of the case. Under the existing mechanism, the FEHD may issue "Nuisance Notices" to require the parties concerned to rectify the hygiene problem caused by water seepage; the Buildings Department may require the parties concerned to repair defective drainage pipes; and the Water Supplies Department may require the parties concerned to repair defective fresh water pipes. The specific actions required have to be determined according to the nature of the case.

Allowing Single-Parent Families to Provide Home Foster Care

16. **MR ALBERT CHAN** (in Chinese): *Madam President, it is learnt that families selected by the Social Welfare Department (SWD) to provide home foster care must be families with both parents, while single-parent families are not allowed to provide the service. However, in many overseas countries, such as Canada and the United States, single-parent families may provide home foster care as well. In this connection, will the Government inform this Council whether:*

- (a) *the rule in Hong Kong disallowing single-parent families in providing home foster care is discriminatory against single-parent families; and*
- (b) *it will review the rule so that single-parent families may provide home foster care as well?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Chinese): Madam President, at present, there is no rule/regulation imposing any restrictions on single-parent families becoming foster families and providing foster care service. In conducting assessments on prospective foster homes, the SWD takes into account various factors, including the applicants' family relationship, financial condition, home environment, child care experience and

knowledge about foster care services, and so on, and makes an overall assessment on their suitability to be a foster family.

According to the SWD, there were 714 foster families registered in the home pool as at 14 June 2003. Among them, eight were single-parent families. Some of these single-parent families are currently providing a foster care service. Therefore, single-parent families can and do provide a foster care service as long as they are assessed to be suitable foster parents. There is no discrimination against single-parent families.

Open Source Software

17. **MR SIN CHUNG-KAI** (in Chinese): *Madam President, in response to my question at the Council meeting on 6 November last year, the Secretary for Commerce, Industry and Technology advised that the Government had formulated policies and issued guidelines to encourage and assist government departments in adopting open source software (OSS). This would also set an example for the private sector to follow so as to promote the adoption of OSS in Hong Kong. In this connection, will the Government inform this Council:*

- (a) *of the respective percentages of government departments and public organizations using OSS in the total numbers of such departments and organizations;*
- (b) *whether it has formulated the direction, long-term and short-term objectives and timetable for implementing the above policies; if so, of the details in implementing such direction, objectives and timetable in government departments and the private sector; and*
- (c) *whether it has assessed the effectiveness of the policies concerned; if so, of the criteria for and the results of the assessment?*

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

- (a) As at May 2003, there were 30 government bureaux and departments or about 40% of all government departments using OSS

in some of their systems. As regards public organizations, such information is not available.

- (b) It is the Government's established policy to adopt, as far as possible, software products of open standards. We will consider the function, security features, system compatibility, technical support and cost-effectiveness of different types of software including OSS, and decide which software product to use based on the principle of value for money. There is no preference for brand names or technology. To implement the above policy, the Information Technology Services Department (ITSD) has been promoting open source technology and OSS products among government departments through its Information Technology Solution Centre and other activities, and organizing tests on OSS products for departments.

As the Government's policy is to select software products based on the principle of value for money, we will not set a target on the number or percentage of OSS products to be used. However, the ITSD will take proactive action to facilitate suppliers to provide a full range of products including OSS to all government departments so that they can select those which suit them according to the existing procurement policy. For example, the ITSD is now assisting 10 government departments and bureaux to set up by July this year nearly 150 common work stations which will mainly use OSS.

As regards the promotion of OSS in the private sector, the Government will provide funding and other forms of support to projects that encourage the development of OSS and activities that promote adoption of OSS in the private sector. For example, the SME Development Fund has approved funding of \$890,000 for the setting up of a Linux Resource Centre in July this year to provide support services to small and medium enterprises in the adoption of OSS. Apart from co-organizing the Linux Business Adoption Campaign with the Hong Kong Productivity Council and the Hong Kong Linux Industry Association from July to November this year, the ITSD will provide support to the Linux World Conference & Expo — HK 2003 scheduled to be held in Hong Kong in November

this year. In addition, the IT Easy Link service co-organized by the Commerce, Industry and Technology Bureau, the ITSD and the Hong Kong Computer Society will be expanded starting from July this year to provide enquiry and face-to-face advisory services on information technology applications including OSS to businesses.

- (c) The number of computers within the Government installed with OSS has increased from about 130 in February 2002 to about 500 in May 2003. This reflects that government departments adopt an open position in the choice of software products and that the adoption of OSS has been increasing. As for the private sector, the Government will conduct a survey to gauge the use of OSS among private sector organizations and the difficulties facing them. The findings will help us formulate initiatives to further promote OSS in the private sector.

Claims Concerning Airport Authority and Contractors for Chek Lap Kok Airport Project

18. **MS EMILY LAU** (in Chinese): *Madam President, in reply to my question in April last year, the Administration advised that the Airport Authority (AA) was negotiating with the relevant contractors for the Chek Lap Kok airport project 10 claims involving four contracts. In this connection, will the executive authorities inform this Council whether they know if the negotiations have been concluded; if so, of the amount of settlement for each claim?*

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Chinese): Madam President, in our reply to the Honourable Emily LAU on 10 April 2002, we mentioned that there were still four airport related contracts involving 10 claims that were being resolved by the AA. The AA has since settled three contracts involving a total of four claims during the period between May and November 2002, at a combined settlement amount of \$28 million. These four claims related mainly to matters such as work site access, design and construction interface issues and minor additional works. As these claims involve sensitive commercial information and both parties are bound by a confidentiality clause, the AA cannot reveal the amount settled for each claim.

The AA is still negotiating with its contractor for the settlement of six claims under the remaining one contract. These six claims relate mainly to

variations to the scope of work. As negotiations are ongoing, the AA considers it undesirable to disclose the estimated contingent liability for these six claims.

Curbing of Cross-boundary Drug-trafficking Activities

19. **MR LAU KONG-WAH** (in Chinese): *Madam President, regarding the curbing of cross-border drug-trafficking activities, will the Government inform this Council:*

- (a) *of the quantities, broken down by type and origin, of drugs seized in each of the past three years;*
- (b) *of the new tricks used by drug dealers in conducting cross-border drug-trafficking activities;*
- (c) *of the difficulties encountered by law enforcement departments in combating such activities; and*
- (d) *whether concrete measures have been formulated to step up efforts to curb cross-border drug-trafficking activities?*

SECRETARY FOR SECURITY (in Chinese): Madam President,

- (a) Seizures of drugs made by the Hong Kong Police Force and the Customs and Excise Department in the past three years, broken down by drug types, are given below:

<i>Type of Drug</i>	<i>Drug Seizure (weights in kg unless otherwise stated)</i>		
	<i>2000</i>	<i>2001</i>	<i>2002</i>
Heroin	339.3	156.40	105.59
Herbal Cannabis	226.7	2 103.90	665.91
Cocaine	9.4	29.7	8.30
Ketamine	15.3 + 110 tablets	81.5 + 1 136 tablets	89.9 + 534 tablets
MDMA	378 621 tablets + 58.8 gm	170 243 tablets + 0.032 kg	48 840 tablets + 52.8 gm
Methamphetamine	87.60 + 7 879 tablets	63.10 + 49 208 tablets	71.56 + 34 440 tablets

Regarding the sources of drugs, heroin reaching Hong Kong invariably originates from the Golden Triangle and is conveyed here overland or through air or sea routes after processing. Herbal cannabis is mostly smuggled into Hong Kong from Cambodia directly by sea or through air routes via Thailand, while cocaine is brought into Hong Kong from countries in Europe and South America via air routes.

Methamphetamines (Ice) and ketamine are mainly smuggled into Hong Kong from the Mainland through the land boundary control points. MDMA (Ecstasy) is usually smuggled from Europe by air or from the Mainland through the land boundary control points.

- (b) Concealment in innocuous items such as boxes of tea or carton boxes for cigarettes and liquors, concealment in body cavities and use of secret compartment in cross-boundary vehicles remain the most common means employed by drug dealers in trafficking drugs across the border.

Drug dealers are diversifying their smuggling routes and using split-up (small and frequent) drug shipments to evade law enforcement actions. Recently, some drug traffickers were found to have changed the normal form of drugs before they were concealed in innocuous looking containers and trafficked across the border. For example, methamphetamine, which is normally in crystallized form, had been seized in liquid form.

- (c) Hong Kong is no longer a centre for organized drug transshipment and the vast majority of smuggled substances are destined for domestic consumption. Since November 2000, the United States Government removed Hong Kong from the list of "major drug transit centres" in recognition of the sustained efforts made by Hong Kong in preventing the territory from being used as a staging post for drug consignments.

Like other international trading and transport hubs, Hong Kong cannot be immune from the risk of drug-trafficking activities. In addition to new and sophisticated methods of drug trafficking, the increase in the traffic and passenger flow between the Mainland and

Hong Kong in recent years has also posed new challenges in combating drug-trafficking activities.

- (d) Hong Kong participates actively in international efforts relating to combating of illicit drug trafficking. The Narcotics Division of the Security Bureau takes part in United Nations Commission on Narcotics Drugs meetings as member of the People's Republic of China delegation to monitor global drug supply and demand trends, as well as to conduct exchanges with anti-drug policy makers around the world. The Police Force maintains close liaison with the Interpol which serves worldwide as the liaison channel for all law enforcement agencies. Through its membership in the World Customs Organization, the Customs and Excise Department has established co-operative networks with their overseas counterparts.

To strengthen bilateral co-operation to combat transnational crimes, including drug trafficking, Hong Kong has signed Mutual Legal Assistance in Criminal Matters Agreements with 14 countries. In addition, a number of agreements are currently under discussion. Hong Kong has also signed Surrender of Fugitive Offenders Agreements with 13 countries. To enhance bilateral co-operation, Hong Kong shares with overseas jurisdictions confiscated drug-trafficking proceeds. Such sharings had previously been carried out with Australia and the United States.

To effectively disrupt the trade in illicit drugs between the Mainland and Hong Kong, the Narcotics Division of the Security Bureau maintains close working ties with the Bureau of Narcotics Control of the Ministry of Public Security so as to align the anti-drug policy and strategy of both sides. Also, the Police Force and the Customs and Excise Department have established co-operative mechanisms with their mainland counterparts. The scope of co-operation includes exchange of information and intelligence, assistance in investigation, mounting of joint operations, as well as experience sharing seminars conducted from time to time. The Police Force has stepped up efforts with its counterparts in the Mainland to dismantle drug-trafficking syndicates and their supporting networks. In addition to Guangdong, the Police Force has also strengthened

liaison with anti-drug agencies in other provinces in the fields of exchange of intelligence, case investigations and training. On the part of the Customs and Excise Department, it has deployed high-tech equipment, such as container X-ray systems, and strengthened staff deployment at the land boundary control points to enhance the capability and efficiency in drug detection.

In November 2001, the Narcotics Division of the Security Bureau hosted the inaugural "Guangdong, Hong Kong and Macao Conference on Policy to Tackle Drug Abuse and Trafficking". To sustain the momentum generated, the Guangdong Narcotics Control Commission hosted the second tripartite conference in Zhongshan in February 2003. Those conferences have been successful in strengthening co-operation and communication among the three places in combating cross-boundary drug abuse and trafficking. It is planned that Macao will host the next conference in 2004. It is understood that both the Mainland and Macao will enhance anti-money laundering legislation and measures as a means to tackle cross-border drug trafficking.

General Health and Hygiene Knowledge

20. **DR RAYMOND HO** (in Chinese): *Madam President, regarding general health and hygiene knowledge among the public and students, will the Government inform this Council:*

- (a) *of the channels for enhancing the public's general health and hygiene knowledge before the local outbreak of atypical pneumonia in March this year, and the details of these channels;*
- (b) *whether health education is included as a subject in the primary school curriculum at all levels; if so, of the areas covered by the subject for each level; and*
- (c) *whether junior secondary students are required to study the health education subject under the current curriculum design, if not, of the ways to enhance their general knowledge of health and hygiene?*

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

- (a) All along, the Department of Health has been disseminating health information to the public via the mass media, including television, radio and the press; in the form of printed materials (for example, pamphlets and posters), audio and video tapes/CDs; on the Internet; through the 24-hour health education hotline; as well as health talks and health exhibitions held regularly at various locations throughout Hong Kong.
- (b) Developing a healthy lifestyle is one of the seven learning goals of the current curriculum reform. In this regard, elements of health education are included in the curriculum of different subjects at different levels. In primary schools, health education has been given a greater emphasis in the subjects of General Studies (GS) and Physical Education (PE) at all levels.
 - (i) One of the aims of the GS curriculum is to enable students to maintain healthy personal development to help them develop a healthy lifestyle. Through the study of GS, students can acquire some basic understanding of the physical, psychological and social aspects of health, possess a positive attitude towards their personal growth and development, and make informed decisions related to their health and safety. Core elements of "Health and Living" include: "Different Stages of Human Growth and Development", "Simple Personal and Environmental Hygiene Practices", "Nutrition and Balanced Diet to Personal Development", "Emotions and Ways to Express Them", "Major Causes and Prevention of Common Diseases", and so on.
 - (ii) PE is "to educate students through physical activities". It aims to develop students' physical competence and knowledge of movement and safety, and their ability to use these to perform in a wide range of activities associated with the development of an active and healthy lifestyle. The present PE curriculum has been transformed from being competitive and physical training-oriented to one that focuses on nurturing students with a positive, active and healthy lifestyle.

Elements relevant to health education in the PE curriculum include "Health Benefits of Physical Activities", "Identifying the Effects of Smoking and Alcohol Consumption on the Performance in Physical Activity and Health", "Observe Safety Precautions in Physical Activities", and so on.

- (c) At the junior secondary level, health education is part of the essential content for learning in the Personal, Social and Humanities Education Key Learning Area (PSHE KLA), and it includes topics like "A Healthy Lifestyle, "Health Problems of Local Teenagers", "Stress and its Management", and so on.

The PSHE KLA provides an open and flexible curriculum framework for schools to deliver the essential content for learning. For example, health education may be provided through related subjects in the PSHE KLA, school-based life skill lessons or class teacher's periods. The aim is to help students achieve general knowledge as well as understand the most current issues related to health and hygiene. In addition, students could acquire relevant knowledge and develop related attitude and habits, through various topics and elements in Science, Physical Education and Home Economics. Topics include: Healthy Body, Environmental Awareness, Fitness and Health, Exercise Physiology, Body Composition and Weight Control, Good Eating Habits, Nutritional Disorder, Health Responsibility, Personal Cleanliness, Care and Cleaning of Home Environment, and so on.

Apart from acquiring knowledge for developing a healthy lifestyle through the above studies, students will also benefit from moral and civic education which aims at developing their positive value and attitude. Ample opportunities are provided through moral and civic education, which emphasizes using students' daily experience as learning context in developing personal commitment and civic responsibility to personal and environmental hygiene. Value and concepts relating to health and hygiene are promoted through various life events grouped under topics such as, Personal Development and Healthy Living, Family Life, School Life, Social Life, Life at Work and Life in the Community. In addition, the Education and Manpower Bureau also collaborates with key players to conduct school health education programmes for students to

develop a healthy lifestyle. One example is "The Hong Kong Healthy School Award Scheme" which is jointly organized by The Chinese University of Hong Kong, the World Health Organization, and the Education and Manpower Bureau.

BILLS

First Reading of Bills

PRESIDENT (in Cantonese): Bills: First Reading.

ELECTRONIC TRANSACTIONS (AMENDMENT) BILL 2003

IMPORT AND EXPORT (FACILITATION) BILL 2003

WASTE DISPOSAL (AMENDMENT) BILL 2003

COMPANIES (AMENDMENT) BILL 2003

CLERK (in Cantonese): Electronic Transactions (Amendment) Bill 2003
Import and Export (Facilitation) Bill 2003
Waste Disposal (Amendment) Bill 2003
Companies (Amendment) Bill 2003.

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

Second Reading of Bills

PRESIDENT (in Cantonese): Bills: Second Reading.

ELECTRONIC TRANSACTIONS (AMENDMENT) BILL 2003

SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY:
Madam President, I move the Second Reading of the Electronic Transactions (Amendment) Bill 2003 (the Bill).

The purpose of the Bill is to update and improve the Electronic Transactions Ordinance (the Ordinance) in order to facilitate the use of electronic transactions.

The Ordinance, enacted in January 2000, provides a clear legal framework for the conduct of e-business. It accords electronic records and digital signatures the same legal recognition as that of their paper-based counterparts. A voluntary recognition scheme for certification authorities has also been set up under the Ordinance to enhance public confidence in the use of digital signature in electronic transactions.

We have committed to the Legislative Council to review the Ordinance 18 months after its enactment to ensure that Hong Kong has the most up-to-date legislative framework for e-business. Accordingly, we started an internal review in 2001 and, in the light of operating experience, international e-business development and technological advancement, drew up a set of preliminary proposals for public consultation in early 2002. After careful consideration of the public comments received, we have formulated a set of proposed amendments to the Ordinance to improve and update it, as contained in the Bill. I would now like to briefly highlight the major proposed amendments.

First, to facilitate electronic transactions, we propose to adopt a technology-neutral approach in the use of electronic signature for satisfying signature requirement under law. Such an accommodating approach will enable the legislative framework and future development of e-business within it to keep better pace with technological advancement. We propose to amend the Ordinance such that, except for transactions involving government entities, a signature requirement under law can be met by any form of electronic signature if it is reliable and appropriate for the purpose and also agreed by the parties concerned. As for transactions involving government entities, we propose to maintain the *status quo* that only digital signature is accepted for practical reasons and for the sake of clarity and certainty to citizens and businesses. In the case of contract formation, we propose to clarify that, if the contract contains a signature, the contracting parties may use electronic signature.

Second, we seek to remove unnecessary legal impediments to electronic transactions and e-Government created by some legal provisions that contain references to or requirements of serving documents on the parties concerned by post or in person. These legal provisions were enacted at the time when electronic transactions were not prevalent, and there are now no justifications to

exclude the electronic means for serving the documents. We therefore propose to accept the service of these documents by electronic means in specified cases. The list of specified cases will be expanded over time through an ongoing process.

A third major amendment aims to streamline the operation of the voluntary recognition scheme for certification authorities under the Ordinance. At present, a certification authority has to engage an independent and qualified assessor to prepare an assessment report on its compliance with the Ordinance. We propose to simplify this procedure so that the requirement to engage an independent assessor will only apply to the assessment of a certification authority's operation relating to trustworthiness, while other operational aspects can be dealt with by a statutory declaration made by a responsible officer of the certification authority. We also propose to enhance the voluntary recognition scheme by empowering the Director of Information Technology Services to require a recognized certification authority to furnish an assessment report or a statutory declaration, or both, as appropriate, when there are major changes to its operation that could have a bearing on its suitability for continued recognition.

We believe that the proposed amendments in the Bill will facilitate the adoption of electronic transactions and help promote the wider use of e-business in the community.

Madam President, I commend the Bill to Honourable Members.

Thank you.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Electronic Transactions (Amendment) Bill 2003 be read the Second time.

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

IMPORT AND EXPORT (FACILITATION) BILL 2003

SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY:
Madam President, I move the Second Reading of the Import and Export (Facilitation) Bill 2003.

At present, a total of 31 categories of articles are subject to control on their import, export and transportation. Control is implemented by way of licences. Control is necessary for reasons of fulfilling our international obligations, protecting public health and safety, tackling smuggling, or safeguarding public revenue.

Over the years, the Government has implemented a number of facilitation arrangements for some categories of articles subject to licensing control. To further facilitate trade and reduce the cost of compliance to business, we have conducted a review of the existing licensing control for each category of article, and have concluded that the control on nine categories of articles should be simplified or removed.

We propose to remove entirely the licensing requirement for television sets, video cassette recorders and video cassette players, as well as air conditioners and refrigerators. We propose to remove the certification requirement for the export of poultry carcasses and poultry products. To facilitate transshipment, we propose to introduce a combined import and export licence for ozone depleting substances, and to reduce the number of licences required for the transshipment of left-hand drive vehicles, outboard engines exceeding 111.9 kw, and marine fish. For the transshipment of optical disc mastering and replication equipment, and radiocommunications transmitting apparatus, we propose to replace the existing licensing requirement by a notification system.

The Import and Export (Facilitation) Bill 2003 is an omnibus bill, amending three ordinances and seven regulations, to give effect to the proposed measures.

We have consulted the Commerce and Industry Panel of the Legislative Council, the Trade and Industry Advisory Board, the Small and Medium Enterprises Committee, the Business Advisory Group, the Advisory Council on the Environment, as well as over 50 relevant trade and transport associations and companies. They all welcome these proposed measures.

Madam President, I commend the Import and Export (Facilitation) Bill 2003 to Honourable Members for consideration. Thank you.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Import and Export (Facilitation) Bill 2003 be read the Second time.

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

WASTE DISPOSAL (AMENDMENT) BILL 2003

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): Madam President, I move the Second Reading of the Waste Disposal (Amendment) Bill 2003 (the Bill). The Bill mainly proposes to introduce legislative control on the management of clinical waste, so as to protect public health.

Clinical waste is potentially infectious and biohazardous and, if not properly handled, will pose serious health risks to the public and waste collectors. Therefore, we propose to implement a Clinical Waste Control Scheme to afford the public proper protection.

The Bill sets down the definition of clinical waste and establishes a licensing system to supervise the collection and disposal of clinical waste. Once the Bill is passed, we would submit a new regulation to list out in detail the requirements on the disposal of clinical waste. Furthermore, we would also issue Codes of Practice to provide detailed guidelines for waste producers and waste collectors on the segregation, packaging, labelling, collection, storage, transportation and disposal of clinical waste.

In addition to the implementation of the Clinical Waste Control Scheme, the Bill also controls the disposal of imported waste and enforces the international ban prohibiting the export of hazardous waste from developed countries, and that is, the "Basel Ban".

At present, the importation of non-hazardous waste for recycling purposes does not require a permit but it is possible that this exemption may be abused, thus resulting in such waste being ultimately disposed of at the landfills of Hong Kong. In order to plug this loophole, we propose to provide that all imported non-hazardous waste originally intended for recycling purposes could be disposed of in Hong Kong only with prior authorization from the Director of

Environmental Protection. Before the authority concerned would authorize those imported non-hazardous waste to be disposed of in Hong Kong, the applicant must prove that he has exhausted all possible recycling outlets and all means to return his waste to the place of origin, and the applicant is also required to pay the full disposed cost incurred.

As regards the "Basel Ban", we have been implementing the "Basel Ban" in Hong Kong by administrative means since 1998 to enforce the regulation on banning the import of hazardous waste from developed countries. The relevant arrangement is known to both local and overseas traders. This Bill incorporates in clear terms the "Basel Ban" into the Waste Disposal Ordinance. This would send a strong message to the international community regarding Hong Kong's commitment to enforce the Ban.

Madam President, the passage of the Bill will enhance protection of public health and also facilitate the effective management of the control of clinical waste, so as to provide the public with a safer and more healthy living environment. We hope Members will support this Bill so that its proposals can be implemented early.

Thank you, Madam President.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Waste Disposal (Amendment) Bill 2003 be read the Second time.

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

COMPANIES (AMENDMENT) BILL 2003

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY:
Madam President, I move that the Companies (Amendment) Bill 2003 (the Bill) be read the Second time.

The Bill seeks to improve the prospectus regime to facilitate market development, to enhance corporate governance standards by strengthening remedies for shareholders and aligning the definition of "subsidiary" for the

purpose of preparing group accounts with the International Accounting Standards (IASs), and to modernize the registration regime for overseas companies.

The first category of changes relates to the prospectus regime. They are the second phase of a three-phase exercise to overhaul the existing regulatory framework for offers of shares and debentures. The existing regulatory framework was introduced decades ago and amendments made over the years do not adequately accommodate offering structures and other market practices prevalent in developed markets today.

The prospectus-related proposals in the Bill are mainly in response to specific requests from market participants. They seek to simplify the procedures for the registration and issue of prospectuses, thereby fostering the development of retail bonds and other financial products. The Bill proposes to clarify what types of offers can be made without triggering the prospectus regime. The Bill also makes clear that subject to necessary investor protection safeguards, it is permissible for issuers to issue "awareness advertisements" to allow investors more time to arrange their financial and other affairs in anticipation of a public offer.

A dual prospectus structure, with appropriate safeguards on provision of information to investors, is proposed in the Bill to facilitate the conduct of programme offers. To provide a level playing field for companies incorporated locally and overseas, the Bill also seeks to remove the discrepancies in certain regulatory requirements applicable to offers made by such companies.

Under the Bill, the existing exemption power of the Securities and Futures Commission (SFC) is to be expanded. We propose, for example, to increase the number of provisions in respect of which exemptions may be granted. We also propose to empower the SFC to update certain regulatory requirements by way of subsidiary legislation. This would ensure more timely response to market developments. The opportunity is also taken to amend the prospectus civil and criminal liabilities provisions under the Companies Ordinance (the Ordinance).

The proposals in the Bill seek to enhance the flexibility in administering the prospectus regime. They strike a balance between streamlining procedures and providing adequate protection for investors. They are essential to a market which demonstrates and supports ongoing innovation in terms of new offering structures, offering methods and financial products.

The second category of changes proposed in the Bill relates to corporate governance. In respect of shareholder remedies, the provisions seek to implement the relevant recommendations put forward by the Standing Committee on Company Law Reform under Phase I of its Corporate Governance Review. Introduction of these amendments into the Legislative Council is one of the targets set out in the Corporate Governance Action Plan promulgated in January 2003. The Bill provides for a statutory derivative action that may be taken on behalf of a company by a member of the company. In general, the member only needs to serve pre-action notice on the company before the commencement of the action. The Bill empowers the Court to grant orders as to the costs incurred by the member. Approval or ratification by the company of the conduct that is the subject matter of the action would not be a bar to the action. These provisions which serve to clarify the common law position would remove uncertainties and provide an effective mechanism by which shareholders can protect themselves.

The Bill also amends section 168A of the Ordinance to provide that the Court may award damages to the members of a company where it is found that their interests have been unfairly prejudiced, and to award such interest on the damages awarded as the Court thinks fit. Past members (and their personal representatives) are also allowed to take action under this section in so far as the conduct complained of took place while they were members of the company. The amendments also seek to empower the Court to make an order for the compensation of costs incurred by the members and past members undertaking the action; and to allow members of overseas companies, as well as companies incorporated in Hong Kong, to commence an action under that section.

To facilitate members of an overseas company or Hong Kong company to exercise their rights to obtain access to company records, the Bill empowers the Court to make an order allowing the member or his representative to obtain access to such records. The Court is also to be empowered to grant an injunction restraining any person from engaging in conduct which constitutes contravention of the Ordinance or a breach in fiduciary or other duties owed to a company. The Court may also order any person to do any act or thing.

Another category of the corporate governance related amendments relates to the consolidation of subsidiaries into group accounts. At present, section 124 of the Ordinance requires a company having subsidiaries to lay before the company in general meeting, accounts dealing with the state of affairs and the

profit and loss of the company itself and its subsidiaries. These accounts are known as group accounts. The definition of the term "subsidiary" in section 2(4) which applies to accounting and other provisions in the Ordinance is narrower than that adopted in the IASs. We consider it necessary to amend the statutory definition for the purpose of group accounts to make it more closely aligned with the IASs. This would ensure that under the law, the group accounts would better reflect the financial position of the company. The amendments are confined to the definition of "subsidiary" for the purpose of preparing group accounts. The definition of "subsidiary" in other contexts would not be affected. Furthermore, these proposals would have no effect on the provisions for loss set off under the Inland Revenue Ordinance, and would not affect the operation of the provisions of the Estate Duty Ordinance.

The Bill introduces new terms of "subsidiary undertaking", "parent company" and "parent undertaking". The "right to exercise a dominant influence over another undertaking" would be added to the existing tests of determining the existence of a parent/subsidiary relationship. "Right to exercise a dominant influence" is defined under the Bill as the right to give directions with respect to the operating and financial policies of that other undertaking with which the directors will be obliged to comply.

To cater for the evolving nature of accounting reporting requirements, the Bill introduces the "true and fair view override" provisions. If compliance with the requirements of the Ordinance does not result in a true and fair view of the state of affairs of the company or the group, the provisions would require the directors to depart from these requirements to the extent necessary to give a true and fair view. Additional information in order to present a true and fair view should be given in the accounts or in a statement annexed to the accounts. Particulars of any such departure, the reasons for it and its effect should be given in the accounts or statement.

We are aware that the proposed definition of "subsidiary" for the purpose of preparing group accounts might have an impact on the development of the financial market, for example, the asset securitisation industry. International practices and standards in this regard are evolving. In this connection, we would keep in view of international developments, in particular, in relation to the IASs closely. Where necessary and justified, refinements will be made to the Bill before its enactment to ensure that our market development and corporate governance needs are adequately catered for and that the disclosure regime is in line with international standards and practices.

The third category of changes seeks to improve the registration system for overseas companies, to streamline the incorporation procedures and to make other miscellaneous changes. For example, the existing term "oversea company" is proposed to be replaced by "non-Hong Kong company". The period where a non-Hong Kong company is required to have an authorized representative after it ceases to have a place of business in Hong Kong is proposed to be shortened from three years to one year. The Bill clarifies the circumstances under which the company is required to register charges on its properties in Hong Kong. It also provides for the use of specified forms for the filing of documents, and allows certification of copies of documents required to be delivered to the Registrar of Companies as true copies to be done in Hong Kong. The opportunity is taken to enhance the disclosure requirements for non-Hong Kong companies. For example, the Bill requires those companies which are obliged to publish accounts by the law in another jurisdiction or by a regulatory body to deliver annual returns together with their latest published accounts to the Registrar of Companies.

The Bill also facilitates electronic incorporation of a company and streamlines the incorporation procedure. The existing term "subscriber" is also proposed to be replaced by "founder member". In the interests of protection of personal data in public registers, the Bill sets out the purposes for which documents kept or maintained by the Registrar of Companies under the Ordinance may be made available for public inspection. The upper limit of 20 on the number of partners in a partnership, which is no longer appropriate, is proposed to be removed.

Madam President, the Bill will improve the Ordinance in a number of areas and will serve to make our company law more business-friendly. I hope that Members will support the Bill. Thank you.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Companies (Amendment) Bill 2003 be read the Second time.

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

Resumption of Second Reading Debate on Bill

PRESIDENT (in Cantonese): Bill. We shall now resume the Second Reading debate on the Evidence (Miscellaneous Amendments) Bill 2002.

EVIDENCE (MISCELLANEOUS AMENDMENTS) BILL 2002**Resumption of debate on Second Reading which was moved on 29 May 2002**

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

MISS MARGARET NG: Madam President, in my capacity as the Chairman of the Bills Committee on the Evidence (Miscellaneous Amendments) Bill 2002, I report the main deliberations of the Bills Committee on the Bill.

The Bill comprises two parts. I shall first focus on Part I of the Bill which seeks to implement the recommendations of the Report of the Law Reform Commission on Competence and Compellability of Spouses in Criminal Proceedings published in 1998.

At common law, a person is not competent to give evidence for or against his or her spouse, except in very limited circumstances, such as where the spouse is accused of inflicting violence on that person. Over the years, various statutory provisions have extended the exception, for example, where the spouse is charged with certain sexual offences. Under the present law, a person cannot be compelled to give evidence against his or her spouse under any circumstances.

The Bill proposes that the Criminal Procedure Ordinance be amended to the effect that the spouse of an accused shall be compellable to give evidence for the prosecution, and on behalf of a co-accused in the following circumstances:

- (a) where the offence charged involves an assault on, or an injury or threat of injury to, the husband or wife of the accused;

- (b) where the offence charged involves causing the death of, an assault on, or an injury or threat of injury to, a child of the family who was at the material time under the age of 16 years;
- (c) where the offence charged is a sexual offence alleged to have been committed in respect of a child of the family who was at the material time under the age of 16 years; or
- (d) where the offence charged consists of attempting or conspiring to commit, or of aiding, abetting, counselling, procuring or inciting the commission of, an offence falling within the categories of offences I have just mentioned.

Members have enquired why the age of "a child of the family" should be set at the age of under 16 years. According to the Administration, the Law Reform Commission did not deliberate on the issue in its report. However, it is considered that a child of the family under the age of 16 years may have difficulty in giving evidence in Court, especially when he or she is required to testify against a close member of the family.

Members of the Bills Committee have suggested that the scope of the compellable offences under the Bill, that is, the three categories of offences I have just mentioned, should also apply to a child of the family who is mentally incapacitated, regardless of his or her age. This protection should also be provided to a child of the family who is mentally incapacitated at the time of trial, but not at the time of the offence. The Administration has agreed to members' suggestions.

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

Members have expressed concern that once an accused or co-accused is charged with a compellable offence, the spouse may be compelled to give evidence for any offence that the accused or co-accused may be charged with, regardless of whether that other offence is a compellable offence. The Administration has agreed to amend the relevant provisions to make it clear that the spouse will not be compelled to give evidence for the prosecution or on behalf of a co-accused in respect of a non-compellable offence, in cases where

the accused or a co-accused is charged with both compellable and non-compellable offences.

Members have also pointed out that the wording of proposed section 57(4) of the Criminal Procedure Ordinance may give rise to a misunderstanding that spouses can still be compelled to give evidence if they are standing trial together for different offences. The Administration has agreed to introduce amendments to make it clear that where an accused and his/her spouse are standing trial together, neither spouse shall at the trial be competent to give evidence for the prosecution, or be compellable to give evidence for the prosecution or on behalf of a co-accused.

Under proposed section 57A of the Criminal Procedure Ordinance, the Court will have the discretion to excuse the spouse witness from testifying against the accused, taking into account factors such as the risk of harm to the spouse or to the relationship that might be caused by such testimony, and the broader interests of justice. The Bills Committee has noted that this provision was not a recommendation of the Law Reform Commission, but has been added to the Bill to address the concerns of those who did not support the recommendation of the Law Reform Commission concerning compellability on the ground that it would have an adverse impact on the institution of marriage.

A member has requested the Administration to clarify whether there is any restriction on when and how many times a spouse could apply to the Court for exemption from the obligation to give evidence. The Administration has explained that a spouse can apply to the Court for exemption at any time, including half-way through the examination. The Administration has agreed to move an amendment to insert "at any time" after the word "may" in the relevant provision.

(THE PRESIDENT resumed the Chair)

The Bills Committee has considered whether there should be a general rule of compellability, given that an accused may apply to the Court for exemption from obligation to give evidence under the Bill. Members agree with the view of the Administration that the question involves a balancing of interests in upholding the institution of marriage and in prosecuting and convicting offenders.

As recommended by the Law Reform Commission, a spouse of an accused should only be compellable to testify against the accused in certain exceptional circumstances, for example, where the family itself was threatened by the accused because of violence against the spouse or a child or sexual molestation of a child.

Madam President, I now turn to Part II of the Bill. Part II seeks to provide for the giving of evidence by way of a live television link in criminal proceedings.

The Administration has explained that allowing an overseas witness to give evidence from abroad through live television link to a Hong Kong Court would significantly reduce inconvenience to the witness and the travel costs associated with bringing him to Hong Kong to testify. It would also facilitate the Court in cross-examination and enable it to observe the demeanour of the witness.

Under proposed section 79I(1) of the Criminal Procedure Ordinance in the Bill, a Court may, on application of a party to any criminal proceedings, permit a person other than a defendant in the proceedings concerned, to give evidence to the Court by way of a live television link from a place outside Hong Kong. The Court shall not give permission unless it is satisfied with the three criteria specified in the section.

Members share the main concern of the Hong Kong Bar Association that the threshold for the Court to be satisfied under the section is too low. They are of the view that the Bill should contain an explicit requirement for the Judge to consider the interests of justice. They consider that permission by the Court the use of live television link should be the exception rather than the norm. The Bills Committee has requested the Administration to consider including other factors which the Court must be satisfied, such as the interests of justice, the interests of the defendant, the importance of the evidence to the case, and circumstances of the case. A member has also expressed serious concern about the rights of overseas witnesses giving evidence through live television link, and the circumstances in which the evidence is given, for example, whether the witness will be giving evidence under coercion.

The Administration has explained that the Court has a general discretion to decide whether an application for evidence to be given through live television link should be granted. Under the proposal, the place from which a witness

outside Hong Kong is giving evidence will be deemed to be part of the courtroom in Hong Kong. A witness giving evidence in the overseas location will enjoy the same privilege and will be subject to the same rules of procedure as a witness physically giving evidence in a Hong Kong courtroom. Hong Kong law relating to evidence, procedure, contempt of court and perjury would apply since the witness would be giving evidence in Hong Kong criminal proceedings and Hong Kong Court cannot apply overseas laws.

To address members' concerns, the Administration has proposed to add two additional criteria and to revise the formulation of proposed section 79I(2). Under the revised proposal, the Court shall not give permission if:

- (a) the person concerned is in Hong Kong;
- (b) the evidence can more conveniently be given in Hong Kong;
- (c) a live television link is not available and cannot reasonably be made available;
- (d) measures to ensure that the person will be giving evidence without coercion cannot be reasonably be taken; and
- (e) it is not in the interests of justice to do so.

Some members consider that the "place" from which overseas evidence may be given should be specifically defined in the Bill, and that the "place" should have the same "sanctity" as a courtroom in Hong Kong.

The Administration has explained that the prerequisites for the place outside Hong Kong from which the person is to give evidence must remain flexible. As a courtroom may not always be available, other proper venues such as hotel conference facilities or arbitration centre facilities may be used, depending in each case on the practice of the requested jurisdiction, the needs and the requirements of the witness, and the technological capabilities of any given room to transmit live television link evidence. The address of the location and the reason for choosing that location would be disclosed in the application to the Court. The Court and parties concerned will have ample opportunities to consider whether such location is proper and should be deemed to be part of the Hong Kong Court for giving evidence from overseas. To

address members' concern, the Administration has agreed that details of the attributes that the "place" will have to possess may be set out in the rules that are to be made by the Chief Justice.

Madam President, the Bills Committee supports the resumption of the Second Reading debate on the Bill.

May I also take this opportunity to record my personal thanks to the government team for their ready assistance and open-mindedness in addressing the concerns and considering the suggestions of the members. This is in a way a technical Bill but the changes introduced will bring changes to criminal trials, which will increase efficiencies in some cases, and makes certain types of evidence available in other cases. This is, therefore, an important Bill which will no doubt be monitored carefully by the legal profession and noted by the community.

Madam President, I support the Second Reading of the Bill.

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

(No Member indicated a wish to speak)

SECRETARY FOR JUSTICE: Madam President, as I explained when I introduced this Bill into this Council on 29 May last year, this Bill is in two Parts. Part I implements recommendations made by the Law Reform Commission, and relates to the extent to which a person can lawfully be called and be compelled to give evidence for or against his or her spouse in criminal proceedings. Part II of the Bill aims at enabling a witness outside Hong Kong to give evidence in criminal proceedings in Hong Kong by way of a live television link.

Since the introduction of the Bill, the Bills Committee, chaired by the Honourable Margaret NG, has thoroughly examined the clauses and the policies behind them. I am most grateful to the Chairman and members of the Bills Committee, namely the Honourable Audrey EU, Honourable Miriam LAU, Honourable Jasper TSANG, Honourable Cyd HO, Honourable James TO, Honourable Andrew WONG and Honourable CHAN Yuen-han for their hard work and helpful contributions.

Some changes to the Bill have been proposed and agreed. As a result, I will be moving a number of Committee stage amendments later this afternoon. I will now give a brief outline of the more important amendments.

As regards Part I, the proposed Committee stage amendments primarily relate to clause 4, which repeals and replaces section 57 of the Criminal Procedure Ordinance.

The proposed new section 57(3) of that Ordinance provides that a spouse of an accused shall be compellable to give evidence for the prosecution and on behalf of a co-accused if the offence charged is one specified under that subsection. Members of the Bills Committee expressed concern that once the accused or co-accused is charged with one of these specified offences, the spouse may be compelled to give evidence for any other offence with which the accused or co-accused may also be charged. A Committee stage amendment will be introduced to make it clear that a spouse can only be compellable to give evidence in respect of a specified offence.

At the suggestion of the Bills Committee, the amendment also extends the scope of the specified offences to cover certain offences involving a child of the family who was mentally incapacitated at the time of the offence, or is so incapacitated at the time of the trial.

Another Committee stage amendment relates to the proposed section 57(4), which provides that, where an accused is standing trial together with his or her spouse, neither spouse will be competent or compellable to testify against the other. This is to protect the fundamental rights of the co-accused. A new subsection 57(4A) will be introduced to make it clear that a spouse will not be subject to that principle if he or she is no longer liable to be convicted at the same trial.

The proposed section 57A gives the spouse of an accused the right to apply to the Court for exemption from giving evidence where the spouse is compellable to give evidence. This provision would serve to allay the concern about the sanctity of marriage, which may be compromised as a result of one spouse being compellable to testify against the other spouse. A Committee stage amendment will be moved to amend the proposed section 57A to ensure that a spouse can make an application for exemption at any time, including halfway through the examination.

Madam President, I now turn to amendments relating to Part II of the Bill.

Clause 16 of the Bill introduces, amongst others, a new section 79I to the Criminal Procedure Ordinance, which gives the Court the power to permit evidence to be given by live television link. To avoid the possible impression that the Court must give permission once the stipulated requirements are met, the provision is redrafted to make it clear that, whilst the Court has a general discretion to give permission, it shall not give the permission if any one of the circumstances exists. Two new circumstances are also added, as suggested by the Bills Committee, to ensure that giving evidence by live television link will not be permitted if measures to ensure that the person will give evidence without coercion cannot reasonably be taken, or if it is not in the interests of justice to permit such evidence.

Another amendment will be moved to facilitate the taking of evidence upon a request from abroad under the Mutual Legal Assistance in Criminal Matters Ordinance. Clause 19(2)(b) of the Bill will be amended to allow the magistrate to take evidence otherwise than on oath, which includes an "oath" which does not amount to an oath under Hong Kong law but is acceptable under the law of the requesting jurisdictions. Consequential amendments to clause 20, and new clauses 19A, 23 and 24 are necessitated by this proposal.

Madam President, with these remarks and subject to the Committee stage amendments proposed by the Administration, I commend the Bill to Honourable Members. Thank you.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the Evidence (Miscellaneous Amendments) 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): Evidence (Miscellaneous Amendments) Bill 2002.

Council went into Committee.

Committee Stage

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

EVIDENCE (MISCELLANEOUS AMENDMENTS) BILL 2002

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

CLERK (in Cantonese): Clauses 1, 2, 3, 5 to 11, 13, 14, 15, 17, 18 and 21.

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 4, 12, 16, 19 and 20.

SECRETARY FOR JUSTICE: Madam Chairman, I move that the amendments to clauses read out just now be read a Second time.

I explained the purposes of most of these amendments earlier this afternoon. In addition, firstly, the inclusion of the definition of "mentally incapacitated person" in subsection (10) of section 57 in clause 4 is to provide a reference point for applying that term; secondly, the drafting of the heading in Chinese in clause 12 is amended for the purpose of fine tuning; thirdly, the addition of subsection (2)(d) and (e) to the proposed section 79I in clause 16 is to ensure that the use of live television link will not be abused; fourthly, the addition of subsection (2A) to clause 19 is consequential to the addition of subparagraph (ia) to clause 19(2)(b), and finally, consequential to the addition of clause 19(2)(b)(ia), clause 20 is amended to provide that a person who gives a false unsworn statement under section 10 of the Mutual Legal Assistance in Criminal Matters Ordinance will commit an offence.

Madam Chairman, I beg to move.

Proposed amendments

Clause 4 (see Annex I)

Clause 12 (see Annex I)

Clause 16 (see Annex I)

Clause 19 (see Annex I)

Clause 20 (see Annex I)

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 Justice be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hand 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 4, 12, 16, 19 and 20 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): New heading before
new clause 10A

Magistrates Ordinance

New clause 10A

Procedure on hearing
appeal

New clause 19A	Regulations
New clause 22	Procedure on hearing appeal
New heading before new clause 23	Mutual Legal Assistance in Criminal Matters Regulation
New clause 23	Failure of witness to answer questions, etc.
New clause 24	Schedule amended.

SECRETARY FOR JUSTICE: Madam Chairman, I move that the new headings and new clauses read out just now, be read the Second time.

I have explained the purpose of the amendments to clause 19 of the Bill in my speech earlier this afternoon.

The addition of clauses 19A, 23 and 24 are consequential to the amendments to clause 19 of the Bill.

The new clauses 10A and 22 give a judge of the Court of First Instance hearing a magistracy appeal the same powers as the Court of Appeal concerning competence and compellability of spouses and the use of live television link in criminal proceedings.

Madam Chairman, I beg to move.

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the new headings and new clauses read out just now be added to the Bill.

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): New headings before new clauses 10A and 23, new clauses 10A, 19A, 22, 23 and 24.

SECRETARY FOR JUSTICE: Madam Chairman, I move that the new headings and new clauses read out just now be added to the Bill.

Proposed additions

New heading before new clause 10A (see Annex I)

New clause 10A (see Annex I)

New clause 19A (see Annex I)

New clause 22 (see Annex I)

New heading before new clause 23 (see Annex I)

New clause 23 (see Annex I)

New clause 24 (see Annex I)

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the new headings and new clauses read out just now be added to the Bill.

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

(Members raised their hands)

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

(No hands raised)

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

CHAIRMAN (in Cantonese): Council now resumes.

Council then resumed.

Third Reading of Bill

PRESIDENT (in Cantonese): Bill: Third Reading.

EVIDENCE (MISCELLANEOUS AMENDMENTS) BILL 2002

SECRETARY FOR JUSTICE: Madam President, the

Evidence (Miscellaneous Amendments) 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 Evidence (Miscellaneous Amendments) 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): Evidence (Miscellaneous Amendments) Bill 2002.

Resumption of Second Reading Debate on Bill

PRESIDENT (in Cantonese): We will resume the Second Reading debate on the Revenue Bill 2003.

REVENUE BILL 2003

Resumption of debate on Second Reading which was moved on 9 April 2003

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, as the Chairman of the Bills Committee on Revenue Bill 2003 (the Bills Committee), I wish to report on the work of the Bills Committee.

The Revenue Bill 2003 (the Bill) seeks to implement the revenue proposals in the 2003-04 Budget relating to First Registration Tax (FRT) of motor vehicles. These proposals include abolishing the existing exemption for three vehicle accessories (that is, air conditioners, audio equipment and anti-theft device) and warranties provided by vehicle distributors, adjusting the tax bandwidths and increasing the tax rates for private cars as well as switching to a marginal tax system.

The Bills Committee has examined the issues which may arise from the provisions in relation to the proposed abolition of exemptions. These issues include the practicality of requiring registered vehicle owners and registered distributors (where applicable) to declare to the Transport Department any accessories and warranties fitted or provided by any person within six months after first registration, the liability for making a false declaration or delivering such a declaration, and the question of double taxation in the event that the reinstallation of the three accessories within the prescribed six-month tax avoidance period is required.

According to the Administration, the declaration requirement is not new. The proposals in the Bill aim to strengthen the existing provisions to prevent avoidance of FRT through the purchase of accessories and warranties after first registration. The Administration nevertheless agrees with the Bills Committee that instead of the registered distributor, his authorized employees or agents should be held liable for making a false declaration or failing to deliver such a declaration. The Administration also agrees with members that the calculation of FRT should be on the difference between the old and newly fitted accessory instead of the value of the newly fitted accessory. No additional FRT will be levied if the value of the reinstalled vehicle accessories is lower than those being replaced. Committee stage amendments (CSAs) will be moved to these effects.

Much of the deliberation of the Bill was on the proposed increase in FRT rates. As the value of the formerly tax-exempted items constitutes a larger percentage of the total value of the vehicle for lower-priced private cars, the Bill proposes to widen the tax bandwidths for private cars from \$100,000 for the first three steps to \$150,000 for the first two steps and \$200,000 for the third step, and to decrease the effective rate for these cars to mitigate the impact of abolishing the exemption. In order to raise additional revenue, the Bill also proposes to increase the tax rates for more expensive private cars and make the tax more progressive through the introduction of a marginal tax system. The

proposed marginal rates are 35%, 75%, 105% and 150% for the four tax bands respectively. For motorcycles, the Bill proposes that the existing rates of 40% be maintained as abolition of the exemption will have less impact on them.

To ascertain the impact of the proposed increase in FRT rates, the Bills Committee has invited views from the trade. While the trade recognizes its obligation to share the tax burden to raise revenue so as to help resolve the budget deficits, they consider that the proposed new FRT rates are far beyond the market tolerance level and will inevitably deter new car purchase. The situation has been further aggravated by the substantial drop in car sales amid the economic downturn, coupled with the outbreak of the Severe Acute Respiratory Syndrome (SARS). To tide over the difficult time, the trade may have to resort to different means to cut cost, including laying off staff.

According to the Administration, the slow-down in car sales will only be a temporary phenomenon, and car sales should pick up after the initial psychological impact of the tax increase on consumers has faded. The most recent figures of registrations of private cars are 456 for the week beginning 26 May 2003, representing some 80% of the 2002-03 weekly average. Besides, no active vehicle distributor has commenced winding up. Members, however, do not consider that the figures could truly reflect the market situation. According to the trade, car distributors have been liquidating their existing stock of cars in April 2003 at original FRT rates while paying the Government new FRT rates. Dealers have been reducing stock levels and bank debt and have moved out older models at old retail prices, prior to launching new models at the new retail prices. On the other hand, consumers have taken this as their last opportunity to buy expensive cars, knowing that they will not be able to afford one in the future. It is therefore questionable whether the sale trend is sustainable. Instead of raising additional revenue, the proposed high FRT rates may result in a loss of revenue given the anticipated drop in sales volume.

Taking into account the predicament facing the trade, the Bills Committee urges the Administration to seriously consider the trade's counter-proposal of reducing the marginal rates for the four tax bands of private cars to 35%, 55%, 75% and 95% respectively. According to the Administration, the counter-proposal will only yield \$181 million additional revenue, which is significantly less than that of \$700 million under the Bill. Nevertheless, having regard to the effect of the outbreak of SARS on the economy in general and the trade in particular on the one hand, and the need for additional revenue to help resolve

the budget deficits on the other, the Administration agrees to revise the marginal rates for the four tax bands of private cars to 35%, 70%, 85% and 105%. The Administration is, however, not prepared to reduce motorcycle tax rates given that the impact of abolishing exemptions is significantly lower on motorcycles than on private cars.

The majority of members are disappointed that the Administration has ignored the predicament facing the trade. They caution that the closing down of vehicle distributors or accessories businesses as a result of a shrinkage in car sales volume is not conducive to the well-being of the economy as a whole. In this connection, members agree that the Bills Committee should move CSAs to reduce the marginal rates for the four tax bands of private cars to 35%, 55%, 75% and 95% respectively and for motorcycles to 35%.

Mrs Selina CHOW also indicated her intention to move CSAs in this respect. Madam President, that was the situation as of this morning. There was a dramatic change yesterday when the Secretary for Financial Services and the Treasury called to inform me that the Administration would put forward a new proposal. The Bills Committee held an emergency meeting this morning to consider the proposal which aims to reduce the marginal rates for the four tax bands of private cars to 35%, 65%, 85% and 100% respectively and for motorcycles to 37.5%.

While welcoming the proposed changes, members this morning urged the Administration, in particular, the Secretary to further reduce marginal tax rates for motorcycles to 35% to bring this in line with private cars. The Administration has subsequently agreed to members' request and will move a CSA to this effect. In view of the latest amendment, members agreed that the Bills Committee should withdraw its CSAs and I understand that Mrs Selina CHOW will also withdraw her CSAs.

Madam President, I would also like to record that this morning, when the Bills Committee was asking the Secretary to agree to reduce the marginal tax rates for motorcycles to 35%, we promised to give him a round of applause if he would agree to this at the Bills Committee. He was unfortunately unable to do so because he said he had to seek the consent of the Financial Secretary. After he did that, we are pleased with the fact that the outcome is satisfactory to everyone concerned. However, because of the Rules of Procedure, we cannot deliver the round of applause as promised. May I on behalf of the Bills

Committee verbally applaud both the Financial Secretary and Mr MA for having reached this very satisfactory compromise.

Madam President, with these words, I would recommend the resumption of the Second Reading debate on the Bill.

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

MRS SELINA CHOW (in Cantonese): Madam President, the present outcome in respect of the Revenue Bill 2003 fully reflects undeniably a situation we would like to see, and that is, cordial co-operation between the executive and the legislature. Despite the rather circuitous course that has been taken, it is a good thing that a consensus acceptable to all parties was ultimately reached.

Over the past couple of years, the Motor Traders Association of Hong Kong (MTA) represented by me has been calling on the Government to abolish the exemption. The MTA is of the view that this will on the one hand discourage tax evasion and avoidance, while on the other allows fair competition. Therefore, the Government's addition of a provision in the Bill to abolish the exemption is very much welcomed.

As for the increase in FRT, the MTA is of the view that this would have a certain degree of impact on the motor trade, but as it is aware of the financial stringency of the Government, it does not oppose to the proposed tax hike in principle. However, the MTA finds the four marginal tax rates initially proposed by the Government, that is, 35%, 75%, 105% and 150% to be unacceptable. It is of the view that such a huge increase would raise car prices to a level which is unacceptable to the market, impacting heavily on the vitality of the trade as a whole. Car sales are likely to head for a nosedive and the motor trade will decline, making layoffs and pay cuts inevitable. The MTA has made submissions to the Bills Committee to present their difficult situation and I have invited Secretary Frederick MA to meet with the MTA representatives so that their views can be heard in detail.

Representatives from the MTA made a counter-proposal of revising the marginal tax rates to 35%, 60%, 85% and 105%. However, I wish to stress that the proposal was made before the market was severely hit by SARS.

At the beginning of June, members of the Bills Committee received a letter from the MTA, reporting categorically that car sales for May had dropped 50% in terms of the number of cars sold and the amount involved. The MTA called on the Government to accept the tax rates of 35%, 55%, 75% and 95% as proposed by the Bills Committee.

The response made by the Government led to a continuation of the bargaining process. I found it most outrageous that the Government was misleading the public and Members with the tax regime proposed by the MTA before the outbreak of SARS.

The Government claimed that the MTA was only demanding to set the tax ceiling at 105% and therefore the request was accepted with some minor adjustments. For Members who have not joined the Bills Committee, the government argument seems to be reasonable and acceptable. But for the trade and members of the Bills Committee, the proposal made by the Government is to impose a heavy tax burden on cars belonging to the second and third tax bands and such cars in fact account for almost 90% of cars sold in Hong Kong. In other words, if the proposal is passed, it would affect the sales of cars of many brands in the medium tier of the market and it would be unfair and unfavourable to both dealers and consumers alike.

After hearing the explanations made by us, it seems that most Members now have reservations about the Government's proposal. Madam President, an amendment proposed by Ms Audrey EU, Chairman of the Bills Committee, would be most indicative of the majority view of the Bills Committee and more importantly, it represents a consensus reached by different trades and trade associations. Unfortunately, the Government insisted that tax revenue so generated would be too little and rejected it. This is most disappointing.

As things are now, Members may feel relieved as an acceptable option is finally found. It does not really matter if that has been the result of some last-minute compromise made, or that the request made has been acceded to, or that the Government is reluctant to see an undesirable precedent being made when an amendment proposed by a Member is carried. All in all, I am glad that with the efforts made by all parties and the understanding reached, as well as the co-operation of the Secretary and Members, the matter is finally settled. At least, a positive response is made to the wishes of members of the trade so that they can

now focus efforts on working for a better future. I would also like to thank Secretary Frederick MA for listening to the views expressed by Members in this Chamber today and for convincing the Financial Secretary to accede to the request made by Members to further reduce the FRT of motorcycles to 35%. I understand that the President would not allow me to give them a big hand here, therefore, I wish to do so silently for Secretary Frederick MA in a symbolic move to honour the pledge we made to him this morning. Thank you, Madam President.

MR HUI CHEUNG-CHING (in Cantonese): Madam President, on behalf of the Hong Kong Progressive Alliance I support the revised amendment as proposed by the Government.

The Bills Committee held a special meeting this morning at 8 am at the request of the Government. The Government agreed to revised the tax rates for private cars to 35%, 65%, 85% and 100% respectively and members of the Bills Committee gained the support of the trade for the above tax rates after consulting it. The Bills Committee also requested the Government to apply consistency by adjusting the tax rate for motorcycles to 35%. That the Government agreed eventually.

Since the Government has proposed this amendment which is agreed by the trade, we support this amendment by the Government.

Thank you.

MS MIRIAM LAU (in Cantonese): Madam President, this morning, I said that I would give the Secretary for Financial Services and the Treasury a round of applause if the Government could adjust downward the FRT of motorcycles to 35% along with the downward adjustment of FRT of private cars. I really hope that the Secretary will become the first accountability secretary who receives Members' applause. However, the Secretary declined our good intentions. Just now Ms Audrey EU also said that we are not allowed to applaud during Council meetings, therefore, I would do the same as Mrs Selina CHOW did, that is, silently applauding him from the bottom of my heart, because I welcome the fast response and efforts in readily accepting good advice of the Financial Secretary and the Secretary for Financial Services and the Treasury.

Originally, the Government's FRT increase was targeted at those people who were willing to pay and who could afford the increase, and car dealers were not the targets of the Government. However, the business of car dealers has been seriously affected due to the tax increase. In spite of this, the trade understood the difficult situation concerning the budget deficit confronting the Government, and supported the tax increase even though they were fully aware of the fact that the tax increase would make their business twice harder to run. They only hoped that the rate of increase would be mild enough to minimize the impact on them. However, the Government refused their good intentions once again. Originally, it intended to cling obstinately to its course in disregard of whether or not the trade could survive by adopting a higher marginal rate, in order to make as much revenue as possible.

The Budget proposed that the FRT marginal rates of the four tax bands be increased to 35%, 75%, 105% and 150%. Subsequently, having regard to the effect of the outbreak of the Severe Acute Respiratory Syndrome (SARS), the Administration proposed to revise the rates to 35%, 70%, 85% and 105%. The trade made a counter-proposal of reducing the rates to 35%, 55%, 75% and 95%. The trade estimated that the market could tolerate the rates proposed by the trade, which would mitigate the impact on the trade, otherwise, the tax increase would not only deal a blow to the car-purchase sentiment of the public, but also cause a drop in the revenue of the Government due to the tax increase.

Now the Government conceded a step further and adopted the medium between the trade's counter-proposal and the Government's amendment by making a new proposal of 35%, 65%, 85% and 100%. Since the trade hoped that the Bill could be passed as soon as possible in order to avoid unexpected complications and causing consumers to take a wait-and-see attitude, thus bringing uncertainties to the market, it therefore reluctantly accepted the Government's new proposal.

However, the fact that the Government has made further concession shows that its original smug calculation was actually a mistake. The Government thought that the impact of the tax increase would only cause temporary psychological impact on consumers as car-purchase sentiment would pick up after a while and the revenue would rise due to the tax hike. However, I used to point out that history had told us it would take several years before the market could absorb the drastic increase of FRT. Let us take the year 1982 as an example. Subsequent to the Government drastically increasing the tax rate of

private cars in that year, the number of registrations of private cars dropped significantly in the following two years, which only picked up to the 1982 level in the third year. However, today, I have a big, big question mark as to whether the market could be revitalized after three years. In fact, due to the economic doldrums in recent years, the spending sentiment of the people was weak and car sales volume had been declining gradually. It was already a misfortune to car dealers. But the SARS outbreak has added to their misfortunes. In April and May this year, sales of new cars dropped 50% to 70% comparing with the same period of last year.

Having regard to the effect of the SARS outbreak, the Government had made a concession by downward adjusting the proposed tax rate, but it was reluctant to make further reduction. The Government was of the opinion that sales had picked up to the normal level, which was the original situation. Some people considered that the Government was over optimistic in its forecast of car sales volume. However, I consider that the Government's forecast of car sales volume was blind and unrealistic. Merely looking at the car sales figures and saying that the sales had picked up could only be a false impression. In reality, due to the trade estimation of uncertainties in future, in order to avoid stock pile-up and a loss in capital, the trade had to swallow the tax difference, conduct sales promotion and cut the price to attract buyers. This gave the general public a false impression that the market had absorbed the negative impact of tax increase and it would not be a problem for the market to withstand a higher tax rate. However, if government officials pay a visit to car dealer's showrooms, they would realize the real market condition. In order to promote sales, car dealers had to bear part of the tax. Moreover, in view of the significant increase in tax rates, the trade would absorb part of, or even a large part of the tax. However, this type of sales promotion tactics could not last long.

Originally, targets of the tax increase were consumers, but car dealers are now forced to bear a large part of the tax, which would only distort the market. Consumers need not pay hundred percent of the tax when car dealers have to sacrifice their share of profit in order to make up for the tax. As car dealers have to sacrifice the profit, they have no alternative but to effect pay cuts or layoffs. Although the Government would receive FRT in full, it would possibly receive less profits tax and salaries tax. After all of these increases and reductions, the total revenue of the Government would possibly be reduced due to the increase in FRT.

Instead of doing the calculation in this way, the Government has kept on setting its eyes on FRT. The Government still believes that if car sales volume drops 15% in addition to the natural decline of 4%, the new proposal would yield \$352 million additional revenue. On the same assumption, Members' counter-proposal would only yield \$180 million additional revenue. Since the Government just compares its own assumption with the trade's counter-proposal, of course it would make people feel that the Government's proposal is more desirable. However, the law of supply and demand tells us that cheaper things would attract more buyers while expensive items would attract fewer buyers. Furthermore, the Government assumes the elasticity of demand for low-, medium- and high-priced cars is very low, so despite the rate of increase proposed by Members is lower, it would not boost the car-purchase demand of consumers. I question whether the Government's assumption is reasonable. It is because the elasticity of demand for high-priced cars is possibly very low, as the rich would not mind paying a hundred thousand dollars more in purchasing a car. However, the elasticity of demand for medium-priced cars is different. The middle-class people would be too grudging of paying an additional cost of \$20,000 or \$30,000 more, and they would be reluctant to spend so much money and would possibly give up the idea of purchasing a car. However, there is no need to argue about this issue anymore now, because it would lead us nowhere. In fact, today's outcome was almost decided this morning. The market would provide the answers to the questions raised by me just now. The Government should also keep an eye on the market changes.

As to motorcycles, the destitution is much the same as private cars. The target buyers of motorcycles are mostly the general public, who are quite sensitive about prices. If the Government were to increase the tax according to the original 40% tax rate, then a lot of people may have to give up the idea of purchasing a motorcycle to save shoe leather, and the Government will similarly suffer losses due to the tax increase. Now that the Government has reduced the tax rate from 40% to 35%, I believe it is the limit of market tolerance.

We have discussed a basket of figures, but what tax rate should be considered reasonable? I believe nobody could provide an accurate answer, and the final conclusion could emerge only over time. The Government insisted on its proposal because it tended to reap increased revenue, thus it proposed a higher tax rate. However, the trade had a preference for a lower tax rate, because they wished to sell more cars, thus they made the counter-proposal.

How should Members make the choice? The choice between the high and low tax rates is actually very easy. The majority of Members supported a tax rate lower than the rate originally proposed by the Government, because Members simply wished to have a tax rate favourable to the Government, public and the trade, which would mitigate the outcome of losses due to the tax increase and would help the Government to yield more tax income on the one hand; and on the other it would help reduce the price of private cars and motorcycles, with a view to restoring the spending sentiment of the public as far as car purchase was concerned. Furthermore, we were hoping that the impact on the motor trade would be minimized, so that small dealers could sell a few more cars and make contribution to the economy of Hong Kong. I really hope that the Government will raise the proposal of introducing a FRT at 35%, 65%, 85% and 100% for new cars, and 35% for motorcycles at the Committee stage in order to achieve the all-win situation mentioned by me.

With these remarks, Madam President, I support the motion, and I also support the newly-revised FRT proposal to be made at the Committee stage.

MR SIN CHUNG-KAI (in Cantonese): Madam President, first of all, I would like to mention one thing, that is, some of the tax increase items in the Budget proposed by the Government in the past few years involved policy changes. This time around, the proposal on motor vehicle FRT actually involved two elements.

Firstly, the Government has made a fundamental change in its policy of FRT. Now, the Government proposes to abolish the existing exemption for three vehicle accessories, including air conditioners, warranty and anti-theft devices, and at the same time, it is making a fundamental change to the tax regime as well.

In this respect, I have actually been reiterating in the past few years that I hope the Government will not incorporate policy changes into the Budget. To government officials, perhaps it would give them more convenience by doing the two things together. However, just as Ms Miriam LAU and Mrs Selina CHOW said earlier, the trade has been requesting a change of the tax regime for two years, thus it is not necessary for the Government to put all of these changes and the Budget in to effect concurrently.

This time around, it is only a rehearsal; it would be a zero-sum game even if it is implemented, that is, we could only achieve revenue neutral if it is put into effect. Nevertheless, the tax increase purpose could well be served if the Government changes the tax regime together with the implementation of the tax increase proposal, but it would be undesirable to do both things concurrently. The Government once tried this before, for example, the same happened last time when the Government adopted different ways to increase parking meter charges, that is, the change was effected together with the implementation of the Budget. Of course, perhaps government officials are holding a different view on such an approach, but it is something I could not quite agree with. I consider that these changes should not be incorporated into the Budget.

Secondly, I consider that the Government is dealing with this matter by trickery, while some people may call it flexibility. The Government had to wait until Monday after the President had made the ruling to allow Ms Audrey EU, Chairman of the Bills Committee and Mrs Selina CHOW to propose their amendments (I do not know whether I should say that it refused to be convinced until facing the grim reality or until it was at death's door) before it was willing to table a proposal of compromise. I could not help asking, "Could this not be done in a more unaffected and appropriate way?"

In the past few years, the President has been following a consistent way to deal with the rulings on tax increase matters. That is, we could see from the history that if the Government proposed a higher increase rate while Members proposed a lower increase rate, the President usually would make a ruling to allow Members to propose amendments. However, this time around, the Government only made the move until the last minute. When the ruling on the amendments of Ms Audrey EU and Mrs Selina CHOW was made, perhaps the Government knew that the Bills Committee might possibly pass Mrs CHOW's proposed amendments, it therefore hurriedly tabled the so-called alternative proposal (or proposal of compromise) on Tuesday. In fact, the Bills Committee had debated the matter thoroughly, thus the Government should have a clear idea of the different views of various Members. I think the Government should have tabled a proposal of consensus earlier, and it should have been able to do that. I fail to understand why the Government only did that until the last minute. That is not a good precedent. The approach adopted by the Government this time around made us feel as if we were shopping in the grocery market; the initial 40% increase was proposed, the trade made a counter-proposal of 32%, while

the Bills Committee proposed a 35% increase. This morning, the Government proposed a compromise of 37.5%, and subsequently the Financial Secretary's instruction was sought over the phone, and the final decision was 35%.

In fact, members of the Bills Committee had met with some motorcycle dealers of the trade and listened to their case — honestly speaking I have no intention to offend them — but they are just some small-scale traders. They appeared before the Bills Committee in jeans and complained about the hardship of their business, and we could only have the chance to learn about their circumstances by listening to their complaints. Frankly speaking, I did not consider ourselves their representatives when they were venting their grievances, for I felt that they were just common citizens who took the trouble to come before us to explain their situation. Upon listening to their issues, we expressed our concerns through the Bills Committee, therefore I hope the Government can take note of as many views as our colleagues have expressed.

With regard to the tax increase this time around, I have to split it in two parts. In the first part, the Government is doing two things, the first being changing the tax regime by introducing a progressive tax band mechanism, and the second being abolishing the exemption. In fact, the Motor Traders Association of Hong Kong (MTA) began to discuss this policy change with us one or two years ago, and at that time, the Democratic Party showed its support and told the MTA that, "There will be no problem on our side if the final outcome is revenue neutral in your talks with the Government". Therefore, there is no problem on our side with regard to the abolition of exemption from the policy perspective.

The second part involves not only a change in the tax regime, but also a tax increase in another respect. Basically, everybody has anticipated a tax increase, it is not a big problem at all, thus we feel that the so-called tax increase on consumer goods is acceptable. We are in favour of such a proposal, and the only question is the rate of adjustment. Certainly, if a certain rate of increase proposed by the Government would aggravate the unemployment rate of a certain trade or even cause businesses to close down, then I consider an alarm is being sounded. Just because of this reason, it involves the so-called judgement issue as to how big a margin is involved and whether the market can tolerate such an increase, and it also involves whether the Government should listen to views from all sides and to do some research.

This morning's proposal of compromise is actually very close to the amendment proposed by Mrs Selina CHOW, and for that reason, the Government in fact should have accepted the views of the trade, thus obviating the need to raise a proposal of compromise until this morning.

Lastly, Madam President, I only wish to say that the Government should listen to Members' opinions if it wants to introduce tax increases in future. Thank you, Madam President.

MR CHAN KAM-LAM (in Cantonese): Madam President, the Financial Secretary delivered the Budget on 5 March this year. Everybody knew then that this year's economic condition was quite poor, and we estimated that the budget deficit would be quite immense, which might be as high as \$60-odd billion. After the Severe Acute Respiratory Syndrome (SARS) outbreak, everybody could see that our economic growth has been adjusted downward constantly. It is estimated that the income from all sectors would drop significantly. In addition, the earnings of investment made by various sectors are not so satisfactory and for that reason, I personally estimate that the budget deficit would be as high as \$100 billion.

Honestly speaking, the fact that the Government wishes to increase revenue under such circumstances really gives little cause for criticism. Certainly, I believe nobody would welcome the proposal of a tax increase during the economic doldrums. Everybody, including any business or individual, does not wish to see a tax increase. It is because a tax increase will surely mean a heavier financial burden. But the question is, "How can we strike the right balance between the business environment of all trades and the premise of tax increase?" After the SARS outbreak, within just two short months, everybody could sense the drastic change of the economic condition, which has been deteriorating quickly. The commodities supplied by the motor trade are necessities as well as consumer goods. The rich want to change a new and beautiful car, and sometimes, the poor have to buy a car to save shoe leather as they have the need to go by car. How can we minimize the impact on the relevant industry while increasing the FRT? We should mull over the matter in detail.

In my opinion, the original tax rates and tax bands proposed by the Government would cause significant impact on the relevant trade, particularly

the final tax band which tops 150%, which is a big gap from the initial tax band. As a result, the proposed wide bandwidth has shocked the trade as well as the community at large. Moreover, the huge increase has caused psychological impact on car buyers as they may cancel or postpone their plan of car purchase, causing enormous impact on the motor trade.

In the past few weeks, thanks to the negotiations between Members and the Government, plus the efforts made by the trade, the Government has readily accepted good advice finally, due to the consideration that a drastic increase in tax rate would cause a significant drop in the income of car dealers and the revenue from that source would also be reduced. Although the Government originally estimated that it would gain \$700 million after the tax increase, after doing some calculations during this period, it was found that if the increase was too high, the number of car buyers and the revenue involved would be reduced accordingly. For that reason, adjusting downward the rate of tax increase would, on the other hand, boost the sales volume of cars, and at the same time, increase public revenue. This could be said that the Government has rectified the calculations. For that reason, I welcome the Government adjusting downward the relevant tax rate to a level generally acceptable to Members and the trade.

Had the Government gained a better understanding of market information before proposing the tax increase, perhaps it would not have proposed a tax rate as high as that, and that would not have provoked the resentment towards the Government. If the tax rate is set at a more reasonable level, I believe it would be easier for everyone to accept. Moreover, in the light of the huge budget deficit, most people will think that it is reasonable to pay a little more tax. If the Government can listen more to our opinions and try to understand the popular sentiments through studying and weighing the situation, perhaps it would get a better outcome.

For that reason, since the Government is proposing a new amendment today, we should render our support. I wish to mention the motorcycle trade in particular. Although no one could speak for that trade in this Council, the Bills Committee still considered that their interest should be taken care of, and eventually, the Government had accepted our opinion. In this respect, the financial implication on public revenue is insignificant, but the outcome this time around has at least shown that the Government cares about the relevant trade. This I consider a remarkable job done by the Government.

I hope that the Government can get a more in-depth understanding of popular sentiments and business conditions in future before it arrives at any decision of reviewing the tax regime or increasing taxes, thus the outcome would be more desirable. At the same time, I hope the Government can learn a lesson from this tax adjustment and make it good reference for the formulation of fiscal policies in future.

Thank you, Madam President.

MS EMILY LAU (in Cantonese): Madam President, I speak in opposition to the Revenue Bill 2003.

Madam President, in fact the Frontier had told the Government during the budget consultation period that we did accept some of the tax increase measures, especially those relating to the high-income group. As these people still managed to make a handsome income in spite of the current budget deficit condition, we considered that they should shoulder more responsibilities. However, after the SARS outbreak, all trades and businesses have languished in Hong Kong, with many of them not knowing when the business will bounce back. I have just discussed with the Government about that because not every trade can benefit from various SARS relief funds. Madam President, many people are in fact under this category, and I believe you are also aware of that. We are currently negotiating with the Government, because one may say that these people are hanging by a thread for debt collectors are after them, they can pay their employees nothing, and they are not eligible to apply for SARS relief funds. And they are not qualified to apply for other funds, too. Madam President, we do not know whether we are now talking about these few hundred businesses with small capital, and we have no idea how many people would lose their jobs. For that reason, under such circumstances, what we are opposing is the tax increase.

We feel that as society is facing such a difficult time, the Government will not gain much increased revenue even if it increases taxes, but it will send a poor message to the public. As many colleagues have just mentioned, the trade is indeed reluctant to see a tax increase. Ms Miriam LAU also spoke in great pain just now. She told us that she had been agonized on many occasions when this topic was brought up. It is possible that we have sent a not so clear message to the trade. When the tax increase proposal was raised at the very beginning, as

far as I can remember, it was early March this year, and the first person rose in opposition to that was Mr James TIEN. Actually, perhaps Mr TIEN was not aware of that in the Executive Council. I have raised the relevant question in this Council, but I could not get any better answer. Mr TIEN once opposed to that, but at that point, as the SARS issue was not so serious, everybody just thought that we should let it go and let the Government increase taxes as it wished, perhaps the increase was not that much. However, the gigantic shock waves of SARS struck one after another. For that reason, now we consider that no tax should be increased at this point. In fact, I have discussed this issue with Mr TIEN. However, Mr TIEN considered that the time had passed by, now that they support the tax increase proposal.

The trade could also see that if most of the Members support the tax increase proposal, then the trade would be forced to increase too. Actually, no matter the trade or the Secretary, they all yield to ballots. When the trade saw the attitude of Members, they knew that any objection would be pointless, since most political parties supported tax increase, they could only hope that it would be a small increase. With regard to the Secretary, he had been thinking that the President would not allow any amendment. If amendments were not allowed, then the proposal put forward by the Secretary would be passed unobstructed.

However, I found that the approach adopted by the Government this time around quite unpalatable. For one thing, the matter had been dragged on for so long; and for another, when the decision was made, Members were not the first to be informed as we only learnt the details from the press. When some Members inquired of the Secretary about the matter, the Secretary replied that it was true. Some Members consulted the trade with great concern and told the trade that the Government intended to introduce some measures which had something to do with them, but at that time, nobody know what exactly the proposal was since no detail of such proposal was provided in black and white. Although some people said that they have to applaud the Government for its move, we have never said that someone has to be whipped, we simply oppose to the approach this time around.

Anyway, this Council would let different views be expressed. Secretary Frederick MA should be very happy now, for although there is no applause, nobody says that anyone should be whipped. However, the Frontier does not agree with the Government's approach, and I do not consider that this time around the Government has heeded good advice, as it is only yielding to the

reality. If yielding to the reality could be considered as heeding good advice, then a lot of people should be considered conversant in heeding good advice. For that reason, at the present stage, the Frontier does not agree to the Bill. As to the next Bill, our stance is very much the same. Perhaps I should say that we do not support most of the provisions of that Bill.

Actually, given the present difficult time (some Members even said the deficit would be as high as \$100 billion, perhaps this is not an alarmist statement, because the circumstances are actually that miserable), there would be a sharp decline in revenue contributed by the business sector, and the Government has to introduce various measures to revitalize the economy. Among these measures, the Frontier supports some concrete measures; as long as they are not some hollow and insignificant measures, the Frontier would support them. Mr Joseph YAM once asked: How many hundred million dollars was enough? The Government may well intervene the market with more than \$100 billion, now the Government is just using 10% of that. The current situation is at a historic low, which is even worse than the case in 1998. For that reason, if public money is spent properly, I would render my support. But how many proper ways can we adopt to make proper use of the money? I do not think there are too many proper ways though. With regard to this viewpoint, I am in favour of small government. I do not think that a government should intervene in everything. However, if the unemployment rate is critically high, the Government should do something concrete, and I will support the efforts made by the Government. Under the current circumstances, what method could the Government adopt to improve the business environment? There is only one way, and that is, cutting tax.

For that reason, Madam President, I believe you have also noted that views in society are so diverse and confused that, not to mention a tax increase, some even support a drastic tax reduction, and I am becoming more and more inclined to this view. I think the Government could create an attractive environment only by adopting this approach, which would attract foreign investors to make investments in Hong Kong. Mr Joseph YAM gave us some information several weeks or two months ago. It was a popular concern about the news of the outflow of local financial assets. In 2002, the net capital outflow was \$194.2 billion, which was more than three times of the \$51.7 billion in 2001. What was the implication of the figure? The implication was that people were losing their confidence! If the people have no confidence, they

would move their money elsewhere. Money has legs, some people even said that they could move all of their money to some other places on earth by clicking a single button. Therefore, how can we restore people's confidence in Hong Kong? A tax cut is one of the answers.

Another way is to streamline procedures, to reduce those over-elaborate formalities and cut those complicated procedures, we call that red tape in English, because all of them would just make people feel that they are loaded with trivial details. For that reason, we have been urging in respect of the Companies (Amendment) Bill 2003, which would be resumed for Second Reading later on, that we should do something to make the market feel that the local environment is very friendly and we should attract foreigners to develop their businesses here in Hong Kong. I think that is something worthy for us to do.

Madam President, today's debate has nothing to do with these issues. But I just wish to point out that to increase the tax would not help to improve Hong Kong's condition. Ms Miriam LAU enumerated all the figures earlier, so there is no need for me to repeat them now. Just as the saying goes, a master of geomancy can fool you for eight or 10 years. The trade has stated that if the tax is increased, the relevant industry would shrink. Some of the turnover figures of the trade may have gone up slightly, but just as Ms Miriam LAU said earlier, they have to clear out the stock. Otherwise, what should they deal with the massive stockpile? This situation is called dead cat bounce by the relevant trade. I do not know how could a dead cat bounce back, anyway, they have to clear out the stock. However, what should they do after clearing out the stock?

Madam President, we will soon find that out, but we could only find out after the tax increase. I really hope that I have in fact made a mistake. However, I could see that there is a general slump in society, for many people are reluctant to make any spending. Many people are unemployed or they are just half employed. They may lose their jobs soon, and their salaries are descending to an extremely low level, even university graduates are paid \$4,000 monthly, not to mention they have to compete for the job. For that reason, I could see no ray of hope at all. Therefore, Madam President, we should keep an eye on the data in the next few months. Ms Miriam LAU also urged the Secretary to pay attention to the situation, but she did not say the last line: What should be done if anything undesirable is spotted? Can we amend the legislation immediately? I hope that everybody could make some efforts in that

respect, because in the letter addressed by the trade to this Council, they also urged the Government to make some efforts as far as possible. That is, the tax increase proposal may go ahead since it has been proposed now, but we should work together to revitalize the market.

With these remarks, I oppose the Bill.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): I now call upon the Secretary for Financial Services and the Treasury to reply.

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam President, I would like to thank Ms Audrey EU, Chairman of the Bills Committee, and members of the Bills Committee for their detailed and speedy scrutiny of the Revenue Bill 2003. I would also like to thank the President for giving me permission to move amendments to introduce the new rates for motor vehicle first registration tax (FRT). I spent an entire afternoon yesterday explaining to Honourable Members the new proposals made by the Government after listening to the valuable opinions expressed by Members and the trade. I am very grateful to members of the Bills Committee for their support this morning. I hope Honourable Members will also support the Bill today.

The Bill seeks to implement the proposals in this year's Budget relating to the adjustment to FRT of motor vehicles. These proposals include abolishing the existing exemption for FRT with respect to vehicle accessories and warranties provided by vehicle distributors, switching the tax system for private cars to a marginal system, adjusting tax rates, strengthening provisions against tax avoidance, and so on. For the purpose of revenue protection, the proposals in the Bill have been put into effect as from 2.30 pm on 5 March under the Public Revenue Protection (Revenue) Order 2003 (the Order) signed by the Chief Executive. The Order gave legal effect to the proposals in the Bill for a maximum period of four months, that is, till 4 July.

At present, tax-free accessories, including air conditioners, audio equipment and anti-theft devices, have become components of motor vehicles. Warranties provided by vehicle distributors are also generally covered by sales agreements for motor vehicles. The continued provision of exemptions for these accessories and warranties is not in line with actual circumstances and will easily get rise to tax avoidance problems. For this reason, the Government has proposed to abolish these exemptions to perfect the tax system and bring it more in line with the practices adopted by various countries. Both the trade and Honourable Members are in favour of this proposal.

As the value of the formerly tax-exempted items constitutes a larger percentage of the total value of lower-priced private cars, the Bill proposes to widen the tax bandwidths for private cars. The proposed four marginal tax bands are: first \$150,000, next \$150,000, next \$200,000 and above \$500,000. The Bill also proposes to lower the tax rate for lower-priced motor vehicles to mitigate the impact of the abolition of the relevant exemption. The trade and Honourable Members are generally in favour of this proposal.

To strengthen the existing provisions against tax avoidance, the Bill proposes to amend the period for requiring registered vehicle owners to report to the Transport Department (TD) any accessories and warranties which are fitted or provided from three months to six months after first registration. This proposal seeks to strengthen regulation to prevent tax avoidance through the purchase of vehicle accessories and warranties after first registration, and to provide suppliers of vehicle accessories and warranties with a more level playing field.

In the course of deliberations, some Members expressed the view that the provision in the original ordinance with respect to the requirement of the payment of tax for accessories after first registration might lead to double taxation. Having considered Members' views in detail, I have decided to move amendments later on.

In order to raise revenue, the Bill also proposes to increase the tax rate for more expensive private cars and make the tax regime more progressive. Furthermore, the Bill proposes to switch to the fairer marginal tax system.

The four new marginal rates originally proposed in the Budget for private cars are 35%, 75%, 105% and 150% respectively, with the effective tax rates

being 35%, 46%, 65% and 95% on average. They are to replace the old tax bands of less than \$100,000; between \$100,001 and \$200,000; between \$200,001 and \$300,000; and above \$300,000, as well as the global rates of 40%, 45%, 50% and 60%. The impacts produced by the original adjustments proposed in the Budget on the retail prices of the private cars falling in the four new tax bands are likely to be 9%, 11%, 11% and 29%. According to the original proposals of the Government, the tax rate for motorcycles shall remain unchanged at 40%. The tax rates for commercial motor vehicles will be slightly lowered to mitigate the impact brought about by the abolition of exemption for accessories and warranties.

It was considered by some Members and the trade during the discussion on the original proposals that the proposals would seriously impact on the motor vehicle and related trades, and lead to a decline in car sales, given the prevalent economic situation. The outbreak of the Severe Acute Respiratory Syndrome (SARS) further aggravated the situation when discussions about the budget proposals were nearing the end.

Having considered the overall situation and the views expressed by the trade and Honourable Members, the Government has decided to introduce amendments to its original proposal. Under its new proposal, the marginal tax rates for the four bands of private cars will be lowered from 35%, 75%, 105% and 150% to 35%, 65%, 85% and 100%. However, the originally proposed tax bands and abolition of exemption items will be retained. Under the revised government proposal, the effective tax rates for the four bands of private cars will become 35%, 43%, 57% and 74% on average, whereas the tax rate for motorcycles will be lowered to 35%. It is estimated that the tax increase this time will bring the Government an additional revenue of approximately \$350 million.

The Government has certainly taken into account the impact of SARS on the trade and the overall economy. We have also taken on board the valuable suggestions made by Honourable Members before making the adjustment in line with public aspiration. Nevertheless, I would like to cite some figures to let Honourable Members know what happened to car sales after the announcement of tax increases. A Member described this as a "dead cat bounce" situation. I can hardly refute this because this is just an assumption.

However, I would like to explain that 1 636 private cars applied for first registration in the week before the announcement of the Budget. The number is three times the average weekly figure recorded in 2002-03. During the week after the announcement of the Budget, only 59 cars were sold. However, the figure recorded during the week immediately before 26 May rose to 456. This means that car sales for the week rose to 80% of the average weekly figure for the year. If calculated in terms of month, the number of cars sold in the third month after the announcement of the Budget rose to 1 783, or 72% of the average monthly figure for 2002-03. This represents an obvious rise, when compared with 36% and 55% recorded respectively for the first and second month after the announcement of the Budget. Insofar as motorcycles are concerned, it has been statistically shown that 413 motorcycles were registered in the third month after the publication of the Budget. This figure is equivalent to 105% of the average monthly number of registrations in 2002-03, which is higher than 81% and 82% recorded respectively for the first and second month after the announcement of the Budget. The number of motorcycles registered in the week before 26 May even rose to 131% of the average weekly figure for 2002-03.

We certainly hope the motor trade can thrive even better after the passage of the Bill. This is the wish of the Government as well as the public. It is believed the new proposal can strike the most appropriate balance between the impact on the motor trade and the need to raise revenue from those who can afford it to help mitigate the budget deficit situation.

I have given the Bills Committee an introduction of the Government's new proposal and consulted members of the Bills Committee on it. Members of the Bills Committee are generally supportive of the proposal and relevant amendments. They have also urged the Government to move a motion with respect to the resumption of debate on the Second Reading of the Bill scheduled for this afternoon.

I will move the newly proposed amendments later.

With these remarks, I urge Honourable Members to support the Revenue Bill 2003. Thank you, Madam President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the Revenue Bill 2003 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)

Ms Emily LAU rose to claim a division.

PRESIDENT (in Cantonese): Ms Emily LAU has claimed a division. The division bell will ring for three minutes.

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

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

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

Ms Cyd HO and Ms Emily LAU voted against the motion.

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

THE PRESIDENT announced that there were 46 Members present, 43 were in favour of the motion and two 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 2003.

Council went into Committee.

Committee Stage

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

REVENUE BILL 2003

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Revenue Bill 2003.

CLERK (in Cantonese): Clauses 1, 3, 4, 5, 9, 12, 13 and 14.

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 2, 6, 7, 8 and 10.

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam Chairman, I move the amendments to the clauses read out just now.

Under clauses 6(d), 7(f) and 8 originally proposed, vehicle owners are required to declare to the Transport Department (TD) any accessories fitted within six months after first registration and make payment for the additional first registration tax (FRT). This measure seeks to prevent someone from fitting accessories after the payment of FRT for the purpose of avoiding tax.

Some Members hold the view that tax avoidance in some cases is not deliberate. For instance, a vehicle owner may be required by his insurance company to replace anti-theft devices. In this case, the vehicle owner should be required only to pay the difference of the old and newly-fitted devices even if the accessories or device purchased within six months after first registration is more expensive. Having referred to the opinions expressed by Honourable Members, we propose to make the following arrangement: the calculation of FRT for the new accessory fitted within six months after first registration for tax assessment should be on the difference between the value of the old and newly fitted accessory instead of on the value of the new accessory. No FRT will be levied in the event that the value of the new accessory is lower than the one being replaced. However, the difference in FRT will not be returned.

As it is not necessary for the value of each accessory to be declared for the purpose of first registration, we propose to require the relevant persons to submit supporting documents to the TD to facilitate the implementation of the arrangement in a fair manner. These documents should be able to prove that the relevance between the accessory being replaced and the declared vehicle, the value of the replaced accessory, the removal of the accessory, and so on. The TD is empowered to conduct evaluation on its own if it considers the declared values do not tally with the market values of the replaced and new accessories. This will help reduce abuses of the new deduction arrangement.

Owing to the relative complexity of enforcement of the proposed deduction, a review will be conducted a year later to examine, among other things, the occurrence of tax avoidance, if there are no objective standards for judging the value of the device.

Furthermore, we propose to amend clauses 2, 6, 10(a) and 10(a)(ii) to require that an employee or agent authorized by a registered distributor to make a declaration with respect to the first registration of a vehicle under section 4D(3) should be held legally liable should he (not the registered distributor) eventually fail to deliver the declaration. An authorized employee or agent making a false declaration will contravene offences under section 4I(1). All authorized employees and agents, as well as registered distributors, will be notified by the TD in writing of their legal liability subject to the passage of Committee stage amendments in this Council.

Madam Chairman, I urge Honourable Members to support the amendments. Thank you, Madam Chairman.

Proposed amendments

Clause 2 (see Annex II)

Clause 6 (see Annex II)

Clause 7 (see Annex II)

Clause 8 (see Annex II)

Clause 10 (see Annex II)

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 Financial Services and the Treasury 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 2, 6, 7, 8 and 10 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): Clause 11.

CHAIRMAN (in Cantonese): Members, two and a half hours before this meeting was due to start today, the Secretary for Financial Services and the Treasury sought, in writing, my permission to allow him to make, without sufficient notice, substantial changes to the amendment he had been originally prepared to move to clause 11 of the Bill.

Then, Ms Audrey EU, Chairman of the Bills Committee, and Mrs Selina CHOW also notified me their withdrawal of the amendments to clause 11 which they had been originally prepared to move.

Ms EU confirmed to me that the Bills Committee had supported the Secretary's request. The Chairman of the House Committee also confirmed to me in writing that members of the House Committee also supported the Bills Committee's decision.

The changes proposed by the Secretary are related only to certain tax rates contained in clause 11. I am aware that Members have fully understood the implications of these proposals, and are in the position to decide whether or not to support them.

Having considered all the circumstances and the various representations made to me, I have decided to grant the Secretary leave. Therefore, only the Secretary will propose revised amendments to clause 11 of the Bill.

I would like to remind government officials and Members that it is a solemn duty for the Legislative Council to discharge the function of enacting and amending laws. The purpose of stipulating a notice requirement for amendments to bills in the Rules of Procedure is to allow all sides sufficient time to consider the merits of the amendments, and to decide whether or not to support them. I hope that special circumstances such as this will only be rare in the future. In order to maintain the integrity and reliability of the rules and procedures of the Legislative Council and uphold the dignity of this Council, I will continue to examine critically whether or not to approve requests for waiver made to me by officials or Members in the future.

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): To start with, Madam Chairman, I would like to thank you, Madam President, again for giving us permission to move this amendment today. I would like to explain that we absolutely respect the procedures laid down by the Council. As pointed out by the President, the application was made by the Government in the light of Members' request that the resumption of the debate on the Second Reading of the Bill be moved today. In this connection, I would like to thank the President.

I move that items 1, 6, 7 and 8(b) in the Schedule under clause 11 be amended to give effect to the new proposal made by the Government with respect to the rates of FRT for motor vehicles.

Item 1 in the Schedule deals with FRT rates for private cars. The marginal FRT rates originally proposed were as follows: 35% for the first \$150,000, 75% for the next \$150,000, 105% the next \$200,000, and 150% for above \$500,000. Under the original proposal, the average effective rates for the four bands of private cars were 35%, 46%, 65% and 95% respectively.

Under the Government's new proposal, the marginal FRT rates for private cars will be lowered to 35%, 65%, 85% and 100%, whereas the proposed tax bands and the proposed abolition of exemption items will be retained. The effective rates will then be adjusted accordingly to 35%, 43%, 57% and 74% on average. Subsequent to the Government's new proposal, the average effective rates for private cars have been lowered considerably, compared with the original proposal. Assuming there is no change in the distributors' pricing strategy and the additional tax liability will be entirely transferred onto consumers, the retail prices for the four bands of private cars will rise 9%, 9%, 5% and 14% on average, lower than the increases in retail prices under the original proposal, that is, 9%, 11%, 11% and 29%.

The Government's new proposal has taken into account the impact of the outbreak of Severe Acute Respiratory Syndrome (SARS) on the trade.

It is anticipated that the Government's new proposal will bring the coffers an additional revenue of \$350 million annually. This figure has taken into account a possible reduction in the number of registrations of private cars because of a change in marketing strategy by car distributors.

Item 8(b) in the Schedule deals with the tax rates for van-type light goods vehicle not exceeding 1.9 tonnes. The Government has proposed to bring the FRT rates for van-type light goods vehicle not exceeding 1.9 tonnes in line with those for private cars in order to prevent tax avoidance.

Items 6 and 7 in the Schedule deal with the FRT rates for motorcycles and motor tricycles. The Government's newly proposed FRT rate is 35%, lower than the 40% as originally proposed.

Honourable Members, the Government has over the past couple of months listened attentively to the views expressed by the trade and members of the Bills Committee on the FRT system for motor vehicles and the FRT rates. It has also taken into account such factors as the fairness of the relevant proposals, the

overall economic environment and financial conditions, and carefully balanced the pros and cons of various proposals before presenting this final proposal to Members. The proposal should be acceptable to the community and be able to raise revenue suitably.

The motor trade has addressed a letter to the Bills Committee to express its support for the Government's new proposal. The majority of members of the Bills Committee support the proposal, too. Both Ms Audrey EU and Mrs Selina CHOW have decided to withdraw their amendments.

I would like to appeal to Honourable Members to support the amendments moved by the Government to the FRT rates. Thank you, Madam Chairman.

Proposed amendment

Clause 11 (see Annex II)

CHAIRMAN (in Cantonese): Ms Audrey EU, do you wish to speak?

MS AUDREY EU (in Cantonese): Madam Chairman, I agree and confirm that we have withdrawn the amendments.

CHAIRMAN (in Cantonese): Mrs Selina CHOW, do you wish to speak?

(Mrs Selina CHOW indicated that she did not wish to speak)

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

(No Member indicated a wish to speak)

CHAIRMAN (in Cantonese): Secretary for Financial Services and the Treasury, do you wish to reply?

(The Secretary for Financial Services and the Treasury indicated that he did not wish to reply)

CHAIRMAN (in Cantonese): I now put the question to you and that is: That the amendment moved by the Secretary for Financial Services and the Treasury 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): Clause 11 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.

REVENUE BILL 2003

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

Revenue Bill 2003

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 Revenue Bill 2003 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 Bill 2003.

Resumption of Second Reading Debate on Bill

PRESIDENT (in Cantonese): We will resume the Second Reading debate on the Revenue (No. 2) Bill 2003.

REVENUE (NO. 2) BILL 2003**Resumption of debate on Second Reading which was moved on 9 April 2003**

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

MR ERIC LI (in Cantonese): Madam President, in my capacity as Chairman of the Bills Committee on the Revenue (No. 2) Bill 2003 (the Bills Committee), I would like to table its Report and briefly report on the outcome of its major deliberations. The Bills Committee has held three meetings. Apart from holding discussions with the Administration, it also invited views from a wide range of sectors and met with groups from some industry groups.

The Revenue (No. 2) Bill 2003 (the Bill) seeks to implement the revenue proposals relating to salaries tax, profits tax and property tax announced in the 2003-04 Budget. As some of the proposed tax adjustments will be implemented in phases over two years and a salaries tax rebate has been proposed, some members consider that in order to balance the fiscal deficit, the Bill is by and large acceptable. However, some other members are of the view that it is inappropriate to introduce tax increases at this point of time when the economy is still in the doldrums, therefore they do not accept the Bill.

Concerning salaries tax, some members consider that by reverting the marginal salaries tax rates and bands to their levels before the concessions made in 1998-99, middle-class professionals will still bear the heaviest tax burden. The Bills Committee also examined in detail the Administration's proposal to remove the exemption for holiday warrants and passage. The Administration clarified to the Bills Committee that if an employer has incurred any cost for any holiday warrants or passage, the Inland Revenue Department will include the cost incurred by the employer in the employee's assessable income. However,

expenses for business trips are not regarded as employment income for the purpose of salaries tax assessment. If an employee goes on holiday at the same time when he makes a business trip, the Inland Revenue Department will determine whether the benefit should be taxed according to the main purpose of the trip. In response to the concern raised by the Bills Committee about some actual situations, the Administration undertook to issue a Departmental Interpretation and Practice Note to provide specific guidance on different circumstances after the passage of the Bill. Members also urged the Administration to enhance the guidelines issued to employers and human resources personnel to assist them in calculating employees' assessable income.

The Bills Committee also noted that in order to avoid the abuse of converting a holiday warrant or passage allowance provided by an employer into an air ticket or a package tour to avoid taxation, the Administration will move a Committee stage amendment to provide that all holiday warrants or passage paid by the employer will be subject to salaries tax assessment irrespective of whether they can be converted into cash.

The Bills Committee is also very concerned about how the taxable value of holiday warrants or passage is determined. The Administration said that it would be determined by referring to the cost incurred by the employer. Therefore, employees who benefit from free or discounted air tickets from their employer (as in the case of airline employees) will not be taxed on the benefit if their employer has not incurred any actual cost on the air tickets.

Another proposal concerning profits tax made in the Bill is to increase the deeming rate of assessable profits of the payments received by non-residents in the form of royalties or licence fees from 10% to 30%. Some of the groups that have expressed their views to members, including the film and music record industries and the three major television broadcasters in Hong Kong, are all of the view that the proposed amendment will increase their costs in purchasing rights from overseas companies and increase their operating costs, thus undermining the competitiveness of creative industries in Hong Kong. Some industry groups also stressed that the proposed increase in effective tax rate, which is more than three-fold, will send a very bad signal to overseas trading partners. A member also considered it unfair to target tax increases at particular industries and pointed out that local independent film distributors will be hit by the proposed increase.

In response, the Administration pointed out that even after the rate is raised, the effective rate will only increase from the present 1.6% to 5.25%, which still compares much lower than the effective rates in force in neighbouring jurisdictions. The Administration also explained to the Bills Committee that the proposed deeming rate of assessable profits at 30% of the royalty payment will only apply to royalties paid by local independent film distributors to foreign film companies. The royalty paid by the non-resident's associate in Hong Kong (for example, the Hong Kong subsidiary of a foreign film company) is already 100% subject to profits tax. In addition, the Bills Committee also sought clarification from the Administration on whether local film distributors may be subject to double taxation in connection with their purchase of the rights to distribute films in Hong Kong and in neighbouring territories. As regards the effective date, the Government confirmed that the new deeming rate of 30% will only apply to sums received by or accrued to the non-resident persons on or after 1 April 2003 and undertook to confirm this arrangement in writing with the Joint Liaison Committee on Taxation, the Association of Chartered Certified Accountants and other professional bodies.

The Bills Committee will not move any Committee stage amendment to the Bill, nor will it oppose to any amendment proposed by the Government. The Bills Committee also noted that Mr SIN Chung-kai will move amendments to clause 10 and 11 of the Bill.

I so submit, Madam President.

MR SIN CHUNG-KAI (in Cantonese): Madam President, in the Budget published by the Financial Secretary in March, a series of tax increases were proposed, but it is not until today that we can vote on them. We have dealt with the part relating to the increase in motor vehicle first registration tax earlier on. The Bill tabled before us today involves a number of tax items, to which the Democratic Party will give its support. These tax items include increases in the tax rates on royalties and profits and the removal of the exemption for holiday warrants and passage. In other words, some travel expenses which have hitherto been exempted from taxation may be subjected to it in the future. We can support this series of tax adjustments because the Democratic Party understands that the Government is under immense fiscal pressure, so there is a need to increase taxes or revenue. However, the Democratic Party also understands that two of the tax items, in particular the adjustments to salaries tax,

will impose further hardship on the public. On this occasion, the Government seeks to effect an increase in tax by lowering the basic allowance and increasing the tax bands.

The Democratic Party opposes reverting the tax bands, marginal salaries tax rates and various allowances to their levels before the concessions made in 1998-99 for four reasons: firstly, the justifications for the reversion proposed by the Government are insufficient and the proposal is out of step with the present economic situation in Hong Kong; secondly, to increase taxes drastically will dampen the public's desire to spend, thus fuelling deflation and leading to a further contraction of the economy; thirdly, the pressure borne by the middle class, whose tax burden is already the heaviest, is now near breaking point and it is difficult for them to shoulder heavier tax burdens. The Financial Secretary may say that the proposal merely involves reverting the tax levels to those before 1998-99, however, the economic situation then was better than it is now. If there were two members with income in a family at that time, there is perhaps only one left now. The middle class is also affected by the negative equity asset and unemployment problems. And fourthly, the governments of many places have sought to tackle economic recession by reducing taxes to stimulate the economy and Hong Kong should not go against the trend.

Looking back at 1998, the financial turmoil dealt a serious blow to the Hong Kong economy. The former Financial Secretary, Mr Donald TSANG, in order to "ride out the storm" and revive the economy, proposed a package of drastic reductions in salaries taxes and other taxes and the tax revenue involved amounted to \$8 billion. The present economic situation in Hong Kong is even worse than it was in 1998. Moreover, the impact of SARS on the economy will gradually surface in the coming months and it is anticipated that the economic situation will see little improvement in the short term.

We only have to look at the following figures to see how the Government's proposals are out of keeping with the economic situation.

Firstly, concerning employment and social security, according to the employment figures from March to May published recently, the underemployment rate has risen to 3.8%, which means over 80 000 people are underemployed. The unemployment rate is 8.3%, representing a 0.5 percentage point rise over the last month and this means that at least 290 000

people are unemployed. An academic predicted that it is likely the unemployment rate in the next two months will climb to 9% or even 10%. At present, the wage of an outsourced cleaner is as low as \$1,000 or even less. The starting salaries for university graduates are commonly as low as \$6,000 or even less. Taxi drivers have to work 10 hours daily for a monthly income of only a few thousand dollars. The number of Comprehensive Social Security Assistance recipients is on the increase and the rise in May is particularly marked. It is estimated that the number of cases will break the 300 000 mark by the end of this year.

Secondly, on the total assets value, compared with the value during the heyday of the property and stock markets, the total assets value in Hong Kong has roughly decreased by \$5,000 billion to \$6,000 billion. This is a problem often mentioned by Dr David CHU. If this amount were equally shared by our three-million-strong workforce, each person will have sustained on average a loss of \$2 million. As a matter of fact, \$2 million is not a small sum and it will take the average salaried worker at least 20 years to accumulate this amount.

Moreover, the number of bankrupts by the Court is over 150 each day. The stark fact before us is that an increasing number of people have become owners of negative equity assets, more and more people are unemployed, more and more people are earning wages for bare subsistence and more people are going bankrupt. It can be seen from this that more and more people are joining the ranks of the unemployed, negative equity asset holders and bankrupts in Hong Kong, and the salaries that they earn only allow them to live from hand to mouth. To many Hong Kong people, such an extent of economic downturn is unparalleled in the past 20 years.

In addition, the Democratic Party believes that a drastic increase in taxes will only cause further contraction of the economy. Although the deflation caused by the fall in prices can increase the purchasing power of cash, the greatest problem brought on by deflation is the increase in the value of debts not yet repaid, which will increase the burden borne by the borrower. Since most of the property transactions in Hong Kong are effected by way of loans such as mortgages, deflation and the continued economic slowdown will only render more property owners into negative equity asset owners and increase the proportion of fixed debts in the economy.

In fact, we can see that in May, the composite consumer price index has fallen by 2.5% over last year. Last month, it fell substantially by 0.7%, the greatest decrease this year. An academic even predicted that deflation will continue to worsen in the next two months.

The main problem with the Government's proposal is that tax increases will greatly dampen the desire of the public and corporations to spend and invest, so that deflation, which is deteriorating by the day, will go from bad to worse. Not only will this impede the revival of the Hong Kong economy, it will also cause the economy to contract further. The Democratic Party opines that the Government has turned a blind eye to the ability of the middle class to shoulder the tax burden.

The middle class has always shouldered a major proportion of government taxes. In this proposal to raise \$14.1 billion more in tax revenue, it is estimated that the middle class has to shoulder \$6.8 billion of the amount, that is, close to 50% of it. For some individuals of the middle class, the tax increase will make their salaries tax liability increase by 20% to 50%. On the other hand, the additional amount of tax to be derived from profits tax will only amount to \$3.5 billion. It can thus be seen that the burden on the middle class is extremely unreasonable. The drastic increase in salaries tax will create a vicious circle in the economy and there will be no hope of revival. In that event, more people of the middle class will be rendered people without any assets or with negative equity assets and the revenue may decrease due to the tax increases. Furthermore, the middle class has to endure all sorts of hardships, such as layoffs, salary reductions, unstable jobs, negative equity assets, and so on, as a result of the persistent economic recession and the continuous fall in the value of their assets. Their discontent with the economic situation has already exceeded their threshold of tolerance. If the taxes are increased further, this will only fuel the discontent of Hong Kong people towards the Government. The Democratic Party believes that the people of Hong Kong, including various stakeholders, do not wish to see such a situation.

Finally, the Democratic Party must point out that in other places of the world, an approach of tax reduction rather than increase is always adopted in dealing with economic recession or stimulating and reviving the economy. For example, Singapore and Thailand both cut corporate and personal income taxes drastically last year; Japan has earlier on announced a tax reduction package

totalling about \$157 billion; the President of the United States, Mr George BUSH, proposed a US\$330 billion tax reduction package to stimulate the economy. However, the Hong Kong Government is bucking the trend.

According to economic theories, tax reduction is the natural course of action. The 1996 Nobel laureate for economy, Sir James A. MIRRELES, said that significant reductions in taxes can stimulate the public's desire to spend and the additional government revenue can even offset the loss due to tax reduction. No matter from the viewpoint of reality or that of economic theory, the Government definitely should not go against the trend.

Regarding the amendments proposed by the Democratic Party, we will explain them further when it comes to the vote. To put it simply, we propose to amend clauses 10 and 11 of the Bill and oppose the Government's proposed adjustments. As regards the allowance provided for under clause 11, the Government hopes to reduce it from \$108,000 to \$100,000 in stages over two years. The Democratic Party hopes to prevent the Government from increasing taxes through these two amendments. I so submit.

MR LAU CHIN-SHEK (in Cantonese): Madam President, on behalf of the Hong Kong Confederation of Trade Unions (CTU), I speak in opposition to the increases in tax levied on the middle and sandwich classes at a time when the economy remains sluggish and the unemployment rate is rising.

I have often heard the Financial Secretary say that no one wants to increase taxes, but in interest of Hong Kong in the long run, the Government must achieve fiscal balance in 2006-07 and it is inevitable that taxes and charges will be increased. He seems to imply that those who are opposed to tax increases do not have the interest of Hong Kong at heart and that they are invariably opposed to any increase.

Madam President, I must clarify one point. I do not think that the Government cannot increase its taxes irrespective of the time or circumstances. If the Secretary should care to review my voting records over the years, he should be able to note that I supported the Government's proposals to increase taxes and charges when they complied with the principles of "those who have the means pay more", "using funds appropriately" and livelihood-neutral.

Madam President, I also completely agree that since the linked exchange rate system is adopted in Hong Kong, it is not possible for the Government to run deficits for a prolonged period. Nevertheless, I also understand that the Government must size up the prevalent situation. Even if the direction of a policy is correct, the result will be the opposite of the intended if the policy is implemented at an inappropriate time.

I believe many Members and officials in this Chamber are fully aware of the general situation in town. In the past few years, although it seems that the Hong Kong economy still has recorded some real growth, however, because of deflation, the so-called growth is illusory. Adding to this the atypical pneumonia outbreak, Hong Kong has suffered one blow after another. All trades and industries have suffered various degrees of impact and the unemployment rate rocketed and went from one historical height to another. Everyone prayed and hoped that the unemployment rate would not surge past 9%. I call on the Secretary to pause and think if these are appropriate circumstances to introduce tax increases? In one of the Government's publicity films, the Government calls on the public to spend more to revive the economy. However, at such a time, the Government is going to increase taxes and dampen the public's desire to spend. Is this not being self-contradictory?

Madam President, I have often stressed that the fiscal deficit is only a symptom rather than the illness *per se*. The ills of Hong Kong can be traced to its inability to find a new locomotive to tow the economy back onto the track of growth after the burst of the bubble economy. In its policy address and Budget, the Government proposed the economic development strategy of integration with the Pearl River Delta. The Chief Executive has also stressed on a number of occasions that this is the right direction. If the Government is truly confident that this development strategy will be able to bring the economy out of the slump, then why can it not wait for one or two more years, until the public can really see the light ahead before proposing tax increases? If the Government is really confident that the Hong Kong economy will pick up, does it matter if the timetable for reducing the deficit is deferred a little?

Madam President, Hong Kong has just been removed by the World Health Organization from the list of areas infected by atypical pneumonia. All the people of Hong Kong hope that, after removing their face masks, they can breathe in relief and throw themselves into the reconstruction after the epidemic. At a time when the public has been subjected to all sorts of trials and tribulations,

when the entire society is so battered, why is the Government so obstinate in implementing the proposals to eliminate the deficit by increasing taxes and cutting services, by stabbing and drawing blood from everyone? How would this enhance the cohesion of the public? Recently, the popularity of the Government has gone further and further downhill. Now it wants to increase the tax burden of the middle and sandwich classes. Does it want to rouse public indignation and anger till they reach boiling point before it will desist? If every member of the public feels disillusioned, what hope is there of an economic revival?

Madam President, I so submit and call on the Government to think twice.

MR CHAN KAM-LAM (in Cantonese): Madam President, the Revenue Bill 2003 mainly seeks to propose adjustments to the salaries tax, the allowances and standard rate related to it as well as profits tax and property tax. The Democratic Alliance for Betterment of Hong Kong (DAB) is in principle supportive of these proposals and in the speech I am going to make, I will also speak on the amendments to be moved by Mr SIN Chung-kai later.

The Financial Secretary points out in this year's Budget that the Government is facing a serious deficit problem. During the past five years, the consolidated accounts were in the red for four years, so effective measures should be taken to solve the deficit problem in order that investor confidence can be restored. It is the aim of the Government to increase revenue and reduce expenditure in the next four years by another \$20 billion. The Budget makes a number of tax increase proposals for this financial year so that a fiscal balance can hopefully be achieved by 2006-07. We support this prudent approach to public finance management adopted by the Government.

Any proposal to increase tax will not be welcomed. The DAB understands the reasons for Mr SIN Chung-kai moving the Committee stage amendments later, however, we cannot lend him our support. If all the proposals in the Bill are implemented, that will generate an additional revenue of \$10.3 billion in a full year. The amendments to be proposed by Mr SIN mainly seek to maintain the existing basic allowances and the allowances for married persons and single parents under the Inland Revenue Ordinance. If the amendments are carried, that will mean a drastic cut in additional revenue to \$3.89 billion.

The DAB understands that if the allowances are reverted to their levels in 1998-99, that would impose a very heavy burden on the public. This is especially so when the current economic conditions are different from those of 1998-99. When the Financial Secretary proposed to increase the salaries tax, the DAB suggested that the tax increase proposals should be phased in over three years instead of two so that the rate of tax increase would be reduced and hence the burden borne by taxpayers as well. However, as we are faced with an acute deficit problem, we think that all the people of Hong Kong should do their part to tide over the difficult times with the Government. Therefore, if most of the proposals in the Budget are phased in over two years, that should be able to ease the burden on taxpayers in some measure. Moreover, since the Government has announced a series of relief measures in end April, suggesting that a tax rebate of a total of \$2.3 billion be made to the taxpayers, with a maximum rebate of \$3,000 for each person, that would in effect offset the impact of tax increase for most taxpayers.

Since the outbreak of atypical pneumonia in March, the economy of Hong Kong has been dealt a severe blow. At this stage, though the impact of the epidemic on revenue for 2003-04 cannot be accurately projected, it is certain that the 3% growth in Gross Domestic Product (GDP) in real terms as predicted by the Financial Secretary earlier will never materialize. The latest forecast on the economic outlook released at end May makes a downward adjustment of our actual GDP growth to 1.5%. When this is added to the commitment to be made by the Government on the relief measures in the wake of atypical pneumonia, the annual revenue would definitely be less than the \$193.5 billion as originally projected. Hence, the DAB cannot support the amendments by Mr SIN Chung-kai as they will further reduce public revenue. We believe the public will also find it hard to lend their support.

Certainly, we understand that for those high-income professionals, a one-off tax rebate will not be able to offset the impact on them when the allowances are reverted to their levels in 1998-99. However, it is a prevailing principle in the Inland Revenue Ordinance that those who have the means will pay more. For those who make a high income, they should contribute more to public revenue.

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

DR YEUNG SUM (in Cantonese): Madam President, the Government, out of its fear for the fiscal deficit, announced that the salaries tax would be drastically increased in stages over two years. It is estimated that 90 000 wage earners will fall back into the tax net and almost no one in the 1.29 million taxpayers will be spared of shouldering a heavier burden. They have to pay an additional \$6.8 billion in tax to the authorities each year, making them the victims in the exercise to eliminate the fiscal deficit. Experts have estimated that people in the middle class with a monthly income between \$20,000 and \$30,000 will bear the brunt of tax increases and the tax payable by them may increase by about 30% to 50%. The economy of Hong Kong is now at the most difficult time since the inception of this port, however, the Government is still seeking approval for its proposals to drastically increase the taxes and the burden borne by the public. What on earth are the justifications? Obviously, the Government is gambling with the future welfare of Hong Kong in the hope that the Chief Executive and the Financial Secretary can eliminate the fiscal deficit by increasing taxes before the end of their terms in 2006-07, so that they can show off their grand achievements in their farewell dinners.

The Democratic Party is resolutely opposed to the Government's disregard for the present economic situation and the lack of consideration for public woes and the overall interest of Hong Kong, as well as dealing another blow to the already downtrodden taxpayers. Madam President, I will try to set out some of the woes confronting the people of Hong Kong every day, so as to make officials and Members in support of tax increases realize the situation in society at large.

The frail Hong Kong economy has been further battered by the SARS outbreak. The unemployment rate has surged to 8.3% and the total number of unemployed is over 290 000, exerting immense pressure on the social welfare system. At present, there are more people than jobs in Hong Kong, for a job often attracts hundreds of competitors. Some people consider the difficulty of finding a job nowadays to be greater than that of winning the Mark Six lottery. Recently, in a recruitment fair organized by the Hong Kong Jockey Club, 50 000 people competed for 3 600 jobs and the entire Hong Kong Convention and Exhibition Centre was filled to the rafters by job-seekers. The Labour Department organized a large-scale recruitment fair in Causeway Bay which attracted nearly 2 500 university students who queued up under the blazing sun to compete for jobs that on average one in every 10 candidates will get. The

queue encircled the Central Library. A property company also held a large-scale recruitment fair recently and 500 jobs were on offer, but 4 000 people queued up overnight for them. Job-seekers often feel anxious and lost. Whenever there is a large-scale recruitment fair, even though only low-level jobs are on offer, they still flock to it in droves. Such cruel scenes of people competing for jobs can be seen in every corner of Hong Kong.

Apart from unemployment, the numbers of applications for bankruptcy and people who committed suicide are also on the rise. The Official Receiver's Office announced that the number of bankruptcy cases in May was 1 989 and the number of applications for bankruptcy was 2 311, which are new highs in the past six months, with an average of 115 applications being received each day. Under the unfavourable economic situation, the number of suicides keeps increasing. According to the information provided by the Coroner's Court, 1 025 persons killed themselves last year. Of these people, 50% were unemployed, however, the unemployment figure then was not as high as it is now. Nowadays, newspapers in Hong Kong are full of reports on suicides as a result of unemployment or financial difficulties. Here I would like to quote for Members' reference some of the headlines carried by some of the reports on suicides that happened last week, "Delay in approval for CSSA leads man to kill himself by jumping into the sea after leaving last words: 'The world is a bleak place'", "Unemployed university graduate ashamed of repeated failure to find a job cuts throat, leaving a letter written in blood", "Wife of unemployed couple slashes her hand", "Businessmen in debt jumps off Tsing Ma Bridge Body recovered five hours later after his wife calls out to the sea for him" and "Taxi driver hangs himself, leaving behind six bereaved and vulnerable family members". Members, under the present economic situation, the public is all jittery because of unemployment and the failure to find jobs, however, the Government is still proposing hefty increases in taxes as though nothing had happened. What is more, some directly-elected Members even gave their support, citing high-sounding reasons in doing so. It is indeed incomprehensible how they can account for this to their supporters.

In view of the above reasons, the Democratic Party believes that the Government has to shelve the proposal to increase salaries tax. Before tourists and overseas businessmen return to Hong Kong, the local economy has to be propped up by Hong Kong people themselves. Local consumption will be the underpinning. If the Government still insists on increasing taxes drastically at such a time, this will definitely deal a blow to consumer sentiment and lead to

further deterioration in deflation, which has persisted for 55 consecutive months. Meanwhile, the Government should refrain from clinging to the mentality of "eliminating the fiscal deficit above all else", and it should not grudge spending its resources on stimulating the economy and improving the business environment. In fact, the Government should now commit more resources to infrastructural projects, as this will create more short-term employment opportunities and prepare for future economic development. A miserly Government is not fit for leading Hong Kong out of the slump in times of adversity.

If the Government says that its finance is straitened, we suggest that it issue government bonds on its assets and a total of \$50 billion in capital can be raised. The Democratic Party has interviewed 1 000 members of the public to ask them about their views on the issuance of bonds by the Government. The survey found that 53% of them support the issuance of bonds by the Government, 44% of them even said that they would consider actually putting words into action by purchasing the bonds issued by the Government. In the middle-income family group with a monthly income between \$20,000 and \$50,000, 50% of the respondents said that they would consider purchasing the bonds, and among high-income families with a monthly income of more than \$50,000, as high as 58% of the respondents expressed an interest in purchasing the bonds. The Democratic Party is convinced that the capital raised in this way can on the one hand make up for the \$6.8 billion shortfall in salaries tax revenue as a result of not increasing the salaries tax, and on the other, this can also serve the further economic development of Hong Kong. The Government does not have to be apprehensive and refrain from making investments because of its concern about an increase in fiscal pressure in the short run. At present, the cohesion among members of the public has been enhanced, and this is particularly the case after the SARS outbreak. If the public can receive some of the dividends, this plan to raise capital will definitely work.

Madam President, in the past, the public used to queued up for flats, for subscription to new shares or for first-day covers. However, all this has become history. In its place, the public now queue up to buy lunch boxes, to find jobs, and to apply for bankruptcy orders. If the Government does not sympathize with the public's plight, if Members do not uphold justice, the public in Hong Kong will definitely remember the decision made by Members today.

Thank you, Madam President.

MR HOWARD YOUNG (in Cantonese): Madam President, any tax increase proposed by the Government would not be welcomed at any time. The Budget this year is no exception. However, since the problem of fiscal deficit has reached a critical state and since the Government has put forward quite a number of tax reduction and exemption proposals in the past few years, the Liberal Party consider the proposals made by the Government this year to increase the taxes moderately acceptable.

The Liberal Party supports this year's Budget, the major reason being it has embodied the principle of "sharing the burden together", that is, members of the public from different sectors and different classes have to share some responsibility. For example, the profits tax payable by the business sector is increased by 1.5%, the allowances to which taxpayers are entitled will revert to the levels before 1998-99 and the amounts of CSSA payment have already been adjusted according to deflation. All these measures have manifested the spirit of sharing the burden.

Of course, we also understand that many taxpayers are people of the middle class who have to shoulder onerous financial burdens. The tax increases proposed this year will affect them in one way or another. However, the Budget also proposes to implement the salaries tax increases in stages over two years, so it can be seen that the Government is sympathetic over their situation.

In addition, in response to the impact wrought by the SARS outbreak earlier on, the Government has already announced a series of relief measures, including waivers on rates, water charges, sewage charges, and so on. It also made tax rebates subject to a maximum of \$3,000. All these measures can help offset or alleviate the burden imposed by the tax increases. However, I would like to add that I hope that the people, when they receive their tax rebate cheques, can spend this unexpected sum of money in support of the "We Love Hong Kong" campaign which we debated last week, so as to contribute towards revitalizing the economy.

Next I would like to raise an issue relating to the tourism industry.

The Budget this year proposed that the exemption for holiday warrants and passage be abolished. Some members of the industry have conveyed their views to me that this proposal may cause the employees of some companies to reduce the number of overseas trips, thus indirectly affecting the business that

they get from these overseas trips. Although in response to my suggestion, the Secretariat has invited a number of groups in the travel industry to express their views, in the end these groups did not voice any dissent or strong objection, so I am not going to move any amendment to the Bill.

With these remarks, I support the Bill and on behalf of the Liberal Party, I oppose the amendments proposed by Mr SIN Chung-kai.

MR FREDERICK FUNG (in Cantonese): Madam President, if we read the Revenue (No. 2) Bill 2003 (the Bill) together with the Budget prepared by the Financial Secretary, it can in fact be considered part of the Budget which has made the reduction and elimination of the fiscal deficit as its goal. The overall target is to solve the fiscal deficit problem by 2006-07. We believe that it is unrealistic to disregard the prevailing actual social circumstances and force the public to accept a predetermined timeframe for solving the fiscal deficit problem.

Both the Bill and the Financial Secretary's Budget have in fact failed to adopt the approach of spending the tax received to stimulate the Hong Kong economy and foster consumer sentiment. For example, in the entire Budget, there is little mention of how the Government will invest in infrastructural projects. In particular, there is no mention of how the work on the infrastructure for passenger, cargo, capital and information flows should be done properly to pave the way for the future development of the Hong Kong economy and increase employment opportunities. The Budget has simply set its goal at the reduction or elimination of the fiscal deficit. We believe this is treating the manifestations but not the root of the problem, nor has this contributed towards relieving the financial difficulties of Hong Kong people by spending the tax received.

I speak in support of the amendments to the Bill proposed by Mr SIN Chung-kai.

Mr SIN Chung-kai's amendments pinpoint the proposals made in the 2003-04 Budget concerning the basic and married person's allowances and aim to maintain them at the level in this financial year, that is, at \$108,000 and \$216,000 respectively. The Hong Kong Association for Democracy and People's Livelihood (ADPL) and I believe that this amendment is very

reasonable because since the onset of the Asian financial turmoil in 1998, the Hong Kong economy has descended into an abyss from which there is no extrication, while toiling members of the public have fallen into dire circumstances. Not only has the unemployment rate risen to 8.3% of late, the ranks of the unemployed have also swelled to a record high of over 280 000. At present, wage earners still lucky enough to keep their jobs have to withstand tremendous pressure posed by the threat of wage reduction and layoffs. Moreover, the present economic recession is different from those in the past. Hong Kong has converged with globalization and this has brought new problems. Coupled with the difficulties in economic restructuring, the difficulties encountered by Hong Kong in its economic development can be considered unprecedented, affecting as many as millions of people in the working population. No one, from senior executives in multinational corporations and people in the middle management to basic rank staff members and middle-aged workers, has been left unscathed. What is more lamentable is that the atypical pneumonia epidemic erupted in Hong Kong at the beginning of this year, sending shockwaves around the world and further undermining consumer confidence and internal demand, and investments have also fallen sharply. In the end, all trades have been plunged into a sorry and desolate plight. Some wage earners were dismissed by their employers because of the economic slump, others had to take no-pay leave and their income fell as a result. Since they live from hand to mouth and their personal and family incomes are affected, consumer spending declined further and more trades have been affected as a vicious circle sets in.

The ADPL and I believe that a government that values public opinion definitely should not turn a blind eye to the difficulties encountered by the general public in their lives. Those in power who truly empathize with the people's plight will also, in view of the quagmire of an economic slump without any recovery in sight, refrain from introducing a policy of increasing taxes that aims to make the books look good, to meet a timeframe laid down by themselves, to banish from their minds the woes of the public and to set rigidly the elimination of the fiscal deficit as the primary task in governance.

The ADPL and I believe that the Government has underestimated the gravity of the problems faced by the public at present. According to the telephone surveys conducted by the ADPL in the past two years on the public's expectations on the Budget, in fact the public understand the tremendous fiscal pressure confronting the Government. For example, according to the results of

our survey conducted in November last year, 97% of the respondents surveyed over the telephone believed that it was a must for the authorities to deal with the fiscal deficit problem. They even believed that it is absolutely necessary to deal with the fiscal deficit. However, many members of the public considered that, under the present sluggish economy, it is inappropriate to deal with the fiscal deficit by increasing taxes. Therefore, we believe that issues such as the targets, the intensity and timeframe in dealing with the fiscal deficit will all have a bearing on the livelihood of the public, in particular, on the daily life of wage earners, the middle class, the low-income group and the socially disadvantaged. An opinion poll conducted by us last year indicated that nearly 60% of the respondents did not agree with the Government's proposal to reduce the fiscal deficit at such a time, particularly when the economy is in recession, by increasing taxes or introducing new taxes. The ADPL and I do not agree with the Government's proposal of reverting the marginal tax rates and tax bands and the basic and married person's allowances of salaries tax to their levels before the concessions made in 1998-99 in a bid to increase revenue and reduce the fiscal deficit.

Since the outbreak of atypical pneumonia, the Government has already floated two plans totalling \$1.1 billion in April and last week to create 73 000 short-term jobs and training places designed for people of different ages and qualifications, as well as formulating a series of large-scale plans costing billions of dollars to relaunch the economy and attract tourists. We believe this is sufficient proof that the authorities have indeed indirectly admitted that the present economic difficulties in Hong Kong are very unusual in its history. To quote the words of the Chief Executive, Mr TUNG Chee-hwa, these are "unusual measures" in an "extraordinary time". In view of this, I believe that since the Government already sees the matter in this light, it should keep tabs on public sentiments, gain insights into public opinion and understand the plights of the public, then reconsider whether or not to implement the measure to increase the salaries tax this year. It should also deal with the target of eliminating the fiscal deficit in 2006-07 with flexibility. We believe it is now a time we get to our feet again. If members of the public have a dollar more, they will be able to spend it, and an extra dollar will go towards helping Hong Kong extricate itself from its economic plight.

With these remarks, I support the amendments proposed by Mr SIN Chung-kai.

MR JAMES TIEN (in Cantonese): Madam President, the Liberal Party agrees with the view that at a time when the overall Hong Kong economy is on the whole so frail, the Government should not increase taxes. Unfortunately, we have also noticed that even if the tax increases as proposed by the Government are implemented, the Government's budget deficit this year will amount to over \$60 billion even before the SARS outbreak. After the outbreak, the fiscal deficit will very likely reach \$80 billion or \$90 billion. Under these circumstances, if the Government cannot cut its expenditure, nor can it increase its revenue because of the economic slump, the fiscal deficit will be even greater. Of course, we agree that the Government still has a reserve of hundreds of billions of dollars, in addition to a net asset in the Exchange Fund of \$200 billion to \$300 billion. Although the sum of these two figures seems to be substantial, will the Government be able to maintain its present way of financial management without increasing its revenue in any way? I think we should try to strike a balance.

On the many proposals, the Democratic Party only mentioned that the salaries tax should not be increased, meaning that changes can be made only in the other two areas. At present, the majority of grass-roots members of the public are finding themselves in very unfavourable circumstances, but the fact remains, the Government has not levied any tax on them for many years. According to statistics, there are close to 7 million people in Hong Kong and the working population is 3.4 million, but only 1.1 million of them have to pay tax. In other words, most wage earners do not have to pay tax. If people of the middle class do not have to pay more tax, then should the business and commercial sectors be made to shoulder the Government's proposed tax increases alone? Will this not pose difficulties to the operation of the industrial and commercial sectors and lead to a further decline in their business and income? There is definitely such a possibility.

The Liberal Party has always been concerned that the biggest problem confronting the Government is not that of insufficient revenue but excessive expenditure. We have reiterated time and again that the Liberal Party believes the root of the problem lies in the Government spending 70% of its expenditure on pay and benefits for civil servants and employees of subvented organizations. Unfortunately, the only measure that the Government can come up with is the "zero-three-three" proposal and no further reduction is possible. The result is that either the Government increases its taxes or allows the fiscal deficit to continue to increase. We believe that this is not a desirable solution.

Certainly, we understand the plight faced by people of the middle class at present and I also know many of them. I asked them what they cared about most. I think the Democratic Party has always evaded one point, that is, the great majority of people in the middle class are dissatisfied with the sharp fall in the prices of the properties that they have purchased. If the prices of their properties have fallen by more than a half, it means they have incurred losses of \$1 million to \$2 million. Even if the Government reverts the tax bands to the levels before 1998 and in spite of the tax rebates, people of the middle class at low-income end have to pay thousands of dollars more in tax next year or the year after next because of the tax increases, and those at the high-income end have to pay \$20,000 or \$30,000 more in tax, these expenditures are comparatively speaking small compared with the drop in value of their assets. What they are more concerned about is the effects that negative equity assets have on them. Therefore, the Liberal Party believes that there is an urgent need for the Government to arrest the fall in value of assets owned by the middle class or to revive the economy, that is, to stabilize the market, or we should call a spade a spade and say to prop up the market, as well as changing the policy of low land price to one of higher land price. This is far more important than adjusting the tax rates. If the Government wants to help the middle class, the Liberal Party believes that it would be far more effective to work on this area.

As regards the amendments proposed by Mr SIN Chung-kai, I have also mentioned that if we are really concerned about the overall situation in Hong Kong, then why should we merely strike down the Government's proposal regarding adjustments to salaries tax but make no similar changes to profits tax? Although I have also pointed out that the revenue from profits tax will only increase by some \$3 billion after the adjustment, and that the revenue from increasing the taxes levied on the middle class will comparatively speaking be more, the Liberal Party is still of the view that if everyone ranging from those in the monied class (that is, the upper class) and the industrial and commercial sectors, the middle class to the grassroots does not have to pay additional taxes, then the Government will not make much from tax. If the industrial and commercial sectors alone are made to pay more taxes, this will be extremely unfair. Concerning the other government charges, we will speak on them separately later.

For the above reasons, the Liberal Party does not support the amendments proposed by Mr SIN Chung-kai of the Democratic Party.

Thank you, Madam President.

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

MS EMILY LAU (in Cantonese): Madam President, I rise to speak in opposition to the Revenue (No. 2) Bill 2003. I have already explained the main reasons for my opposition, so I am not going to repeat them here. The most important thing now should not be the tackling of the fiscal deficit. The prime task of Hong Kong now should be revitalizing the economy, so as to enable everybody to get a job and thus bring back life to all sectors. The tackling of the fiscal deficit is not the most urgent task.

Mr James TIEN wondered what the strongest discontent of the middle classes was. He thought that their strongest discontent might not necessarily be related to any tax increases. But I guess their strongest discontent is not related to negative equity assets either. They are most discontented with TUNG Chee-hwa. Madam President, the next motion debate is precisely on this topic, so I do not intend so much to discuss it in advance. But since Mr James TIEN has raised the point, I just think I may as well say a word or two now. Actually, I am sure the Liberal Party will understand and agree to what I have been saying. We in the Frontier oppose any tax increases, be they profits tax or salaries tax, we are always opposed to any increase. With these remarks, I oppose the Bill.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): I now call upon the Secretary for Financial Services and the Treasury to give his reply.

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam President, the Revenue (No. 2) Bill 2003 (the Bill) seeks to amend the Inland Revenue Ordinance to implement the revenue proposals related to salaries tax, profits tax and property tax announced in the Budget in March this year.

I would like to express my gratitude to Mr Eric LI, Chairman of the Bills Committee, and members of the Bills Committee. Their detailed scrutiny of the Bill and valuable input have enabled the Bill to resume its Second Reading in this Session.

In the course of scrutiny of the Bill by the Bills Committee, we explained the importance of suitably increasing revenue to progressively restore fiscal balance. The Government has proposed only to revert the marginal rates for salaries tax, the tax bands and personal allowances over the 2003-04 and 2004-05 years of assessment to their levels before the 1998-99 concessions. The standard rates under salaries tax, property tax and the profits tax rate for unincorporated businesses will be slightly increased by 1% in stages, whereas the profits tax rate for incorporated businesses will see a small increase of 1.5% to 17.5% in 2003-04. Furthermore, it is proposed that the exemption for holiday warrants and passage be removed and the profits tax rates for assessable income derived from patents, royalties, and so on, in connection with intellectual property be adjusted upward so as to make the tax regime fairer and to boost revenue.

Some Members were concerned that the adjustments to salaries tax will constitute a burden to the middle class. We do understand that an increase in tax will have a direct bearing on people's lives. In Hong Kong, however, the effective tax rate under salaries tax, that is, after excluding various allowances and deductions, is only 8% on average even after adjustment. Let me cite a family having an income equivalent to the median household income (a monthly income of \$16,000) as an example. Even if the taxpayer of the family is a married person, he is still not required to pay tax even after the full implementation of the tax increase measures. As for a household having a monthly income reaching \$30,001 (higher than 75% of families in Hong Kong), even if the taxpayer in this household is married with one child, the amount of tax payable per month will rise from \$740 to \$1,267 only, meaning a rise from 2.5% to 4.2% in effective tax rate.

It was pointed out by Members earlier that it was unnecessary for the Government to resort to raising tax at this moment. I would like to point out that, in the past five years, the Government's Consolidated Account recorded deficit in four years. The Operating Account, reflecting the daily revenue and expenditure of the Government, has even recorded deficit every year. The seriousness of the budget deficit problem is thus evident. If nothing is done and the structural deficit problem is allowed to continue, the confidence of investors

in Hong Kong will be hampered. This will lead to fluctuating interest rates and monetary conditions and slow down economic recovery. All this will do no good to Hong Kong. As such, we have to suitably increase revenue while employing every means possible to cut government spending. The Government does understand that the economy has been affected by the outbreak of Severe Acute Respiratory Syndrome (SARS) in recent months. We hope that this is only a short-lived phenomenon. Government response has already been made in appreciation of public sentiment.

On 23 April, we proposed a package of relief measures to help the public tide over their financial difficulties caused by the outbreak of SARS, and to help Hong Kong regain its economic vitality in the wake of the SARS incident. Under the Government's initiative, all taxpayers who have paid or are required to pay salaries tax and personal assessment tax in the 2001-02 year of assessment will be given a 50% tax rebate at one go, subject to a ceiling of \$3,000. The fact that approximately \$2.3 billion in salaries tax and personal assessment tax will be rebated means that more than 1.3 million taxpayers will be benefitted. Cheques for the tax rebate will be mailed in batches starting from 10 July. The amount of tax rebated to nearly 800 000 taxpayers this year, or approximately 60% of taxpayers, is higher than the increased tax amount they are required to pay in 2003-04 after adjustment. Here I would like to express my support for Mr Howard YOUNG's suggestion and hope that the people will stay in Hong Kong to spend after receiving their tax rebate.

A Member questioned the criteria for determining the assessable value for holiday warrants or passage. As explained to Honourable Members before, the Government has proposed to determine the value in accordance with the cost incurred by employers. This practice is in line with that adopted by the majority of jurisdictions, including the United Kingdom, Canada, Australia and New Zealand. Furthermore, it is proposed that expenses on business trips in the performance of a taxpayer's duty as an employee will not be calculated as assessable income. If the holiday trip is merely incidental to the business trip, the Inland Revenue Department (IRD) will not tax the holiday benefit. If this is not the case, the IRD will apportion interest according to the actual circumstances. A Departmental Interpretation and Practice Note will be issued by the IRD to explain the criteria for such apportionment.

Furthermore, we are prepared to move technical amendments to provisions relating to the abolition of holiday warrants or passage for the prevention of tax avoidance.

Most Members agree that slightly adjusting the profits tax rates will not affect the competitive edge of the territory. A simple tax regime and low tax rates has provided Hong Kong with excellent conditions for attracting inward investment. The Government will strictly adhere to this principle to ensure the continuation of such excellent business conditions.

Members have expressed concern that raising the rate of assessable profits from patents and royalties for the use of intellectual property will affect the competitive edge and profits of films and other media. As we explained earlier, such levy is targeted at non-residents of Hong Kong. The operation of the local movie or media industry should therefore not be affected. Furthermore, compared with other parts of the world and even to our neighbours in Asia, the rate of 5.25%, actually being the lowest, should not produce any adverse impact on the competitive edge of the industry.

It is estimated that the above revenue-raising proposals will bring the Government a total of \$10 billion in recurrent revenue in a full year. Nevertheless, this figure may have to be adjusted downward because of the impact of SARS on Hong Kong's economic growth in 2003.

Honourable Members, the Bills Committee has expressed support for the resumption of the Second Reading of the Bill. I implore 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 (No. 2) Bill 2003 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)

Ms Emily LAU rose to claim a division.

PRESIDENT (in Cantonese): Ms Emily LAU has claimed a division. The division bell will ring for three minutes.

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

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

Mr James TIEN, Dr David CHU, Mr Albert HO, Dr Raymond HO, Mr Eric LI, Mr Fred LI, Dr LUI Ming-wah, Mr NG Leung-sing, Mrs Selina CHOW, Mr James TO, Mr CHEUNG Man-kwong, Mr HUI Cheung-ching, Mr CHAN Kwok-keung, Mr CHAN Kam-lam, Mr SIN Chung-kai, Dr Philip WONG, Mr WONG Yung-kan, Mr Jasper TSANG, Mr Howard YOUNG, Dr YEUNG Sum, Mr YEUNG Yiu-chung, Mr LAU Kong-wah, Ms Miriam LAU, Mr Ambrose LAU, Miss CHOY So-yuk, Mr Andrew CHENG, Mr SZETO Wah, Dr LAW Chi-kwong, Mr TAM Yiu-chung, Dr TANG Siu-tong, Ms LI Fung-ying, Mr Henry WU, Mr Tommy CHEUNG, Mr LEUNG Fu-wah, Mr WONG Sing-chi, Mr Frederick FUNG, Mr IP Kwok-him and Ms Audrey EU voted for the motion.

Ms Cyd HO, Miss Margaret NG, Mr LAU Chin-shek, Ms Emily LAU, Mr Timothy FOK, Mr Michael MAK and Mr Albert CHAN voted against the motion.

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

THE PRESIDENT announced that there were 46 Members present, 38 were in favour of the motion and seven 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 (No. 2) Bill 2003.

Council went into Committee.

Committee Stage

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

REVENUE (NO. 2) BILL 2003

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 2003.

CLERK (in Cantonese): Clauses 1, 4 to 8, 13 and 14.

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, 9, 12 and 15.

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam Chairman, I move the amendments to the clauses read out just now, as set out in the paper circularized to Members.

In the resumed Second Reading debate of the Bill just now, I mentioned that amendments would be moved to the exemption arrangements for holiday warrants or passage for the purpose of preventing abuse. We propose to amend clause 3 of the Bill by adding specific provisions to require all the cost incurred

by employers for holiday journey, irrespective of it being able to be converted into money, be included as assessable income for the purpose of calculation.

Moreover, we have also moved amendments to clauses 9(b), 12(b) and 15(6). These are textual amendments that improve the clarity of the relevant provisions.

I hope Honourable Members can support the amendments proposed by the Government. Thank you, Madam Chairman.

Proposed amendments

Clause 3 (see Annex III)

Clause 9 (see Annex III)

Clause 12 (see Annex III)

Clause 15 (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 Financial Services and the Treasury 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 3, 9, 12 and 15 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): Clause 11.

MR SIN CHUNG-KAI (in Cantonese): Madam Chairman, I have already made this point, but I still wish to repeat it now. By introducing this clause to amend the Schedule, the Government seeks to reduce the existing basic allowance of \$108,000 first to \$104,000 next year and eventually to \$100,000 the year after next. The Democratic Party opposes this amendment and hopes that by doing so, it can prevent any increase in tax rates which may add to the burden of the people.

I also wish to respond to some of the points raised by Mr James TIEN earlier. I am not saying that we can increase the profits tax on the commercial and industrial sectors but not the salaries tax. It is best if there is no increase in both taxes. My proposal is actually the lesser of two evils because profits tax is payable only after the making of profits. It may well be argued that likewise, the salaries tax is payable only after the earning of salaries. However, the economic situation has changed substantially. In the past, many families used to have two breadwinners, but now one of the breadwinners — the husband or the wife — may be out of job. These families have become very hard up as a result, so a tax increase will deal yet another blow to them.

I hope that Honourable colleagues, especially those who oppose the Second Reading of the Bill, can support my stance in respect of this clause, so that the Government can be prevented from introducing any tax increases. I hope colleagues can support me.

Thank you, Madam Chairman.

CHAIRMAN (in Cantonese): Mr SIN, please move your amendment.

MR SIN CHUNG-KAI (in Cantonese): Madam Chairman, I move that clause 11 be amended.

Proposed amendment

Clause 11 (see Annex III)

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

MR FREDERICK FUNG (in Cantonese): Madam Chairman, my position is very similar to that of Mr SIN Chung-kai indeed. During the resumption of Second Reading earlier on, I already discussed my views. But I wish to make it clear that if the two amendments moved by Mr SIN Chung-kai are carried, I will support the Third Reading of the Bill. If not, I will oppose its Third Reading. Thank you, Madam Chairman.

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

(No Member indicated a wish to speak)

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam Chairman, as I explained during the resumption of the debate on Second Reading, the very critical budget deficit problem confronting the Government must be tackled immediately. I would like to reiterate here that

while making every possible effort to cut spending, the Government needs to suitably increase revenue, too. Mr SIN Chung-kai's amendments propose to delete the adjustments to salaries tax with respect to personal, married person and single parent allowances. They are unacceptable to the Government. We do understand the direct impact of increased salaries tax on the public. However, I would like to reiterate that the Government has proposed merely to revert the personal and married person allowances under salaries tax to their 1998-99 levels before concession. The single-parent allowance, even after the adjustment, will still be higher than its 1998-99 level before concession. Having considered the burden on the public and the economic environment, we propose that all allowances for dependents and deduction items will not be deleted. In appreciation of the hardship of the public, particularly the impact brought about by the SARS, the relevant adjustments will be implemented over two years. Besides, the Government has unveiled a series of relief measures, including the tax rebate arrangement mentioned by me earlier.

Should this amendment moved by Mr SIN Chung-kai to clause 11 and the one to clause 10, which will be discussed later, be passed, revenue from the proposals made in the Budget with respect to salaries tax will be reduced substantially by \$6.5 billion, and the Government's plan to progressively restore fiscal balance will be affected. For these reasons, the Government opposes Mr SIN Chung-kai's amendments. Thank you, Madam Chairman.

CHAIRMAN (in Cantonese): Mr SIN Chung-kai, do you wish to speak again?

(Mr SIN Chung-kai indicated that he did not wish to speak)

CHAIRMAN (in Cantonese): I now put the question to you and that is: That the amendment moved by Mr SIN Chung-kai 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 SIN Chung-kai rose to claim a division.

CHAIRMAN (in Cantonese): Mr SIN Chung-kai has claimed a division. The division bell will ring for three minutes.

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

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

Functional Constituencies:

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

Mr James TIEN, Dr Raymond HO, Mr Eric LI, Dr LUI Ming-wah, Mrs Selina CHOW, Mr HUI Cheung-ching, Mr CHAN Kwok-keung, Dr Philip WONG, Mr WONG Yung-kan, Mr Howard YOUNG, Ms Miriam LAU, Mr Timothy FOK, Mr Henry WU, Mr Tommy CHEUNG, Mr LEUNG Fu-wah and Mr IP Kwok-him voted against the motion.

Geographical Constituencies and Election Committee:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Fred LI, Mr James TO, Mr LEUNG Yiu-chung, Dr YEUNG Sum, Mr LAU Chin-shek, 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 TANG Siu-tong, Dr David CHU, Mr NG Leung-sing, Mr YEUNG Yiu-chung and Mr Ambrose LAU 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, 22 were present, six were in favour of the motion and 16 against it; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 24 were present, 13 were in favour of the motion and 10 against it. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the motion was negatived.

MRS SELINA CHOW: Madam Chairman, in accordance with Rule 49(4) of the Rules of Procedure, I move that in the event of further divisions being claimed in respect of the remaining clauses of the Revenue (No. 2) Bill 2003, the Committee of the whole Council do proceed to each of such divisions after the division bell has been rung for one minute.

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the motion moved by Mrs Selina CHOW be passed. Does any Member wish to speak?

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

CHAIRMAN (in Cantonese): I think the question is agreed by a majority 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.

I order that in the event of further divisions being claimed in respect of the remaining clauses of the Revenue (No. 2) Bill 2003 or any amendments thereto, the Committee of the whole Council do proceed to each of such divisions immediately after the division bell has been rung for one minute.

CHAIRMAN (in Cantonese): I now put the question to you and that is: That clause 11 stand part of the Bill. 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.

CLERK (in Cantonese): Clause 10.

MR SIN CHUNG-KAI (in Cantonese): Madam Chairman, the Government seeks to adjust the tax rates by way of this clause. To put it simply, it seeks to adjust the tax rates on the first \$32,500 and the next \$32,500. The aim is just to increase taxes. The Democratic Party wishes to do away with this adjustment, so it has moved this amendment. I hope that Members who oppose tax increases will support me. Thank you, Madam Chairman.

Proposed amendment

Clause 10 (see Annex III)

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

MR FREDERICK FUNG (in Cantonese): Madam Chairman, I support Mr SIN Chung-kai's amendment. I supported the Second Reading of the Bill because I wish to debate his two amendments and hope that they can be passed, though the chances are very slim. If these two amendments are passed, I will support the Bill. If not, I will oppose its Third Reading.

Thank you, Madam Chairman.

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

(No Member indicated a wish to speak)

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam Chairman, Mr SIN Chung-kai proposed in his amendment to delete the proposed adjustments to the marginal rates and tax bands with respect to salaries tax, which is unacceptable to the Government.

As I explained in discussing the amendment to clause 11 just now, the Government's proposal merely seeks to bring the marginal rates and tax bands with respect to salaries tax back to their 1998-99 levels before concession. Having considered the burden on the public, the Government will implement the adjustment over two years. A series of relief measures have also been unveiled, including a tax rebate arrangement mentioned by me earlier. The fact that the two amendments moved by Mr SIN Chung-kai will substantially reduce the forecast additional revenue by \$6.5 billion will impact on the Government's plan to progressively restore fiscal balance. For these reasons, the Government opposes Mr SIN Chung-kai's amendment. Thank you, Madam Chairman.

CHAIRMAN (in Cantonese): Mr SIN Chung-kai, do you wish to speak again?

(Mr SIN Chung-kai indicated that he did not wish to speak)

CHAIRMAN (in Cantonese): I now put the question to you and that is: That the amendment moved by Mr SIN Chung-kai 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 SIN Chung-kai rose to claim a division.

CHAIRMAN (in Cantonese): Mr SIN Chung-kai has claimed a division. The division bell will ring for one minute.

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

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

Functional Constituencies:

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

Mr James TIEN, Dr Raymond HO, Mr Eric LI, Dr LUI Ming-wah, Mrs Selina CHOW, Mr HUI Cheung-ching, Mr CHAN Kwok-keung, Mr Bernard CHAN, Dr Philip WONG, Mr WONG Yung-kan, Mr Howard YOUNG, Ms Miriam LAU, Mr Timothy FOK, Ms LI Fung-ying, Mr Henry WU, Mr Tommy CHEUNG, Mr LEUNG Fu-wah and Mr IP Kwok-him voted against the motion.

Geographical Constituencies and Election Committee:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Fred LI, Mr James TO, Mr LEUNG Yiu-chung, Dr YEUNG Sum, Mr LAU Chin-shek, 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 TANG Siu-tong, Dr David CHU, Mr NG Leung-sing, Mr YEUNG Yiu-chung and Mr Ambrose LAU 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, 23 were present, five were in favour of the motion and 18 against it; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 24 were present, 13 were in favour of the motion and 10 against it. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the motion was negatived.

CHAIRMAN (in Cantonese): I now put the question to you and that is: That clause 10 stand part of the Bill. 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.

CLERK (in Cantonese): Clause 2.

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam Chairman, I move the amendment to clause 2, as set out in the paper circularized to Members. The amendment seeks to improve the clarity of the application clause of the Bill. I hope Honourable Members can support the amendment proposed by the Government. Thank you, Madam Chairman.

Proposed amendment

Clause 2 (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 amendment moved by the Secretary for Financial Services and the Treasury 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)

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

CLERK (in Cantonese): Clause 2 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.

(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 (NO. 2) BILL 2003

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

Revenue (No. 2) Bill 2003

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 Revenue (No. 2) Bill 2003 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)

Mr SIN Chung-kai rose to claim a division.

PRESIDENT (in Cantonese): Mr SIN Chung-kai has claimed a division. The division bell will ring for three minutes.

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

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

Mr Kenneth TING, Mr James TIEN, Dr David CHU, Dr Raymond HO, Mr Eric LI, Dr LUI Ming-wah, Mr NG Leung-sing, Mrs Selina CHOW, Mr HUI Cheung-ching, Mr CHAN Kwok-keung, Mr Bernard CHAN, Mr CHAN Kam-lam, Dr Philip WONG, Mr WONG Yung-kan, Mr Jasper TSANG, Mr Howard YOUNG, Mr YEUNG Yiu-chung, Mr LAU Kong-wah, Ms Miriam LAU, Mr Ambrose LAU, Miss CHOY So-yuk, Mr Timothy FOK, Mr TAM Yiu-chung, Dr TANG Siu-tong, Ms LI Fung-ying, Mr Henry WU, Mr Tommy CHEUNG, Mr LEUNG Fu-wah and Mr IP Kwok-him voted for the motion.

Mr LEE Cheuk-yan, Miss Margaret NG, Mr LEUNG Yiu-chung, Mr LAU Chin-shek, Mr Michael MAK, Mr Albert CHAN, Mr Frederick FUNG and Ms Audrey EU voted against the motion.

Mr Albert HO, Mr Fred LI, Mr James TO, Mr CHEUNG Man-kwong, Mr SIN Chung-kai, Dr YEUNG Sum, Mr Andrew CHENG, Mr SZETO Wah, Dr LAW Chi-kwong and Mr WONG Sing-chi abstained.

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

THE PRESIDENT announced that there were 48 Members present, 29 were in favour of the motion, eight against it and 10 abstained. Since the question was agreed by a majority of the Members present, she therefore declared that the motion was carried.

CLERK (in Cantonese): Revenue (No. 2) Bill 2003.

MEMBERS' MOTIONS

PRESIDENT (in Cantonese): Members' motions. Two motions with no legislative effect. I have accepted the recommendations of the House Committee on the speaking time limit for each Member. Since Honourable Members are very familiar with the rules, I am not going to repeat them here. I would only like to remind Members not to speak in excess of the time limit, otherwise, I am obliged to direct the Member concerned to discontinue.

First motion: The 1 July march.

THE 1 JULY MARCH

MR LEE CHEUK-YAN (in Cantonese): Madam President, I move that the motion, as printed on the Agenda, be passed.

Madam President, on behalf of the Hong Kong Confederation of Trade Unions, I move a motion in this Council today to call upon the people of Hong Kong to take part in the 1 July march to "oppose the enactment of legislation to implement Article 23 of the Basic Law and strive for the return of political power to the people" because, like all Hong Kong people, my tolerance has already worn out! As a Member of the Legislative Council, I know I should express my views through the Legislative Council, but the Council of today, having been trampled on by the "royalists", can no longer perform its intended function of monitoring the Government. Since public opinions cannot be voiced effectively through this Council, the public can only "vote with their feet". The people of

Hong Kong must "never, never, never" only "complain, complain, complain". Instead, they should "take to the streets, take to the streets, take to the streets" and remember to "wash their hands, wash their hands, wash their hands" after doing so.

There are countless reasons for people to take to the streets on 1 July, and here I will list 12 of them:

- (a) We would rather die than to be deprived of our freedom. The Government's enactment of the draconian law will undermine our freedom of speech, of the press and of association. This is absolutely disastrous to Hong Kong and its people and is thus unpardonable.
- (b) We have to protest against the Government's forcible approach to the enactment of legislation. The whole legislative process is not only perfunctory, but also represents an attempt to suppress consultation, thorough scrutiny and professional advice, which totally exposes the autocratic nature of this Government. Our tolerance of the Government's forced legislative attempt this time around will lead to another and yet still a second and a third such attempt in the future. How many such attempts can we tolerate?
- (c) We have to protest against the "royalists" in this Council and show contempt for their willingness to reduce themselves to government lackeys!
- (d) We have to show our discontent with the fact that the TUNG Chee-hwa administration, despite its incompetent rule, has still tried to force through the Article 23 legislation, causing social division.
- (e) We have to bring forth a "dynastic change", replacing autocracy with democracy, coterie elections with universal suffrage and the dominance of vested interests with those of the people.

(THE PRESIDENT'S DEPUTY, Mrs Selina CHOW, took the Chair)

- (f) We have to "repay" Mrs Regina IP for the "humiliation" she has suffered in the course of discharging such a "great task". We really owe it to her for provoking the public in every possible way. We will let her down if we do not take to the streets.
- (g) We have to stop the villains holding sway from speaking any nonsense, from making the smearing comment that even a turnout of 20 000 people will be exaggerated as 100 000. We have to show them what is meant by the common aspirations of the people.
- (h) We have to show our support for professional bodies, in particular, those of the legal profession, telling them that their insistence on such a good cause, the rule of law, has definitely won our recognition and encouragement.
- (i) Mr Jasper TSANG bluffed that even if 200 000 people took to the streets, the Government would not withdraw the Bill. Fine, then, let us rally 300 000 or 400 000 people, just to see whether the Government will really be so bad and shameless as to ignore public opinions completely. Here, I would like to advise the Government that "while water can keep a boat afloat, it can also turn it over". Public opinions can never be slighted.
- (j) We have to march to let Premier WEN Jiabao know that Hong Kong people aspire to democracy and freedom, and even hope that there is also democracy and freedom in China. We hope that like ZHAO Ziyang, he will also say, "I am sorry! I have come so late!"
- (k) We have to march for the sake of our next generation, to educate them the fight for democracy requires our demonstration. The prospects of Hong Kong must be founded on freedom and democracy.
- (l) We have to march to let the international community and the whole world know that Hong Kong people oppose "Article 23", and that they love freedom and democracy, in contrast to the claims of the Secretary for Security and Mr Jasper TSANG that the majority of Hong Kong people support the legislation.

Madam Deputy, the 1 July march is the final battle between the people and a government that does all sorts of evil deeds before the forced passage of the National Security (Legislative Provisions) Bill by "royalists" in the Legislative Council. However, the 1 July march will definitely not be the end. Quite the contrary, it is just the prelude to the "latter TUNG Chee-hwa era".

Like the Severe Acute Respiratory Syndrome (SARS) virus, the TUNG Chee-hwa Administration will likely stay with us for quite some time. Mr Jasper TSANG once taught us that we must fight against SARS with serious tactics but a slighting strategy. Similarly, we must also deal with the TUNG Chee-hwa Administration with serious tactics because we must do everything possible to minimize the harm done by the TUNG Chee-hwa Administration to Hong Kong. The Article 23 legislation proposed by the Government will restrict the freedom of the press and speech in Hong Kong, destroying the cytomegalo cells in the immunity system of society which are responsible for patrol duties. So, we must oppose them to the very last.

In this "latter TUNG Chee-hwa era", we must also give him a strategic slight. All social strata must make the best political, economic and social preparations for the reconstruction of Hong Kong after the stepping down of TUNG Chee-hwa. The way to transform the people's power pooled together by the 1 July march into an impetus for reform is a topic which everyone with a concern for Hong Kong's future must face up to, and this is also a responsibility which no community leader can evade.

The next two years will be critical to the political development of Hong Kong, and our specific target is the early implementation of universal suffrage for the election of the Chief Executive and Legislative Council. The public may be disappointed with the performance of the pro-democracy camp in recent years but they must not lose faith in democracy. It is only when there is a democratic system, when politicians are thus "baptized" by elections and spurred on by the people, that they can become true leaders capable of taking Hong Kong forward.

Madam Deputy, I do not cherish any hope or illusion that this motion can be carried in this Council today, in very much the same way as we are psychologically prepared that taking to the streets may not prevent the Government from brutally forcing through the legislation. But I believe the 1 July march can vaporize people's sense of political helplessness. This is because the people know that "we have only lost today but will eventually win back history". I am very grateful to Mr MA Kit-wai for making this statement.

The 1 July march will be the most massive social movement since the 1989 pro-democracy movement and will also be a turning point in the development of Hong Kong's political ecology, signifying that Hong Kong people will no longer allow ourselves to be treated as a "soft touch" open to exploitation. Instead, they will stand up and strive to become true masters of their own house. Every Hong Kong resident has to make an effort for Hong Kong and every effort of theirs can make a difference, in the words of Mr MA Ka-fai, who said, "Your contribution can bring changes to the people, events and things around you and though such changes may be very, very trivial, at least something has really changed because of you!"

Every Hong Kong resident should not miss this historic moment and we should all march on 1 July and make history together. We should not be confused by "High Tea for Hong Kong". Hong Kong people know much more than just eating, for we also know how to "fight", and we have to "fight for Hong Kong"! Hong Kong people, Hong Kong relies on you.

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

Mr LEE Cheuk-yan moved the following motion: (Translation)

"That this Council appeals to all the people of Hong Kong to enthusiastically take part in "The 1 July march to oppose the enactment of legislation to implement Article 23 of the Basic Law and strive for the return of political power to the people", and to continue to fight for building a democratic, prosperous and socially just Hong Kong."

DEPUTY PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr LEE Cheuk-yan be passed.

DR YEUNG SUM (in Cantonese): Madam Deputy, the Democratic Party has participated in and organized numerous marches over the years, but I believe the 1 July march will be the one with the largest number of participants since the 4 June incident. The Government's high-handed approach to the enactment of laws to implement Article 23 of the Basic Law (Article 23) has aroused strong hatred and anger. Right from the very beginning, the Government refused to

publish a White Bill to consult the public and even gone so far as to distort the views collected during the consultation period. The Government has blatantly distorted the people's opinions, claiming that the majority is in support of the enactment of legislation while the opposite is in fact the case. The Government has sought to achieve its objective by hook and by crook, by telling all sorts of lies. In the relevant Bills Committee, Members belonging to the pro-democracy camp raised many different issues and worries. So far, all these worries have not been allayed, but the authorities still seek to rush through the National Security (Legislative Provisions) Bill (the Bill). Even when so many offences are not yet clearly defined, the authorities still bend on enacting the Bill into law. How can the people not be worried?

Today, the various sectors of society have become more and more worried about the contents of the Bill. The legal profession, the religious communities, academics (including internationally renowned scholars), the business sector, the press and even foreign consuls have all expressed many worries. Under the mechanism for proscribing organizations, the issue that has aroused the greatest concern, the law of the Mainland is even introduced into Hong Kong to restrict the freedom of association. Some academics have recently pointed out that the provision on this mechanism is even beyond the scope of Article 23. The appeal mechanism related to proscription of organizations is also a matter of grave concern, because under it, the Secretary for Security is empowered to make rules for the appeal mechanism, with the result that the Court may have to accept evidence rejected by it. Besides, the conduct of hearings in the absence of the accused will also curtail existing freedoms. Therefore, the Government should shelve the enactment of legislation at once.

The freedom of the press in Hong Kong will also be subject to serious infringement. The definitions of the offences of treason and sedition are altogether unclear in many ways. The accused is unable to use "public interest" as defence, so the press will only be driven into self-censorship. For this reason, the Democratic Party has been maintaining that before we can ensure that these rights will not be curtailed, we should not proceed with the enactment of legislation. However, although we have tried many different ways to express our opposition to the Bill, the Government has simply turned a deaf ear to all voices of dissent and proceeded to force through the enactment of legislation. As Legislative Council Members, we have exhausted all possibilities; the only alternative left is to carry on the struggle outside the legislature and join the 1 July march.

Madam Deputy, from the newspapers today, I learn that Mr James TIEN does not want to see a huge turnout at the march, because he fears that this may tarnish Hong Kong's international image. I am really startled by his remark. On 15 December last year, 60 000 Hong Kong people took to the streets to oppose the Article 23 legislation. Almost a year has passed by now, and if there has really been any damage to the image of Hong Kong, one must say that the only cause must be the Government's forced enactment of Article 23 legislation instead of the march of 60 000 people. Precisely because our freedoms will be restricted in the future, we find it all the more necessary to treasure the freedom of speech we still enjoy today. That is exactly why we must express our opposition to the Bill. Precisely because there is such a government in Hong Kong, there is such a legislative attempt to violate human rights. And, precisely because there is such a "royalist party" in the Legislative Council, such a draconian law is expected to be passed so smoothly. Our only way out, our last hope, is to take concrete actions and pitch in the 1 July march, just to tell the Government that we are very angry.

The theme of the march is "Against Article 23 Legislation; Return Political Power to People." So, besides opposing Article 23 legislation, the march also asks for returning political power to the people. Over the past six years, because of their numerous blunders, Mr TUNG Chee-hwa and the administration under his leadership have caused the people to lose their faith in them totally. Since the reunification six years ago, human rights and the rule of law have retrogressed greatly; the accountability system has turned out to be a mere misnomer, making the people realize that without democracy, the Government will be able to do whatever it likes. Our only way out is to struggle for democracy and the return of political power to the people. Only a democratic political system can afford the people genuine protection.

Madam Deputy, freedom is as essential to the people as sunlight and air. And, Hong Kong is also the freest place in the whole of China. For ourselves and our future generations, I call upon all Hong Kong people to rise to their feet and say "No" to the Government in a peaceful manner. I urge the people of Hong Kong not to give up their struggle. Please all pitch in the 1 July march! Let us all turn our grief into people's power!

Thank you, Madam Deputy.

DR PHILIP WONG (in Cantonese): Madam Deputy, the motion today can be discussed from two perspectives. The first one is about the motive of the march, and the second about the march as a form of opinion expression. I shall express my views on the motive of the march during the Second Reading debate on the National Security (Legislative Provisions) Bill. In this meeting today, I shall focus on the march as a form of expression and share the following views with the public.

First, I agree entirely that the people of Hong Kong all enjoy the freedom of expression, and that only those people who love Hong Kong will show a concern for local politics and actively express their views. Admittedly, taking to the streets for a march is a form of opinion expression, but my only hope is that people can also consider one most important point — when a group of people exercise their human rights and freedom of expression, they must at the same time discharge their social obligations and recognize that others are equally entitled to such rights, because there are no such things as liberties without obligations on earth.

People who want to tell the Government what they think about its policies, measures, laws and other matters may in fact choose various other channels besides marching in the streets. For instance, they may ask for meetings with the government officials concerned, write letters of complaints to the relevant departments, ring up the mass media to lodge complaints, write articles to air their grievances, explain their views through fax or e-mail messages, stage sit-ins and even go on hunger strikes. As long as the expression of views does not cause any inconvenience to others, does not cause any damage to public order and social interests, all the forms mentioned above are acceptable.

Second, I definitely do not approve of anyone who thinks only about his own freedoms of speech and action, who simply ignores his social obligations and even thus infringes upon others' rights. Specifically, when huge numbers of people march in the streets, chanting slogans, will they upset normal community life? Will the authorities be forced to close sections of roads, thus causing traffic congestion? Will any inconvenience be caused to passers-by and tourists? Will the huge congregation of people lead to any chaos, or even any accidents which may result in casualties? Will any atmosphere of social unrest thus emerge? In particular, at this very time of severe economic sluggishness, will such marches be misconstrued as riots? All these are questions which

should merit the consideration of those who support the idea of marching in the streets as a form of political expression.

Whether any political expression can yield the desired effects will depend largely on the cogency or otherwise of the proposals concerned, not on the sensational nature of the manner of expression. Members should realize that even if one does not choose to march in the streets, one does not necessarily oppose the political views of those who do. In some places, members of representative assemblies like to express their views by using "body language", or even by grappling and throwing objects. From the point of view of personal freedom and human rights, it seems rather difficult to impose any control. But I am sure that the majority of electors will not approve of such a violent form of expression. We can thus see that any form of expression that is "too radical" will achieve the opposite result. The Chinese people have always extolled the virtue of moderation. Moderation is especially useful when it comes to the handling of important issues. This merits the consideration of Hong Kong people.

Madam Deputy, I so submit.

MR HOWARD YOUNG (in Cantonese): Madam Deputy, when he spoke just before me, Dr Philip WONG said that he would concentrate on discussing the march as a form of opinion expression and defer his comments on the motive behind until next week. I shall do just the opposite. I shall focus on pointing out that the Liberal Party finds it very hard to accept Mr LEE Cheuk-yan's motion, which urges the Legislative Council to call upon the people to march in the streets and protest against the enactment of legislation on Article 23 of the Basic Law (Article 23). I shall state the reasons in a moment.

To start with, Hong Kong, being part of China, is obligated to protect national security and the territorial integrity of the country. And, the enactment of Article 23 legislation is meant to discharge our obligation under the Basic Law, the aim being to protect national security. The Liberal Party maintains that such a step should be taken.

Throughout the consultation process of the Bill, the Liberal Party has been requesting the authorities to improve the clarity of the definitions under various provisions, with a view to perfecting the future legislation. We also maintain that as Legislative Council Members, we should recognize that active discussions

in the Chamber are much more effective than marching in the streets as a means of opinion expression. We should recognize that this is the only serious and responsible attitude which should be adopted in the legislative process, instead of calling upon the people to march in the streets whenever we are dissatisfied or our opinions are not accepted.

In all fairness, Members have already had sufficient opportunities to discuss the issue of Article 23 legislation, whether during the consultation period or in the relevant Bills Committee of the Legislative Council. There is actually no need for Mr LEE Cheuk-yan to move a motion debate again to kick up such a great fuss. Throughout the discussions on the Article 23 legislation, the Liberal Party has been requesting the authorities to strike the best possible balance between protecting national security and respecting human rights and freedoms. And, the Government has definitely made enormous efforts and introduced many amendments.

For example, following public consultation, the Government has decided to repeal the offences of misprision of treason and possession of seditious publications and also clarified the definition of "unauthorized access" to protected information, so that only such information obtained illegally through hacking, theft and bribery is included in the Bill. It has also clarified a number of controversial concepts found in various provisions. And, even after the publication of the Blue Bill, the authorities have still conceded to the views of the public and introduced a series of further amendments. I believe that all these are the outcomes of discussions, and a march may not necessarily be the best means to bring forth these amendments. We maintain that the amendments made by the Hong Kong Government can already strike a balance between the interest of Hong Kong people and national security. For this reason, they should be supported.

What is more, according to Mr LEE, the aim of the march is to oppose the Article 23 legislation, but the enactment of such legislation and the respect for human rights, democracy and freedoms are by no means mutually exclusive. And, let us not forget that in practically all countries, national security laws are also found. As a result, we fail to see any reason why Hong Kong should be different from other regions or cities of China in this respect. Besides, that Hong Kong is allowed to enact laws on its own should in fact be recognized as the best realization of "one country, two systems".

In brief, like many people in Hong Kong, the Liberal Party also supports the struggle for democracy, justice and more prosperity for Hong Kong. But it is also of the view that people can actually express their views through many other means, channels and forms. When it comes to marching in the streets, we maintain that as long as a march is conducted peacefully and orderly, people should be free to make a choice within the parameters of the law. But we also think that this should not be the only alternative. The Liberal Party and I also believe that this should always be the case, whether before or after the reunification, or whether before or after the enactment of any national security law.

Dr YEUNG Sum has referred to the comment made by Mr James TIEN, our Party Chairman, on the impact of marches on Hong Kong's international image. I am sure that the tourism sector will share the view of Mr TIEN. What I mean is that all in the tourism sector, whether they are engaged in inbound tourism or outbound tourism, do not approve of any large-scale marches in the streets for whatever reasons, objection to Article 23 legislation included. The point here is very simple. If an outbound travel agent knows that there are many marches in a certain place, it will not recommend people to go there; the same also applies to inbound tourists. If foreign visitors frequently see on television that there are many massive marches in Hong Kong, they will choose not to come. In that case, all the efforts we have made after the SARS outbreak, all the efforts we have made to market Hong Kong and induce foreigners to come back, will be wasted. I really think that marches will produce a negative bearing. Therefore, in general, all in the tourism sector, employers and employees alike, do not actually approve of the motion topic today, nor are they at all keen on any other marches. This is the only point I wish to add.

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

MR LEUNG YIU-CHUNG (in Cantonese): Madam Deputy, the march scheduled on 1 July has recently become the talk of the town, and even a matter of great international concern. This of course cannot be attributed simplistically to the all-out efforts made by the pro-democracy camp to advocate the march. The important point is that many people and sectors who have never before taken part in any marches have all decided of their own accord to take to the streets this time around. The huge numbers of prospective participants and the problems they are concerned about have both become the centre of attention today.

Still, we have to ask, "Why do people want to take to the streets?" I think the answer is that many grass-roots people are dissatisfied that the Government has not only failed to revitalize the economy and relieve their plight, but also tried to make things worse for them by, for example, cutting all sorts of social welfare benefits. Besides, the legal profession thinks that the enactment of laws to implement Article 23 of the Basic Law (Article 23) will injure our human rights. The health care sector thinks that the Government has done a poor job in combating SARS and complains that the officials concerned are not held responsible. Others who do not belong to any particular sector may have decided to take to the streets purely because they are discontented with TUNG Chee-hwa's attempts to harbour his subordinates, or with Secretary Regina IP's arrogance. Whatever the case may be, as rightly pointed out by Mr LEE Cheuk-yan earlier on, there are in fact many, if not "numerous", reasons. On my part, I will sum them all up as one single reason — people are rebelling against government oppression. People have had enough of TUNG Chee-hwa's governance over the past six years.

The recent atmosphere in Hong Kong reminds me of the 1989 pro-democracy movement in China. At that time, China was plagued with rampant corruption, unbridled selfish desires and acute official speculation, but the people did not have any power to check all this. The situation of Hong Kong now is similar to that in China years ago. Government policies seek to protect large consortia and business tycoons but oppress the common masses. Government officials are found guilty of dereliction of duty or even failing to avoid conflicts of interest, but the Chief Executive has harboured them all the same. Worst of all, on the pretext of enacting laws to implement Article 23, the Government is now even trying to undermine the rule of law and take away the freedom of speech that have enabled us to exercise a small extent of check over it. Like the Chinese citizens years ago, the people of Hong Kong have only one alternative now — to take to the streets to voice their opinions, in the hope of regaining control over their own future.

This may be our only option because we can see that within the establishment, however hard we may try to urge the Government to stop the Article 23 legislation, the only results will be something like the total indifference of Secretary Regina IP and Executive Council Member Jasper TSANG's remark (as quoted by Mr LEE Cheuk-yan just now) that even if 200 000 people took to the streets, the Government would not change its decision all the same. But we are precisely going to take to the streets, so as to tell them,

to warn them, that no one should ever, ever underestimate the people's power, and that we will never again allow the so-called ruling coalition, chosen so undemocratically by the Chief Executive, to restrict our freedom by dictating how we should live and run our systems.

We have decided to take to the streets not only for opposing the Article 23 legislation, but also for the struggle for a democratic political system under which we can decide our own destiny, because we cannot tolerate the repeated occurrence of anything similar to the enactment of laws on Article 23 in the future. Prof LAU Siu-kai, Head of the Central Policy Unit, once remarked that as soon as the controversies over the Article 23 legislation were over, tranquillity would return to Hong Kong and its people would once again become what he described as utilitarian beings, apolitical as before. But I hope Prof LAU can realize that the incompetent governance of the Hong Kong Special Administrative Region Government over all these years has precisely awakened the people to the relationship between economic development and their political system, has precisely made them realize that there must first be a democratically elected government before they can protect their own interest, before they can prevent any exploitation of their rights.

And, once the people's aspirations to democracy are aroused, their struggle will never cease unless the government can make changes. We notice that this is the experience of many democracies and hope that SAR government officials can also realize this, instead of turning a blind eye to all the facts before them. Hong Kong people have had enough of the century-long colonial rule. They really have had enough, so after the reunification, there is no way that they can continue to put up with this type colonial rule in disguise.

Frankly speaking, the motion today may not achieve anything particularly meaningful because as we all know, the outcome is just a foregone conclusion. However, I still wish to tell government officials that the tolerance of the common masses has long since reached its limit, and they can hardly wait to voice their discontent in the march on 1 July. There is simply no need for us to make any appeals here, no need for us to repeat the reasons for a thousand or even ten thousand times here. All of us simply know that the march is absolutely necessary and essential. My purpose of rising to speak today is, rather, to urge those pro-government Members of this legislature not to blindly support the Government anymore. I also hope that they can even change their

mind and join us in the march, in our struggle for political reforms. Some may perhaps think that I am being very unrealistic, hoping against hope and indulging in mere wishful thinking. But insofar as I understand of these Members, should the people really succeed in their struggle for democracy one day, these Members may well tell us that they too support democracy. Anyway, I still wish to quote Mr TUNG, who advised the pro-democracy camp to keep abreast of the times and note the present situation clearly. I just wish to appeal to those Honourable colleagues belonging to the opposite camp, for I hope that they can really keep abreast of the times and note the present situation clearly. Instead of clinging to their old mindset, they should really join hands with us in the fight for democracy.

Madam Deputy, by joining the march on 1 July, we do not only wish to voice our discontent with the Government; we also wish to tread a new path for Hong Kong. Such a new path may well be one which we want our next generation to follow. We hope that all Hong Kong people will pitch in and express their aspirations. And, our advocacy on taking to the streets on 1 July represents precisely the development in such a direction. We know clearly that if we do not work with one heart, there will be no democracy, no political reforms, no improvements to our future living and no protection for our rights and interest. Therefore, I hope that all of us will not give up the rights we can still exercise today. In brief, as long as we can still exercise our rights, we must treasure them and take to the streets to voice our opinions and aspirations.

Madam Deputy, I so submit.

MISS MARGARET NG: Madam Deputy, the playwright, humanist and President of the Czech Republic said, "Hope is an ability to work for something because it is good, not just because it stands a chance to succeed. The more unpropitious the situation in which we demonstrate hope, the deeper that hope is."

It is in this spirit of hope, and not of desperation, that I call upon the people of Hong Kong to join the march on 1 July for democracy and against legislation on Article 23 of the Basic Law (Article 23) which puts our rights and freedoms at risk, and so undermine the success and uniqueness which Hong Kong has always enjoyed.

Madam Deputy, as an elected representative of the legal profession, I can confirm that an unprecedented degree of interest is being expressed by my constituents to join the march. As a result, the Honourable Audrey EU, SC and I are making arrangements for the legal community and those who want to march with us, to assemble a little beforehand and join the march together. We are suggesting that they wear black or white for the occasion. We will distribute caps in the seven colours of the rainbow. We hold onto our rainbow insignia faithfully, precisely because we believe in hope, and being of good cheer, no matter how bleak the hour. We believe that truth, freedom and justice will triumph in the end.

People have asked us, why are lawyers joining a protest march?

DEPUTY PRESIDENT (in Cantonese): Miss Margaret NG, please sit down for the time being. Mr LEE Cheuk-yan, would you like to make a clarification?

MR LEE CHEUK-YAN (in Cantonese): Madam Deputy, it is about the absence of a quorum.

DEPUTY PRESIDENT (in Cantonese): The bell will be rung to summon Members back to the Chamber.

(After the summon bell had been rung, a number of Members returned to the Chamber)

DEPUTY PRESIDENT: Miss Margaret NG, please continue.

MISS MARGARET NG: First and foremost, we are upset by this completely unreasonable rush to pass the Bill. Even if the Government regards legislation to be necessary to implement Article 23, no necessity has been shown for the inflexible July deadline. It is obvious that there is strong opposition. Severe Acute Respiratory Syndrome (SARS) has intervened so that the public has not been as fully engaged as it would wish. It is obvious that the Bill is not ready, many issues need fuller discussion and resolution. There is absolutely no reason to rush. Yet the Government is insisting on it.

Second, lawyers are deeply concerned that this Bill does not meet the usual standards required of Hong Kong as an international city. Not only must our laws conform to the international standards for human rights, they must also be such as to maintain the confidence of the international community that Hong Kong is still the open and free society with a high degree of autonomy which they have been doing business with. Hong Kong's survival depends on this confidence. Yet by this reckless process of rushing through a sensitive Bill, the Government has failed to ensure that Hong Kong's fundamental interest is not undermined.

It is appalling that when Hong Kong's second biggest trading partner, the United States, expressed direct and strong concern in the Bill at the highest level, the response of the Secretary for Security was an ignorant and rude remark that probably White House was not familiar with the details of the Bill. When the Canadian Government expressed concern in the contents of the Bill while sympathizing with the view of the Government of the Hong Kong Special Administrative Region that legislation was necessary, our Government's response was that it thanks Canada for agreeing that the Bill is necessary! Such deliberate distortion is calculated to insult and provoke. This is unbelievable of any government worthy of its name for an international city like Hong Kong. This kind of conduct puts all of us to shame.

Madam Deputy, the Honourable James TIEN is reported in the press as having said that so many people marching would not look good on international television. The solution lies in the Government removing the cause by heeding the Hong Kong public and international comments by stopping the Bill and promising early consultation for democratic reforms.

The legal community has no illusion that this Government will do so of its own accord. The Secretary for Security can be indifferent to the outcry of the community and Members of this Council, so long as she has the approval of the Chief Executive and the support of the built-in majority of this undemocratically elected Legislative Council. Without changing the system, without bringing in democracy, what is happening with Article 23 legislation will not stop with the enactment of that Bill.

Indeed, Madam Deputy, the situation will rapidly deteriorate with the Bill's enactment. Draconian powers are given to the Secretary for Security to proscribe Hong Kong organizations which he or she believes to be endangering

national security, and for being connected with organizations banned by the Central People's Government for subversion. This power reaches business entities including registered companies, partnerships and any other forms of organizations. There are wide powers of search and seizure by the police without warrant for unspecified evidence of subversion and sedition, including "seditious publication". Appeals against proscription will be subject to the restrictions of the regulations to be made by the Secretary for Security (which is the party appealed against), and approved by the same kind of legislature which has passed the Bill.

It is not good enough to tell us to rely on the independent Judiciary. The independent Judiciary is not proof against bad laws giving wide discretion to executive authorities, and certainly not proof against the intervention of an interpretation from Beijing at the request of the Chief Executive. In a paper commenting on the Bill, an eminent scholar on administrative law, Dr Christopher FORSYTH, concludes that the Judiciary is being asked to bear too heavy a burden.

Madam Deputy, if this Council no longer truthfully reflects the wishes of the people, then the people must lose no time to stand up for themselves. This has become imperative for the defence of Hong Kong's freedom and interests.

MS AUDREY EU (in Cantonese): Madam Deputy, Mr Howard YOUNG of the Liberal Party said earlier in his speech that he personally is not very enthusiastic about marching in the streets. In response, Madam Deputy, I can say that I am even more conservative than he is because when I was very small, my father already told me to avoid crowded places, so I am very much reluctant to march in the streets. However, if the Government ignores public opinions completely, or even despises them, and if certain Members of this Council even go so far as to pass some "suppressive" motions to deprive other Members of their opportunity to discuss certain important issues, then I must say that the only way out for the people is to take to the streets and express their views peacefully and collectively.

In fact, the legal profession is usually rather reluctant to march in the streets due to its emphasis on reason. A senior member of the legal profession whom I greatly respect once remarked, "There are many channels through which they can communicate with the Government, so why do barristers have to take to

the streets?" Indeed, if the Government can discuss things and exchange views with the legal profession sincerely and frankly, we will not have to take to the streets.

Unfortunately, the attitude of the Government towards the enactment of legislation to implement Article 23 of the Basic Law (Article 23) is really most regrettable. Assured that it will have enough votes, the Government has refused to listen sincerely and patiently to any dissenting views, criticisms or even constructive proposals for improvement. I am very angry that the Government has adopted such an uncompromising and unreasonable attitude in scrutinizing a bill which will have such far-reaching impact on Hong Kong. Secretary Regina IP once said I was "too overwhelmed with anger to see things clearly". I admit that I am really very angry, but I am angry not because I cannot see things clearly, but because I can see them too clearly indeed.

Since the release of the consultative document in September last year, the Government has acted very sternly, making it clear even before the submission of the Bill to the Legislative Council that the legislation must be enacted within this July. Even when some traditional apologists of the establishment, who are sensible and moderate, openly called for the introduction of a White Bill to alleviate social conflicts, the Government still refused to listen at all. As a result, both opponents and supporters have to mobilize hundreds and thousands of people to take to the streets. The Government has thus become the very culprit of causing the division of society.

The Government never stated in advance how the submissions would be assessed, and shortly after the three-month consultation period, the Government hastened to compile the Compendium of Submissions, in which the submissions are simplistically classified as "for", "against" and "unclassified". Submissions which support the enactment of legislation in principle but which do not support the legislative proposals of the Government are treated as "unclassified".

An analysis conducted by some scholars on the Compendium of Submissions reveals that 90% of the submissions are only statements of position, many of which are standard letters from community groups supporting the legislation. On the basis of such submissions, the Government infers that the majority of people support the legislation. It purposefully ignores the fact that if the number of people who have signed up against the legislation is taken into

consideration, the majority of people actually oppose the legislation. How can a public consultation exercise marked by such bias be considered as fair and just?

After the submission of the Bill, the Government shifted its focus to 9 July. In order to make it possible for the law to be passed on this very day, the Legislative Council refused to listen to more views and even hastened to conclude the process of clause-by-clause scrutiny in one day. While the Government was still introducing last-minute amendments, and even before the Legal Adviser of the Legislative Council could study the amendments, the resumption of the Bill's Second Reading had been hastily set on 9 July. The Government cannot but admit that it is still introducing amendments this very day. The whole scrutiny process of this Bill has been very hasty and unreasonable, even more so than those of the accountability system for principal officials and the anti-terrorism bill last year.

In the eyes of government officials, support for the Government means patriotism, and those who oppose or criticize the Government all have ulterior motives, are irrational or unpatriotic. Such an insular mindset naturally will not enable anyone to listen carefully to voices of dissent. Opponents are instead provocatively dismissed as trying to stir up argument, or criticized for intentionally misleading the people or taking advantage of their herd instinct to intensify the conflicts of both sides and arouse people's discontent.

Why is the Government so confident that it can safely ignore all public opinions? This is because the Government have mustered enough votes in the Legislative Council. Why is it that the Legislative Council will still pass the Bill, and so hastily too, despite the fact that the majority of people are worried about the Article 23 legislation? This is because the Legislative Council is not elected by universal suffrage. Under an undemocratic political system, it is only natural that public opinions cannot be voiced and heeded to fully.

Throughout the whole scrutiny process of the Bill, Members who support the Government have collaborated with it, and even gone so far as to suppress other Members and people's organizations who wish to express their views, in order to speed up the scrutiny process. Members who do not seriously discharge their duty of monitoring the Government will not command any respect of the public. Madam Deputy, I recently attended a forum on Article 23 legislation. Some groups present at the meeting asked me whether it was possible to invalidate the votes cast by their representatives on the Legislative

Council if they failed to vote in accordance with their wishes. I am sorry that there is not such a mechanism in the Legislative Council. However, their question definitely shows that the majority of people feel that their representatives on the Legislative Council have not consulted them or listened to their views.

In fact, public opinion polls also reflect that the popularity rating of the Legislative Council is as low as that of the Chief Executive. This fully evidences the discontent of the public.

Madam Deputy, the theme of this march also covers "the return of political power to the people". In fact, it is only when all Members of the Legislative Council are returned by universal suffrage that the views of the general public can be truly reflected; and, it is only when the Chief Executive is also returned by universal suffrage that he will not ignore the worries of the public and rush through this piece of legislation. Miss Margaret NG mentioned earlier that the legal profession welcomes members of the profession and people who support the legal profession (in opposing the Government's brutal legislative attempt) to assemble at the Central Library at 2.45 pm on 9 July. On that day, we will give out colour caps, and we hope people will step forward with us to protest against the Government's approach to the enactment of legislation this time around.

Thank you, Madam Deputy.

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

MR CHEUNG MAN-KWONG (in Cantonese): Madam Deputy, today's motion calls on the people of Hong Kong to take to the streets on 1 July to oppose the enactment of laws to implement Article 23 of the Basic Law (Article 23). However, the most fundamental question is: Why do Hong Kong people have to stage a massive procession on 1 July? No doubt, the immediate cause is the Article 23 legislation; the immediate cause is the Government's brutal, despotic and unreasonable approach to the enactment of Article 23 legislation, exemplified by Secretary Regina IP's contempt and haughtiness towards the people in the whole legislative process, and also by how the "royalists" in this Council have denigrated and defiled the voices against Article 23 legislation in

the community. However, the reasons for opposing Article 23 legislation and taking to the streets on 1 July have since become increasingly abundant and varied. The public have come to regard the opposition to Article 23 legislation and the march on 1 July as a means to show their discontent with the governance of the whole Government over the past six years.

The medical and health sector will protest against the blunders committed by the Government in handling Severe Acute Respiratory Syndrome (SARS) outbreak. The countless number of jobless people will also take to the streets on 1 July to make known their discontent and the hardship under the serious unemployment resulting from the economic recession. The social welfare sector will express its indignation at the Government's previous cut on social welfare funding, which has deprived many old, weak and handicapped people of dignified care. Actually, in the final analysis, the march on 1 July is sparked off by opposition to Article 23 legislation and the whole thing will end up in a fight against the Government's incompetent governance. This tolls the death knell for the Government of the Hong Kong Special Administrative Region (SAR) and TUNG Chee-hwa.

Next, why do Hong Kong people have to oppose the Government? The first reason is that the terribly poor performance of TUNG Chee-hwa's governance over the past six years has broken the hearts of Hong Kong people. If we are willing to reflect candidly and calmly upon the situation over the past six years, we will see that following the repeated blunders of TUNG Chee-hwa's Administration, Hong Kong people have lost all their confidence, and are saddened by Hong Kong's decline. They cannot do anything to "bad-mouth" Hong Kong, for even when they do call at the phone-in radio programmes, their calls may not necessarily get through; at most, they can only voice their discontent on the Internet. Once they have an opportunity to march on 1 July, they will certainly flock to the streets. We only need to look at the Internet exchanges these days, at people's short telephone messages, at how messages have been passed on by word of mouth in restaurants, at the telephone conversations between friends, and at the fact that every family has already made a date to take to the streets on that day, and we will know that 1 July will be the day of eruption of people's anger.

The second reason for people's protest against the Government is that the one year of operation of the accountability system has turned out to be a total mess, with the Government having done not a single good thing. Therefore, the

six years of poor performance and the messy year of operation of the accountability system operation have made Hong Kong people want to take to the streets together on 1 July. Taking to the streets together carries an even more significant meaning — we do not have any say in choosing our own government. We can only watch helplessly on, when TUNG Chee-hwa, despite his poor performance, stays for a second term. So, we have no alternative but to choose to "vote with our feet" on 1 July by taking to the streets and cast a vote of no confidence in the TUNG Chee-hwa Administration. Today, in the run-up to 1 July, the political and economic situation in Hong Kong is like that before a storm, for the social conflicts of Hong Kong have already turned it into a volcano and the TUNG Chee-hwa Administration seems to be ruling Hong Kong right next to the crater.

Where are the volcanoes in Hong Kong? First of all, it is the unemployment brought about by economic recession. The unemployment rate of Hong Kong has already exceeded 8%, standing at 300 000 in actual number, with a great number of families suffering from unemployment. This includes many middle-aged families that do not stand any chance of finding a job, as well as fresh graduates and young persons. Recently, The Chinese University of Hong Kong (CUHK) Board of Directors held a meeting to report on the employment situation of CUHK graduates this year. Many graduates have not found a job and those who have only get a monthly salary of \$6,000, which is only a little better than that of a Filipino maid. This is one of the volcanoes.

Another volcano, a political one, is Article 23. Article 23 is all about how an autocratic regime seeks to extend its draconian laws to Hong Kong. Hong Kong people oppose Article 23 legislation because they do not want any rule by man and draconian laws. They would also like to take the opportunity of opposing the draconian law to oppose the poor governance of the TUNG Chee-hwa SAR Administration together. So, on 1 July, countless Hong Kong people will bring along their sons and daughters, call upon friends and mobilize their whole families. They will split like cells and eventually fill up the streets of Hong Kong, unsettling the governance of the TUNG Chee-hwa Administration. They will vote against the Government "with their feet". Thank you, Madam Deputy.

MR MICHAEL MAK (in Cantonese): Madam Deputy, my ally LEE Cheuk-yan calls on all Hong Kong people to take part in the 1 July march "to oppose the

enactment of legislation to implement Article 23 of the Basic Law and strive for the return of political power to the people". I think this is surely a very appropriate theme under the current political climate of society, because our Government has denied us democracy, has blatantly interfered with our freedom, and has been trying to force through the legislation on implementing Article 23 of the Basic Law (Article 23). It has not listened to the views of Members, has turned a blind eye to the views of the general public, and has compiled a Compendium of Submissions full of errors and devoid of any professionalism. It has even told blatant lies, claiming that most people support the legislation.

A colleague in this Council expelled me from a joint Panel meeting, saying that I had used the term "swindler" (I was quoting a parable on a swindler at that time). He even abused his power and expelled me from Conference Room A, the meeting venue, thus stopping me from continuing to speak. Later, I looked up the relevant rules and checked with the staff of the Legislative Council Secretariat, and found out that that colleague had certainly abused his power; he definitely did not have such a power, because the Panels.....

DEPUTY PRESIDENT (in Cantonese): Mr MAK, would you please speak on today's motion? You are now referring to matters about another meeting.

MR MICHAEL MAK (in Cantonese): Madam Deputy, what I am talking about is related to encouraging people to take to the streets.

DEPUTY PRESIDENT (in Cantonese): Mr MAK, please speak on the motion.

MR MICHAEL MAK (in Cantonese): Yes. My constituents and many members of the public have told me that I did not say anything wrong at that time. What I said at that time truly reflected their feelings, and it was also the reason for their intention to take to the streets on 1 July. They even criticized me of doing something wrong, or precisely, for failing to do one thing — I only said that a certain person was a swindler but stopped short of calling him a big swindler. They said they would certainly take to the streets on that day, would certainly take to the streets to express their views, would certainly take to the

streets to tell those concerned that the Compendium is totally unable to reflect their views, and those who will take to the streets all want to express with their conscience and feet the views of the constituents they represent and the public.

Madam Deputy, apart from opposing Article 23, another reason why I want to take to the streets is to urge the Government to set up an independent commission of inquiry to investigate the incident of Severe Acute Respiratory Syndrome (SARS). I think everyone can appreciate my feelings, my anger and my grief, but unfortunately, our so-called accountable Government has authorized the Secretary Dr YEOH Eng-kiong, to "investigate himself", and has made it clear that the investigation will not be personal. I felt very disgusted at hearing this, so I conducted a truly representative public opinion poll. My constituents were asked to name the culprit. They all wrote down the name of that Secretary themselves. Instead of asking them to choose from a list of several names, I asked them to write down the name themselves. The three characters were actually put down by themselves. In fact, I am also very upset because no one has heeded the discontent and views expressed by my constituents and my health care colleagues, and someone still claims openly that he is in the right and continues to do whatever he likes.

Some Members have said in the House Committee that if an independent commission of inquiry is not established, we will consider setting up a select committee. My constituents do have such an aspiration, and they hope that they can achieve this purpose and reflect their wish on the day of the march. So, I have made some labels with the words "Independent investigation of SARS" and "必須獨立調查 SARS" for them to wear on their lapels on the day of the march to show our dissatisfaction and aspirations. I hope members of the community and people who voted against or abstained from voting on the establishment of an independent commission of inquiry can see for themselves how my constituents voice their anger during the march. I hope those concerned will do justice to the 1 700-odd infected persons and 298 deaths (eight of whom were medical and health care workers who died in harness) by finding out whether anyone should be held guilty of dereliction of duty. How can accountability officials try to evade their responsibility in this incident?

Madam Deputy, I would like to call on my constituents, supporters and fellow health care workers to go to the Victoria Park on that day. Our point of

assembly will be the Central Library. I will hand out various articles to participants and hope their collective strength can make Members in this Chamber (because some Members in this Chamber do not believe me) know their discontent and anger about how this incident has been handled.

I call upon all participants to proceed in the march in a totally peaceful and rational manner, lest some people may use the march as a pretext to smear us, saying that we are not rational. I reckon that the 100 000 or 200 000 people who are going to turn out at the march will be totally rational, and will definitely hold themselves answerable for their own actions. I also hope that others will not provoke us. I say this because once in Victoria Park the "old men of the Victoria Park" hurled a string of non-stop abuses at me, and I was quite at a loss. Moreover, I took part in some protest marches, and the protesters also openly accused and provoked by some people. I hope on that day, we will express our dissatisfaction in a peaceful and calm manner, and it does not matter if everyone opposes Article 23 in his own way. Thank you, Madam Deputy.

MR AMBROSE LAU (in Cantonese): Madam Deputy, Hong Kong is a place of freedom. Article 27 of the Basic Law provides that: "Hong Kong people shall have the freedom of speech, of the press and of publication; freedom of association, of assembly, of procession and of demonstration; and the right and freedom to form and join trade unions, and to strike." Therefore, the people's right to procession is guaranteed under the Basic Law.

However, Mr LEE Cheuk-yan's motion appeals to all the people of Hong Kong to enthusiastically take part in "The 1 July march" on grounds of "oppose the enactment of legislation to implement Article 23 of the Basic Law and strive for the return of political power to the people". The Hong Kong Progressive Alliance (HKPA) thinks that the reason is rather misleading and a clarification is therefore necessary.

In order to enact laws to implement Article 23 of the Basic Law (Article 23), the Government started to collect information for drafting the National Security (Legislative Provisions) Bill (the Bill) in 1998. A consultation document was issued in September last year and during the three-month consultation period, the Government held as many as 300 seminars and forums arousing community-wide discussions. The Government received as many as

100 000 submissions from various sectors of the community in the end. In January this year, the Government published the Compendium of Submissions and proposed nine amendments. In February this year, when the Bill was introduced, the Administration once again responded to the views of Legislative Council Members and the public by introducing another five defence provisions and a number of proposals on improving the Bill. If we spend more time on carefully studying the relevant existing legislation and the Article 23 legislative proposals, we will see that there is in fact more latitude in the proposals of the Bill than in the existing legislation. In spite of this, some people still think that the proposed legislation is not lenient enough. But if we compare the legislative proposals on Article 23 with the national security laws of other common law jurisdictions like Britain and the United States, we will discover that the former is even more lenient than those of Britain, the United States and France. Therefore, we need not worry that our human rights and freedom will be taken away or exploited.

Madam Deputy, the HKPA has to point out that if Mr LEE Cheuk-yan's reason for opposing the enactment of the legislation is really "return political power to the people", then the whole thing will be even more ridiculous. In the speech he delivered on 25 October 1999 during his visit to Hong Kong, Mr LEE Kuan-yew, Senior Minister of Singapore, pointed out that some of the problems faced by Hong Kong since the reunification were the legacy of Britain's decolonization trick of "returning political power" to the people. In her memoirs, Mrs Margaret THATCHER, a former British Prime Minister made no attempt to hide the three tactics employed by Britain to deal with Hong Kong. The last of those tactics was precisely to "return political power to the people" and let Hong Kong become independent or semi-independent. However, the overriding principle of the Basic Law on the political system of Hong Kong is that the relationship between the Central Authorities and the Government of the Hong Kong Special Administrative Region (SAR) shall be one between the Central Authorities and a special administrative region under one-country system. All powers of the SAR are derived from delegation by the Central Authorities, not from the self-determination of the residents in any independent or semi-independent political entity. Mr LEE Cheuk-yan's reason for calling upon all Hong Kong people to enthusiastically take part in "The 1 July march", the so-called aim of "returning political power to the people" runs completely counter to the principle of "one country, two systems". We must be clear-minded to realize that the undermining of "one country, two systems" will only undermine

the peace of Hong Kong in this respect. The Taiwan authorities' attempt to resort to inhabitants' self-determination, or a plebiscite, has brought political instability to the Island and eroded people's confidence. The economic development of the Island and its people's interests are bound to suffer in the end.

(THE PRESIDENT resumed the Chair)

Having been battered by the financial turmoil, the burst of the bubble economy and the SARS outbreak, many people are understandably dissatisfied with government policies in one way or another because of unemployment, negative equity assets and welfare cuts, and it is only natural that they wish to express their views and discontent by marching in the streets. However, Members of the Legislative Council simply should not take advantage of such normal discontent of the people and mislead them to "oppose the enactment of legislation to implement Article 23 of the Basic Law and strive for return of political power to the people". This is not in line with Hong Kong people's well-being.

Madam President, the World Health Organization (WHO) already removed Hong Kong from the list of SARS infected areas on Monday. The WHO has highly commended the performance of various sectors of Hong Kong in their fight against SARS. The achievements of Hong Kong in fighting against the epidemic have not come by easily, for they are the result of the concerted efforts of medical and health personnel, members of the public and the Government. We should treasure the social cohesion formed during our battle against the epidemic. While further improving our epidemic prevention measures, we should try every means to revive the economy, help small and medium enterprises and attract mainland and overseas tourists and investors to Hong Kong. The HKPA believes that the prospects of Hong Kong after recovering from the epidemic will be bright. The key to success is a vigilance against new social conflicts and division. That way, the Government and public can spend their precious time and energy on reviving the economy and improving people's livelihood.

Madam President, I so submit.

MR IP KWOK-HIM (in Cantonese): Madam President, under the safeguards provided by the Basic Law, Hong Kong people enjoy freedoms of speech, assembly, protest, rally, and so on. The DAB very much respects the decision of every member of the Hong Kong public to exercise their civil rights.

The National Security (Legislative Provisions) Bill (the Bill) makes corresponding amendments to the existing legislation according to the requirement under Article 23 of the Basic Law (Article 23). The "seven sins" mentioned by the man in the street have in fact existed since the colonial era and they are definitely not created out of nothing by the SAR Government. The latest versions of the Crimes Ordinance and the Official Secrets Ordinance covered by the Bill were voted on and passed by the former Legislative Council which included some of the Members in this Chamber in June 1997 before the reunification. The scope regulated by these pieces of legislation includes unlawful disclosure, treason, sedition, possession of seditious publication, intimidating the Government and legislature and levying war against Her Majesty. Take sedition as an example. According to the comments of Prof H. FU Hualing of the Faculty of Law of the University of Hong Kong, the existing legislation is basically the same as the version of 1938. As regards the Societies Ordinance, there has been no major change since May 1949. Prohibitions against engaging in political activities, against establishing subdivisions of political organizations outside Hong Kong and the power of police officers of or above the rank of Inspector to enter any dwelling house or building to conduct searches already exist for the Government to suppress any political activity that it dislikes.

These pieces of legislation have been in existence since the colonial times but have not been invoked for over three decades. The legislation to implement Article 23 has deleted some of the outdated provisions and amended others to enhance protection for the rights of the public. After the enactment of laws on Article 23, the enforcement of the legislation relating to national security must comply with the stipulations of Chapter III of the Basic Law, which has incorporated three international covenants and convention. Such protection for the rights of the public is not provided for in existing legislation. The legislation to implement Article 23 will further protect the freedoms of speech, of the press and of publication of Hong Kong people.

The mass media are most gravely concerned about the offence of sedition. In the Crimes Ordinance passed before the reunification, seditious intention includes the intention "to bring into hatred or contempt or to excite disaffection

against the person of Her Majesty, or Her Heirs or Successors, or against the Government of Hong Kong, or the government of any other part of Her Majesty's dominions or of any territory under Her Majesty's protection as by law established". The call by Members of the opposition camp on the public to take to the streets may well bring into hatred or contempt or excite disaffection of the public against the Government, thus breaching the legislation which Mr LEE Cheuk-yan played a part in passing in the former Legislative Council. The Bill drastically reduces the scope of sedition to inciting others to commit treason, subversion or secession and to engage in violent public disorder. The Bill clearly specifies that only comments that lead to war, terrorist activities or violent disorder will be considered "sedition". The legislation on Article 23 can in fact further protect the freedom of speech enjoyed by Mr LEE Cheuk-yan.

The mass media are concerned that this piece of legislation will have a chilling effect. Prof Albert CHEN pointed out that the provisions in the legislation to implement Article 23 will not create such an effect, and "there is no need to impose self-censorship. If someone refrains from writing something out of fear, then he gives up his own rights but the law did not deprive him of his rights". We only have to do our homework by comparing the old and new provisions and will know that the Bill is even more lenient than the legislation enacted in the past. So just as the saying goes, "A good horse will stand up to comparison, but not bad assessment by a bad spotter."

A public affairs commentator, Mr WONG On-yin, pointed out that the democratic camp only seeks to make use of the opportunity offered by opposition to the Article 23 legislation to further their political interests and reap benefits in the District Council elections to be held at the end of this year and the Legislative Council election next year.....to defer the legislation is a lifeline to the democratic camp which has achieved nothing in the past few years". Having been debunked by an ally, I do not understand why the opposition camp still continues to distort the facts and make comments about "rushing through the legislation" and mislead the people of Hong Kong. In fact, the discussion on Article 23 legislation has been ongoing since September last year in the Hong Kong community, and extensive consultation has also been conducted for nearly 10 months. The Government has taken on board many different views and made many amendments. The Bills Committee has held meetings totalling over 100 hours in three months and discussed in depth every detail of the Bill. Of course, with the polarized views, it is difficult for the Bills Committee to reach any consensus.

Hong Kong is a free place. This is the case now and so it will be in future. If people want to play the part of a "democracy and freedom fighter", this is their right. However, the ploy to constantly tarnish the Government and other Members, to reverse right and wrong, to scare-monger, to create confusion by making irresponsible comments will eventually be despised and forsaken by the people of Hong Kong.

Here I appeal to the people to refer to the information on the website of the Security Bureau and get to learn more about the specific provisions of the Bill before making a decision to join any march, to keep a cool head, think independently and make a wise decision.

With these remarks, Madam President, I oppose the motion on behalf of the DAB.

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

MS CYD HO (in Cantonese): Madam President, if Mr IP Kwok-him had been as rational as he spoke just now during the discussions at the Bills Committee meetings chaired by him, we would not have found it necessary to move a motion no confidence in him.

Ms Audrey EU, the date of the march is 1 July, not 9 July. However, we can do it again on 9 July. We will meet outside the Hong Kong Cultural Centre, where we will be joined by the cultural sector, homosexual groups and women's organizations. Everyone will bring along a percussion instrument and an electric torch to put on a laser show for the people, a show of our "anger".

On 1 July 2003, the sovereignty will have been handed over for six years. Earlier on, Mr TANG Jiaxuan, member of the State Council asked: If we still fail to enact laws to implement Article 23 of the Basic Law, then what is the point of Hong Kong's reunification? I would like to retort if this National Security (Legislative Provisions) Bill (the Bill) is passed, then what is the meaning of "one country, two systems"?

The Bill carries a series of complex legislative provisions, but it has only been scrutinized for a few short months. The Government has also demonstrated a heartrending policy principle, and that is, it will rather let both sides suffer than to make any concessions.

At a meeting held several days ago, a government official even refused to respond to Members' questions. Slogans like "it is only right and proper to safeguard national security" and "we should unite to save Hong Kong", which were adopted at the very first beginning, were turned into regarding all opponents, whether they are against the provisions or principles or whether they are opposed to this Bill from the legal perspective or government perspective, as people with ulterior motives, traitors and collaborators who plans treasons and subversions.

Such things would not happen in the Hong Kong we used to know and we would not use such "loud mouthed and empty" political slogans, which were used only during the 1967 riots. I thought that after more than 30 years, we would have seen some improvement; I thought that after more than 30 years, we would have become a pragmatic society. However, recent events show that we have once again retrogressed. An even greater retrogression is our senior government officials have also indulged in such behaviour. The closer we are to the resumption of the Second Reading debate of the Bill, the more the official talks about the stance of the Government and does not listen to reason. She would just casually say that Members have not observed the rules and refuse to answer their questions; she would just casually say that Members have spoken too loudly and refuse to answer their questions; and she would also refuse to answer Members' questions if she could not catch their questions clearly. Such an attitude is really lamentable. It must be borne in mind that Members are admitted to this Council because they are accepted by the people. If their constituents felt that the quality of their debates, policy researches and advocacies were problematic, they would not have been elected in the first place.

The rudeness is directed not only at an individual Member but also at the public represented by that particular Member. Very often, government officials dodge the questions, avoid being accountable to society and even make use of the subject under discussion to vent their own feelings. When the community sees that the officials of this Government refuse to be accountable and listen to reason, and that the majority of Members in this Council also adopt the same attitude by using votes as a brutal force to bar rational discussions, the public will know it is time to vote with their feet, to "knock down" this phenomenon.

Perhaps, the scrutiny of the Article 23 legislation is a great summary of the accountability system for principal officials after one year of implementation. Under an accountability system that is unworthy of its name, the decision making of the whole Government is becoming more and more enclosed, and more and more capricious. There was a case in which government officials had not indicated that something would be postponed until the morning of the day when certain proposals were to be submitted to the Finance Committee in the afternoon. The performance of the leading officials of the Hong Kong Government gives people an impression that the Government is incompetent. However, principal officials like Secretary Stephen LAM who is here today have indulged more and more in such behaviour. Under the Rules of Procedure of this Council, government officials are not subject to restrictions and they usually enjoy the advantage of being the last to speak. Secretary Stephen LAM often offends Members in his speech, and I do not know whether he takes joy in insulting Members. However, this shows the public that an official who does not have any "vote" and support from the public can take advantage of his position to insult elected representatives of the people, trample on the representative system and indulge in battles of words.

The Severe Acute Respiratory Syndrome (SARS) outbreak has fostered social cohesion. I call upon the Government not to take advantage of the situation and take part of the credit for this cohesion has actually been fostered by the public's own initiative and the medical and health care personnel's own initiative. In respect of the SARS outbreak, many people think that the Government owes them an explanation. Several days ago, an old lady of Amoy Gardens said that government officials had to step down because they were responsible for the deaths of more than 290 people and those people are not chickens infected by the avian flu. Therefore, TUNG Chee-hwa should at least apologize to the people on the television and give the public an explanation.

After the passage of the Bill on Article 23, a lot of ill consequences will surface gradually. In fact, certain websites have already closed their chat rooms because they do not wish to be accused of violating the law. During the last meeting, the Secretary said a senior member of the press with legal training had told her that under the Official Secrets Ordinance, if the media simply published any information received without thinking, then they might not get into trouble. I do not know whether the Secretary was telling the public not to use their brains, for they would not get into trouble if they do not use their brains. However, a society whose people do not use their brains will never make any progress.

This Government has now become more and more intolerant. Its attitude of having everything its own way is not only evident in the process of the Article 23 legislation. The 2007 political review is now in the hands of the Government and it suddenly indicates that the review has to be postponed by five years; the Government has also spent a lot of public funds to implement policies that have not been endorsed by the Legislative Council; a lot of APIs on Article 23 legislation have repeatedly appeared on the television for the Government thinks that it can "brainwash" the public by doing so. In fact, the public will not be deceived by the Government. Though the Government will treat the public to tea and movies on 1 July, the public said they will have tea, but only in the morning; they will watch movies, but only late night shows and they will remember to march in the afternoon for the purpose of this march is to tell the Government explicitly that the eyes of the public are crystal clear. Please do not insult the intelligence of Hong Kong people anymore.

MR LEUNG FU-WAH (in Cantonese): Madam President, two days ago, Hong Kong was declared free from the SARS epidemic and a ray of hope begins to dawn on society. The signing of the Closer Economic Partnership Agreement with the Mainland next week will offer opportunities for the rebuilding of our economy in the wake of SARS. The primary task for Hong Kong now is to sustain the social unity and cohesion displayed during the battle against SARS so that both the Hong Kong community and economy can have a chance to draw breath and recover.

The Legislative Council by its very name has the responsibility to make legislation. On the question of legislation, different persons may have different views and different ways to strive for legislation on something. The objective of the enactment of laws is to protect the good and punish the bad. People may agree or object to a piece of legislation and they may be happy or unhappy about it. We should not and cannot require that a piece of legislation can please everyone. Therefore, the work requirements and procedures of legislative work in an assembly are to discuss matters with reason, eliminate bias, define the problems, seek common grounds and tolerate differences, and finally, to vote in a democratic manner. It therefore follows that irrespective of the controversial nature of a bill, matters must be settled and cannot drag on forever. As Members of this Council, to legislate becomes a responsibility that we cannot hope to evade. As stipulated in Article 23 of the Basic Law, the SAR Government shall enact laws on its own to implement the Article. Now that it

has been six years since the reunification and as only one year is left in the term of the second Legislative Council, can we now afford to delay this matter any further?

Besides, Article 23 is an important provision concerning national security. National security is of primary importance to every country of the world and it is the fundamental interest which every country will seek to defend. At a time when terrorism is rampant worldwide, it is certainly not justified and irresponsible to oppose to enacting laws to implement Article 23.

Furthermore, Article 73 in Section 3 of Chapter IV of the Basic Law clearly provides for the powers and functions of the Legislative Council. The Council as a legislative assembly has the responsibility to ensure the solemnity of legislative work and autonomy from external duress. However, the motion today calls upon the people to participate in a march against the legislative work currently being undertaken by a Bills Committee of this Council. This attempt to influence the decision of the Council by resorting to street demonstration is an offensive act against the Council and its legislative work.

In fact, the people of Hong Kong have long had the right and the tradition of taking to the streets to express their opinions, and there is no need for any attempt by this Council to make an appeal for and mobilize a demonstration. The so-called appeal is nothing more than an attempt to make use of the credibility of this Council to influence the free will of the people. This is absolutely not necessary, and it is just an underestimation of the intelligence of the people. In so doing, the role of the Council will become blurred and it will degenerate into an institution which is anti-government and acts against the will of the people.

Madam President, it is only after some three months of a gallant fight with SARS and with the loss of nearly 300 lives that Hong Kong is beginning to see the silver lining behind the SARS nimbus. The epidemic has struck home a clear message, that adversities can only be overcome with unity while criticisms and verbal attacks will only serve to make things worse. With the removal of Hong Kong from the list of infected areas, we have made the first step towards recovery. We are now confronted with such pressing issues as public health, rebuilding the economy, adjustments to the industrial structure, education reforms and structural unemployment, and so on. The road ahead of us is long and dreary and we cannot afford to push ourselves into another political storm,

for it will plunge us into an abyss of despair again. I must point out that violent emotions will only open wounds, and forcing the matter through will only push it to a dead corner. It is only when reason prevails in our discussions that we can act responsibly.

The repeated statement of its position by the United States has served to confuse and muddle up the matter. It must be borne in mind that our political system, our constitutional development and legislative work are all internal affairs of the SAR and the United States has no right to meddle with it. On top of this, in a bid to uphold national security, the United States amended the Patriot Act and set up a Department of Homeland Security which has a staff of as many as 170 000 people. The United States has launched a worldwide fight against terrorism. It shocked the world when it conquered Afghanistan and then attacked Iraq. Can it say that its national security is something it must defend at all costs, while that of China is something totally worthless?

Due to some historical reasons, some people may have some special views on the concepts of national security and human rights, and how they should be valued. But it is indisputable that national security is fundamental to the interests of a country. As Hong Kong is reunited with China, no blank spots should exist in China's national security and Hong Kong is a part of it. Besides, the Basic Law should be implemented in full. What the people of Hong Kong should think about is how to face it, and they would only be deceiving themselves if they just evade it or let it drag on.

With these remarks, Madam President, I oppose Mr LEE Cheuk-yan's motion.

DR LAW CHI-KWONG (in Cantonese): Madam President, marching in the streets is not necessarily synonymous with resistance, nor does it necessarily mean any raid, for a march is just a peaceful form of expression. The Government thinks people in the community can be brought together as a result of the SARS outbreak, but in fact, it is not bad at fostering unity in the community either. It has been particularly successful in uniting the forces against the enactment of laws to implement Article 23 of the Basic Law (Article 23).

There are various types of forces in the camp opposing Article 23 legislation. Some people request amendments to the Basic Law because they

are in principle against some provisions of Article 23. The Democratic Party holds this view. Some people think that Article 23 legislation will restrict people's freedom in one way or another, and, since the Chief Executive and the Legislative Council are not elected by full-scale universal suffrage of "one person, one vote", the enactment of legislation at this stage will fail to strike an appropriate balance. They therefore oppose the legislation at this point of time. Some people think legislation can now be enacted on the condition that an appropriate balance is struck. Some people think it is already sufficient to update certain outdated existing legislation. Some people even agree that legislation should now be enacted to implement Article 23, but only within the scope of Article 23, and the Government should not take advantage of the opportunity to limit the freedom of speech, of assembly and the right to express dissatisfaction with government administration.

Whatever viewpoints people may hold, they will all be very disappointed today, and they will all take part in the 1 July march in protest against the Government's hasty enactment of legislation. Whatever the turnout at the 1 July march may be — 100 000 or 200 000 people — I believe it will not change the voting results in the Legislative Council after 9 July. The Government's motion will be carried smoothly, and all amendments of the pro-democracy camp will unfortunately be thwarted. However, there is all the more reason for us to participate in the 1 July march. Hong Kong people have to tell the Government and the whole world that though we know only too well that we cannot alter what is bound to happen, we still want to express our discontent. The people of Hong Kong will still continue to fight hard for the freedom of speech and assembly. We need to show the whole world the great importance we attach to the rule of law and freedom. This is a manifestation of Hong Kong people's conscience.

I call upon Hong Kong people to take part in the march and I also call upon my constituents, that is, social workers, to take part in the march. I also urge social workers to act as wardens and help maintain order on the day of the march.

Thank you, Madam President.

MR FREDERICK FUNG (in Cantonese): Madam President, regarding the view of the Hong Kong Association for Democracy and People's Livelihood (ADPL) on Article 23 of the Basic Law, I have talked about it in the Council.

We are of the view that the Government is obliged to enact laws for such constitutional provisions, but the contents of such laws should not in any way curtail the existing freedom of speech of the organizations concerned. However, we feel and hold the view that the proposed legislation on national security will affect the existing freedoms and rights enjoyed by the people of Hong Kong as the provisions together with the expanded police powers will affect the freedom of speech of the media and the organizations concerned. It is because of these reasons that we do not accept the attempt to enact laws to implement Article 23 in the form of the proposed legislation on national security.

On the day of the march, all members of the ADPL and I will take part. In many marches held or to be held, there are two occasions on which the marches are about some very unusual events and they are quite similar. For other marches, we have to ring up people and mobilize our members, though sometimes people who share a common interest with the theme of the march will take part at their own initiative. Such cases being marches held on the CSSA or old age allowance, and so on. However, there is one thing very special about the proposed march now in that it is like the march held years ago after the 4 June incident. At that time the ADPL received many calls from the public who enquired about the meeting place and the time of the march, and so on. Surprisingly, we have received similar calls for this march. Both our head office and our branch offices have received calls from the public enquiring about the meeting place of ADPL participants in various districts. I hope that the Government can really look at the situation, for this shows the proposed march is one of the two rare occasions which we come across in the course of our political activities.

Such actions do reflect that people from different areas and social strata all have some aspirations for the 1 July march, even though these aspirations may be founded on different aims that individuals may hold. Some people are coming forth about Article 23, some others for freedom of speech, some for freedom of association, and some for opposition to excessive police powers, while some may come out for some policies related to their living, and so on. Anyhow, there is one thing in common among these members of the public and that is, they want to let those in power know through the forces of the people that they have a wish to see some changes in the Government and that it will stop doing some of the work that it is doing now. All in all, the opinions that we have heard are that the people, especially those from the grassroots who intend to take part in the march, are that they want to tell the Government that all communication attempts have failed, the people are feeling hopeless and that democracy is out of reach.

The meaning of failure in all communication attempts is that ever since the reunification, we can see that in these six years what the Government has rallied one side to crack down on the other. This is the tactic used to manipulate public opinion when the Government wishes to launch some reform or some new policy, for example, on the issues of new arrivals from the Mainland, the CSSA recipients, the civil service reform and so on. The employment of this unwise tactic of polarization has eventually pleased the minority pleased but enraged the majority. This has the result of pushing public opinions to extremes, leading to social division and clashes. Such a vicious cycle will only impede administration by the Government.

Moreover, from the policies adopted by the Government in recent years, it can be seen that the Government is infected with a "public opinion allergy syndrome" in that public opinions are avoided and bypassed. It refuses to hear public opinion through consultation and is bent on having its own way. So while all of these are meant to achieve efficiency in administration, the policies launched all backfire due to their lack in popular support. However, public awareness has been raised with popularized education and rapid development of the media. If the Government continues to devise policies behind closed doors, it will only widen the gap between those in power and the people. As this gap widens, the obstruction to administration by the Government will only become greater.

That the people are feeling hopeless refers to the fact that over the past six years, the team led by Mr TUNG often wanted to launch some reforms in respect of the people's livelihood in bold moves. These include major issues like "85 000" units in housing policy; the slashing of CSSA rates and adopting the lump sum grant in social welfare; mother tongue teaching and slashing funding for education; and the fee hike in medical services. Problems would appear whenever these major policies or reforms are about to be taken forward, and on each and every occasion, the Government has failed to make a good job of it.

In respect of the problems confronting the Government, such as those related to the economy, unemployment and SARS, though they may not be entirely related to the Government, the way in which they are handled shows that government responses are dead slow and that the public are thrown further deep into hardship. In the SARS incident, there were people who lost their lives as government actions came too late.

The public is enraged at seeing all this. The Chief Executive may continue using a forceful approach to implement his policies. But actions which are too hasty, extensive and deep may turn out to be just too grand, big and hollow. They become the source of public discontent and also a cause of embarrassment for the Government as they fail invariably in disaster.

The third reason why people are taking to the streets is democracy is out of their reach. The goal of using universal suffrage to return the Chief Executive and members of the legislature has always been mine and that of the ADPL. It is also the goal shared by an increasing number of people who are disillusioned with the Government. I have made my position clear on this many times in this Council and so I would not repeat it now. What we hope for is a democratic system where every person will have a vote, an equitable vote. Under such a system, the people can elect Members to represent them or the Chief Executive of their liking, and as the government, the seat of public opinion and the assemblies are all elected by the people, then the policies so devised will indeed be founded on public opinion. Moreover, the executive authorities can be monitored and checked by public opinion.

Calls for universal suffrage are getting louder and louder. The Basic Law also states that the Chief Executive and the legislature are to be returned by universal suffrage. I hope the Government will realize that if it continues to play games with the provisions of the Basic Law and filibuster, it will not only disappoint Members who are representatives of public opinion, but also lead to more people becoming disillusioned with the Government.

We have all heard the saying, "united we stand, divided we fall". We believe that unity is strength. This is an age-old truth which stands the test of time. On 1 July, the ADPL will meet the grassroots groups at the basketball court next to the exit of the Tin Hau MTR station. We expect to see some dozens of such residents' groups joining us on that day. We hope to see the whole place flooded with people and together they will roar on that reunification day to their Government: Mend your ways.

Thank you, Madam President.

MR LAU PING-CHEUNG (in Cantonese): Madam President, holding a public procession is a statutory right which the people of Hong Kong enjoy.

Organizers of public processions only have to inform the police in advance and provided that no written notice of objection is served, the procession should be respected irrespective of its aim and even the inconvenience so caused should be tolerated.

The motion proposed by Mr LEE Cheuk-yan appeals to all the people of Hong Kong to take part in a march organized to oppose the enactment of legislation to implement Article 23 of the Basic Law and urge for constitutional reforms in Hong Kong. Notwithstanding my respect for the right of Mr LEE Cheuk-yan to hold a march, I do not agree to the two themes for this march.

With respect to the enactment of laws to implement Article 23 and the progress of our constitutional arrangement, this Council has on many occasions debated these issues and I have presented my position on them. The resumption of the Second Reading of the National Security (Legislative Provisions) Bill will take place on 9 July. I would like to restate my position on these two issues in brief.

On the question of enacting laws to implement Article 23, as I have made clear before, we have the responsibility to put into force the stipulations under the Basic Law, that is, to enact laws to protect national security. As to the provisions, they should be commensurate with the offences prohibited and they should be as lenient as possible. This is recognized by international covenants on human rights. I shall conduct an opinion survey among my constituents before bringing each of the proposed amendments under close scrutiny.

Articles 45 and 68 of the Basic Law have provided for the constitutional arrangements of Hong Kong and that the Chief Executive and all Members of the Legislative Council will ultimately be returned by universal suffrage. In fact, since the reunification, elections for the Chief Executive and the Legislative Council have been held in accordance with the Basic Law and progress is being made towards the goal of universal suffrage. Though there are differences in opinion as to the pace, this goal is already a consensus reached by society. Some people hold the view that the Chief Executive and the Legislative Council should be returned by universal suffrage as soon as possible. As I have pointed out, the method for returning the Chief Executive in 2008 should be reviewed by Members of the third Legislative Council elected in 2004 and it is not to be decided by Members of the second Legislative Council elected in 2000. As for the elections of the third Legislative Council in 2004, even if the Basic Law is

amended, technically it will not be feasible to adopt universal suffrage for Legislative Council elections to be held next year.

So for these two themes of the proposed march, I do not agree to the first one, and as for the second one, that may not become a reality next year. Organizing a march like this will not only cause social uneasiness and inconvenience, but it is also doing no good to the revival of the economy in the wake of the atypical pneumonia epidemic. Therefore, I cannot lend my support to Mr LEE's motion which appeals in the name of this Council to the people of Hong Kong to take part in the march. I so submit.

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

MR ALBERT CHAN (in Cantonese): Madam President, many people have asked during these few days why they should take to the streets. For me, that was a wrong question to ask. The question to ask is: Why not take to the streets? Looking back at the past six years, the Government led by Mr TUNG Chee-hwa has been making a complete mess of the governance of Hong Kong, for Hong Kong has been thrown into a miserable state beset by problems like economic downturn, a high unemployment rate and negative equity assets. The law to be enacted to implement Article 23 of the Basic Law is depriving the people of their freedom. So why should we not take to the streets when the political, social and economic conditions are so utterly deplorable?

Earlier on, I mentioned in this Council that had such grave economic, social and political problems as we had experienced in Hong Kong appeared in places like South America and Africa, there might have been a number of disturbances, riots and even assassinations, especially those targeted at the political leaders. However, the tolerance demonstrated by the people of Hong Kong is unparalleled in the world. Not only have there been no disturbances, but efforts showing resentment and resistance have also been minimal. Going on a march has been branded as a kind of confrontation or resistance. Despite this sort of labelling, the people of Hong Kong have exercised amazing tolerance and they would rather take their lives instead of engaging in confrontation and resistance. Now I wish to appeal to all the oppressed people of Hong Kong, the suffering masses, that when they are so hard pressed by the injustices in society to such a breaking point that they wish to end their lives, please think about

coming out in confrontation and resistance. What do we have to fear when we can contemplate taking our own lives? And when there is nothing to fear, there can be a glimmer of hope if we come out and resist. Ending one's life is foolish, for with the end to life all injustices will continue, inept officials are still around, wrong policies will remain. If we come out to fight and struggle, there could still be a glimmer of hope.

In my opinion, we must make our voice loud and clear when we take to the streets on 1 July. The aim must be to topple TUNG, ask him to go, tell this inept Government to be accountable to the people, ask this Government which has no popular support to go. This is clear enough, and there is no doubt about it.

Mr LEUNG Fu-wah has just said that going to a march is an offence to the Legislative Council. He is entering this Chamber and I hope he can reflect on himself. The DAB and the Hong Kong Federation of Trade Unions (FTU), how many times have they taken to the streets all these years? How many times have they taken to the streets to oppose the enactment of some laws? Taking to the streets is not the exclusive right of the leftists, but it is undoubtedly their specialty. When I was young, I used to admire the leftists, for they were truly remarkable. They would throw home-made bombs and shout that they would fight and kill all these "white-skin pigs". They had that sense of patriotic heroism which left a deep impression on me even to this day. So, to a certain extent, the reason why I want to take to the streets on 1 July is I am affected by the heroism I saw in the leftists when I was young. However, now I am very disappointed, for the kind of heroism I saw in the leftists when I was a teenager is gone, for they have become cowards. When there are so many injustices in society, they dare not take to the streets, and they even accuse those who do as making an offence to the Legislative Council. Where have all those heroic sentiments they used to demonstrate in the 1960s gone? In the past 10 years or so, the FTU, the DAB to which these leftists belong.....

PRESIDENT (in Cantonese): Mr CHAN, please face the President when you speak.

MR ALBERT CHAN (in Cantonese): Yes, Madam President. It is just that when I face you, I will not be able to see the kind of sentiments shown on the faces of the leftists. Now I look left..... (*Laughter*)

PRESIDENT (in Cantonese): Mr CHAN, in any case, you will have to face the President when you speak.

MR ALBERT CHAN (in Cantonese): Madam President, it is hard for me to speak about the left when I have to look right. The kind of sentiments demonstrated by the leftists indeed left me with a great impression when I was young. They were not tall and strongly-built, they were just wearing a white shirt and blue pants and they had no guns like the police and they did not look as awesome as the police. But the kind of heroic resistance put up by them was indeed unforgettable. Now I am so disappointed that I have been sleepless for nights.

Madam President, on this question of going to the march on 1 July, I would think that not only the normal people or people with strong feelings should do so, but that those eunuchs, lackeys and the castrated should also do so. Why? It is because in the old days, eunuchs and parasites were respectable people. The eunuchs and lackeys liked to bully people by flaunting powerful relations and they were really powerful. These days when TUNG Chee-hwa is in power, these lackeys and eunuchs are bitterly cursed and scolded by the people wherever they go. They cannot play fox and they are really dead dogs. So those lackeys and eunuchs in the TUNG Chee-hwa government should also take to the streets, for they have been robbed of the mighty powers of lackeys and eunuchs of old. For this reason, all those lackeys and eunuchs should come out on 1 July. However, if they fear that that they might be spotted by the secret police, they may choose to wear masks so that should problems arise in the future, they will not be deprived of the privilege of continuing to be a parasite or an eunuch. I recall six years ago when I took to the streets with some owners of negative equity assets, some of these people were concerned that they would be recognized and so they wore masks, putting two tear drops and pursed lips showing unhappiness. So these lackeys and eunuchs may put on masks of lackeys and eunuchs. These masks are not that hard to find and they can speak out their heart. It is not easy at all these days to be a lackey or a eunuch after all.

Madam President, I also want to challenge the Government for what it plans to do on 1 July. It plans to give away free tickets to movies and treat people to free dinners. It is really racking its brains to please the people in the hope that less people would come out and show their discontent. But I think these are futile. If after spending money like water and resorting to power and

influence the people still will not side with the Government, then all these officials had better go. If after so many things are done, nothing can prevent the people from cramming and packing the streets on 1 July, then should these officials not consider a mass suicide? No, that would be asking too much. But at least they should resign *en masse*. For despite so much effort made, and made by people of power and influence, nothing can be done about it. That proves that they do not have the support of the people. A government without the people's support should therefore take the blame and step down. Thank you, Madam President.

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

MR ALBERT HO (in Cantonese): Madam President, Mr Ambrose LAU said earlier that colonial governments would like to play some tricks to pretend that they are returning political power to the people when their rule was about to end, but actually such tricks would disrupt the stability of the place. This was something which colonial governments liked to do. Such arguments are indeed similar to the ones used by the communists to attack the democratic movement in Hong Kong. They have put the quest for freedom and democracy in confrontation with race, sovereignty and patriotism. The fallacies are evident, and I do not have to go into detail here. I also think that this sort of repeating the arguments made by other people is indicative of slave mentality and thinking.

Mr IP Kwok-him again deliberately misrepresented things earlier. He also sang praises on the national security law to be enacted to implement Article 23 of the Basic Law. He even reprimanded those of us who urge people to go to the march, saying that we were doing this for electioneering. He also said that the law to be enacted was a "lifeline" for the pro-democracy camp in the coming elections. He said that we were smearing the Government and TUNG Chee-hwa, and so on. If all of these were true, then he should really think over what he has said. Why is the law to implement Article 23 a "lifeline" for the pro-democracy camp in the elections? Is it because the people have become so disgusted with matters concerning the enactment of laws to implement Article 23? Why can the Government be smeared so easily? Would it be that easy when the Government has so many resources and all the powers in its hands? Are such arguments trying to take the people as ignorant and stupid, or do they simply show the very ignorance and stupidity of the maker of such remarks?

Mr Albert CHAN has said that it seems some of our Honourable colleagues, including Mr LEUNG Fu-wah, do not show any heroic sentiments when they speak today. I am also disappointed indeed. It would be better if they could have such sentiments, for they can then call upon more people to go to the march on 1 July. Mr LEUNG is somewhat restrained today, which is most disappointing. In any case, the demeanour displayed by Secretary Regina IP two days ago made many people think that there is no other choice but to come out for the march.

Madam President, the march on 1 July will go down in history as an epoch and for that matter, the Article 23 legislation is only the fuse. The arbitrary and impotent rule all through these years has made the people furious. They feel that they cannot help but come out and express their discontent. This is the most important reason. Some people may ask, "What will happen if people come out, and would it turn into an attempt only to topple TUNG in the end?" Our march this time will not make the call for TUNG Chee-hwa to step down our aim, nor will we make it our slogan. For we are convinced that the only solution to these problems is building a truly democratic political system. And under such a system, there will be no place for inept heads of government. So we would not bother to topple TUNG, for in the absence of a good political system, there could be a LEE Chee-hwa, a CHAN Chee-hwa someday and they could be equally despotic and impotent. So what is the point if we topple one and soon another appears? Returning the political power to the people is an outlet that the people of Hong Kong should strive for.

Madam President, the sheer hypocrisy demonstrated by the three-month consultation held for the Article 23 legislation and the absurdities of the Compendium of Submissions are utterly infuriating to Hong Kong people. Besides, in these four months of an arbitrary legislative process, the kind of sophist and irrationality, plus the use of patriotism to leash criticisms on people and to put on a savage look and rebuke people have exhausted the tolerance of many Honourable colleagues in this Council and the public. The people who will come to the march are not confined to those in the legal profession, the media and academic circles who are concerned about Article 23 legislation, there are also many people who are completely disillusioned with this Government, who want to come out and voice their frustrations.

Madam President, 1 July should indeed be a solemn moment for us to celebrate the reunification, and as we all know, the new national leader will visit

Hong Kong on that day. We have picked this day precisely because many people will cheer the new leader, for they think that this is an occasion to celebrate. But we would want to tell them that there is no cause for celebrations. For ever since the reunification, things have only gone from bad to worse and our freedoms and human rights are being seriously threatened. As the situation deteriorates, we are becoming a burden to the country, and even to the extent of becoming a negative equity asset. Can we be proud of this? Should we celebrate? We really have to tell the new leader that we are unhappy about a lot of things and there are too many things that warrant fundamental reforms. So 1 July is not a day of cheers and celebrations. Rather, it is a time we make our protests and a time we stand up and fight. This great march will be a starting point in our arduous road in the fight for democracy. More such marches are sure to follow and people from all walks of life will come forth and fight for democracy, in the hope of making it take roots in Hong Kong and protect the well-being of the people.

I so submit.

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

MS EMILY LAU (in Cantonese): Madam President, I rise to speak in support of the motion moved by Mr LEE Cheuk-yan.

Recently, I have heard many people from all walks of life say that they would take part in the march on 1 July. Madam President, I think you must have heard about it as well, may be you would not take part in the march. But I do not think you will deny having heard many people say such things these days. Some people even hold a press conference to state the position of their sector, saying that they will join the march. I think people go to the march for a great many reasons. They may not like Article 23, but the most important thing is they do not like TUNG Chee-hwa.

Mr Albert CHAN said earlier that Hong Kong people have great tolerance and this is true. Recently, I talked with some people in the business sector and they said that things would be fine for Article 23. Why? They said that for such a serious incident as SARS and in which a few hundred people died, no one came out for a march and demonstration. However, as things are going, come

1 July, Mr Michael MAK and his colleagues will come out. Seen from this perspective, the tolerance of Hong Kong people is really amazing.

We have heard on the other hand that since the handover, Hong Kong has become a city of demonstrations. It seems that Mr TUNG Chee-hwa once said that he would be proud to hear that, for it meant that Hong Kong had freedom and there were people demonstrating every day. I wish to tell him that he had better ask himself why such things happen all the time. Hong Kong really has a lot of demonstrations and even if they are not big ones, it can be said that they happen all the time and every day we find people staging demonstrations. From this it can actually be seen that the people have been unhappy about the governance throughout these six years in many respects.

The march on 1 July may well be the meeting point of a lot of unhappy things. Mr Ambrose LAU has admitted that there is public discontent. He asked us not to misdirect this discontent into opposing Article 23 and calling for a return of political power to the people. I think many people in Hong Kong are sensible and they will not be misled. Nor will they be, as Mr IP Kwok-him has said, incited to hold hatred for the Government. I trust Mr IP Kwok-him will agree that most people know what they are doing. People will not be incited if they do not have any hatred at all.

Madam President, we will know a few days from now whether or not the people will be incited. I do not believe some hatred can be incited. That some people are incited is because for one reason or the other, they have already much hatred and fury. I hope, of course, that the people will express their feelings in a peaceful and rational manner. Now the people are boiling with anger that may spill any moment. So in such circumstances, can the Government pretend that it can see nothing?

Madam President, the Frontier has been selling T-shirts lately and one design of these T-shirts has a rather vague slogan, for some people say they prefer not to have T-shirts with explicit anti-TUNG messages. I would like to make myself clear that we are against TUNG, that is why we do not agree with what Mr Albert HO has said. We want TUNG Chee-hwa to step down. Then what happens next? Even if no direct elections can be held and no matter who comes into office after him, be it LEUNG Chun-ying or anyone, when someone is ousted the person who follows should know that he too will be ousted if he does not do his job well enough. That is why I say I do not agree with Mr

Albert HO. I have never thought of arguing with Mr HO on this point. I have mentioned it to show that differences in opinions are allowed in this Council.

Madam President, talking about those T-shirts, as some people say that we should not put on any explicit anti-TUNG messages on the T-shirts, so we have put on some numbers, that is, $64 + 23 = 71$, meaning that the 4 June incident plus Article 23 equals the 1 July march. Some people say that I cannot even do a sum. So on the day when I was selling those T-shirts, I asked those students to go back to school and tell their teachers that it was not that Emily LAU did not know how to do a sum, it was only because there was the 4 June incident in the first place then there was the Article 23 incident and so on 1 July there would be a great march of 200 000 to 300 000 people. I did not expect Ms HO, who sits next to me, to say that someone had called her and said that the sum was wrong, for I had missed out something: the number 10 should be added to 64 and 23. What does that mean? It is 10 years of suffering, courtesy of the TUNG group.

Madam President, I think in the march on 1 July, besides the Article 23 issue, we will also have to settle accounts with Secretary Stephen LAM. The Basic Law provides that Hong Kong shall enact laws on its own to implement Article 23, but it also provides that the political power be returned to the people and it is stated that the Chief Executive and the legislature will be returned by direct elections. Now they are mentioning the Americans. At first they criticized the Americans of speaking out, so should we just fall flat on the ground in humble submission? To our surprise, after the Americans had spoken, some people jumped out and held a press conference. It is because the United States is a superpower and they do not care a bit what we say. I hope on 1 July, there will be tens of thousand humble people like us who will come out. Madam President, these humble people are saying that they want to be masters of their own house.

Why is all this rush in enacting laws to implement Article 23? Is there no need to implement the other articles? Madam President, the Government has to think about that. I know of course that those in power cannot attend to each and every matter, but at least a fair hand has to be applied. The Basic Law requires us to do a lot of things. But some people choose to do something which a lot of people oppose and they do it in a rush and they do not do other things which many people will want to do. Why? We in this Council can even pass a motion to forbid further discussions on certain issues. Madam President, when a meeting of such a small scale receives as many as some 400 submissions, how

can one say that people are not interested in the election of the Chief Executive? And for matters like these, we choose to do nothing about them. And the list of such things could go on forever.

Madam President, I believe at least 100 000 people will take to the streets on 1 July. There may even be 200 000. Everybody I meet on the street says he will go and that is why I say this. I hope the SAR officials will give serious thoughts to this matter.

PRESIDENT (in Cantonese): Members, now it is five minutes past 10 o'clock in the evening. I think there are still Members who wish to speak and they are followed by public officers. The Member who moved this motion will also speak in reply. So I think after the debate on this motion is over, it is likely that the debate for the second Members' motion cannot complete before midnight. Therefore, I am prepared to suspend the meeting until 9 am next morning after the debate on this motion is completed.

Does any other Member wish to speak?

MR TAM YIU-CHUNG (in Cantonese): Madam President, Hong Kong is a society ruled by law. The integrity and autonomy of the country and the stability of the Government all underpin the rule of law. It follows that protecting national security is the responsibility of every citizen. Subversion must be outlawed. This is also the moral foundation which we should uphold, and only when we stand firm on this moral foundation that we can discuss this Bill on national security in a rational manner.

The National Security (Legislative Provisions) Bill which the SAR Government seeks to enact is meant to implement Article 23 of the Basic Law. Its direction is a complete realization of "one country, two systems". It is consistent with the Basic Law and it complies with the stipulations in the two international covenants on human rights as applied to Hong Kong. It is in line with principles of common law as practised in Hong Kong. The legislative proposals made by the Government will protect national security and safeguard the rights and freedoms of Hong Kong people. The legislation is not meant to suppress certain groups or restrict the freedom of speech. The content of the legislation *per se*, is vastly more lenient than the existing laws. There are even some views that it is too lenient.

Some people and groups with ulterior motives are using some exaggerating tactics to oppose the legislation. They are creating panic among the public with the aim of fostering a large-scale anti-government movement. If a position on a policy is turned into a movement, then how can there be any sensible discussions? This is certainly not a good thing for Hong Kong and its people.

Now among Members of this Council who oppose the enactment of laws to implement Article 23, some in 1997 gave their support to the British Hong Kong Government to amend the Crimes Ordinance and to provide for such offences as subversion and sedition. The Crimes (Amendment) Bill at that time as compared to the legislative proposals now was not lenient at all, then why did these Members accept everything in the Bill at that time? Now they are saying that there is no urgency to enact laws to implement Article 23, then why did they make every effort to urge the colonial government at that time to enact the Bill? In the final analysis, it may be that they are haunted by the spectre of opposing everything done in the name of China.

Though Hong Kong has faced many crises throughout these years, the people of Hong Kong have managed to constantly strive to overcome hardships and look for a way out. In this SARS epidemic, in particular, the people have demonstrated a sense of reason, unity and respect for professionalism. However, some people with ulterior motives are trying to brand these natural disasters beyond human control as evidence of policy failure and personal responsibility. This kind of provoking hatred and smearing reputation is despicable.

The march this time also flaunts the slogan of returning political power to the people in an expression of calls to change the political system. However, let us look at the Basic Law. The Basic Law is a constitutional document implementing the concept of "Hong Kong people ruling Hong Kong" and it has provisions on the pace of our political development. Article 45 states: "The method for selecting the Chief Executive shall be specified in the light of the actual situation in the Hong Kong Special Administrative Region and in accordance with the principle of gradual and orderly progress. The ultimate aim is the selection of the Chief Executive by universal suffrage upon nomination by a broadly representative nominating committee in accordance with democratic procedures." In addition, Article 68 stipulates: "The method for forming the Legislative Council shall be specified in the light of the actual situation in the

Hong Kong Special Administrative Region and in accordance with the principle of gradual and orderly progress. The ultimate aim is the election of all the members of the Legislative Council by universal suffrage." If efforts are made in disregard of the Basic Law and to launch a radical reform of the political system, this is definitely not in the interest of all strata in Hong Kong. This is not in line with the actual situation of Hong Kong and it is not a responsible thing to do either.

To enact laws on national security is to put into force the stipulations in the Basic Law; the gradual and orderly progress of the political system is also a stipulation in the Basic Law. As Members of this Council, we have the right and responsibility to uphold the Basic Law and to be law-abiding. Members swore to uphold the Basic Law when they assumed office, but some Members have forgotten this pledge and they are advocating actions which are against the Basic Law and the rule of law. I will not agree to such acts.

Hong Kong is a free community and everybody has the freedom to take part in a march and demonstration. Likewise, every person has the freedom of not taking part and not getting involved. Those people who seek to curry popular favour, exaggerate things and create panic to provoke the public are in fact making the biggest mockery of freedom.

With these remarks, I oppose the motion.

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

SECRETARY FOR JUSTICE (in Cantonese): Madam President, it was just six and a half months ago that in this Chamber, I spoke in the debate of the motion by Mr Albert CHAN on the enactment of laws to implement Article 23 of the Basic Law. I went at length to illustrate why the rights and freedoms of Hong Kong citizens would not be reduced with the passing of such laws, why the rule of law would not be damaged as a result of the implementation of Article 23, and how the proposals put forward in the Consultation Paper on the subject published on the 24 September 2002 would pass the litmus test of "one country, two systems". I also responded to the comments by Honourable Members on drafting of offences, the appeal mechanism, and whether the proposals went further than Article 23 of the Basic Law required.

It seems that today, we are going over the same process once again. However, I can now speak with greater confidence, given that the National Security (Legislative Provisions) Bill 2003 (the Bill) has since been introduced into this Council, and will pass all these tests. After the full text of the Bill was published, many of the worries have disappeared.

Shortly after the reunification, the Department of Justice started to collect information on legislation relating to national security of other jurisdictions, including those with the common law system and with the civil law system. We studied the existing legislation, the international covenants, and principles and case law on the subject. We prepared ourselves for rendering advice to the Policy Bureau, namely, the Security Bureau, and for drafting legislation for the implementation of Article 23 of the Basic Law when the time was ripe to do so.

Throughout the process of preparation for the enactment of law, we have adhered to certain guiding principles. They were:

- Any legislation introduced into this Council must not contravene the Basic Law, as required by Article 11.
- Any restriction of rights and freedoms must be consistent with the continued application of the International Covenant on Civil and Political Rights (ICCPR), as required by Article 39.
- Offences to implement Article 23 should be clearly and tightly defined to avoid uncertainty and in accordance with the common law system.

Had we introduced a Bill for the implementation of Article 23 of the Basic Law in September 2002, the Bill might have fallen short of the expectations of the people of Hong Kong. Crimes against national security are sensitive issues. Without listening to people's voices, we would not have been able to see the matter from their angle. For example, librarians worried about the offence of possession of seditious publication, although that has always been part of our law. However, the Administration arranged three months of consultation, meetings with various sectors of the community, and over 250 forums, seminars and meetings. It received more than 100 000 submissions from all walks of life (many of them containing knowledgeable and considered opinions) and some 250 000 signatures. As a result, the Bill introduced into this Council on

26 February 2003 was not the product of the Security Bureau and the Department of Justice alone, but also incorporated the views of a large number of people. The consultation and debates over the proposals were unmatched in the recent legal history of Hong Kong. Indeed, a survey on news stories published a couple of days ago showed that the implementation of Article 23 attracted greater public attention than the promulgation of the Basic Law itself.

The Bill, submitted to this Council on 26 February 2003, incorporates the following changes into the proposals contained in the Consultation Paper:

- The definition of "war" in treason is restricted to publicly declared war or open armed conflicts so as to exclude demonstrations and riots; the common law of misprision of treason is expressly abolished; and treason will not apply to non-Chinese nationals.
- "Threat of force" is deleted as an element of secession and subversion so that the offences would be limited to those who engage in war or the use of force or serious criminal means that seriously endanger the stability or territorial integrity of the People's Republic of China.
- "Resisting the exercise of sovereignty" is deleted from secession.
- There must be an intention to incite treason, subversion, or secession in an offence of handling seditious publication and the offence of possessing seditious publication is abolished.
- Information relating to the relationship between the Central Authorities and Hong Kong will only be protected if it relates to affairs for which the Central Authorities are responsible under the Basic Law, and the unauthorized disclosure of the same would only be penalized if it endangers "national security" as defined. Furthermore, under the newly added section 18(2)(d) of the Official Secrets Ordinance, the damaging disclosure of protected information acquired by means of illegal access would only be an offence if it is unauthorized, and the information is obtained through criminal means such as computer hacking, theft or bribery. Unauthorized disclosure of protected information leaked by public servants would not apply to leaks by mainland officials.

- Persons aggrieved by a decision of the Secretary for Security to proscribe an organization subordinate to a mainland organization which is banned on the ground of national security may appeal to the Court of First Instance on points of both law and fact.
- Investigative powers of the police under the new Part IIA of the Crimes Ordinance shall not be exercised in respect of journalistic materials and the proposal to seek additional financial investigation powers was withdrawn.
- Safeguards for human rights are added by ensuring that the application, interpretation and enforcement of the new provisions must be in a manner consistent with Article 39 of the Basic Law.
- Right to elect for trial by jury is made available to all Article 23 offences.

These changes were proposed by legal academics, legal professional bodies, Chambers of Commerce, consular representatives of several countries, political parties, media organizations, librarians, non-governmental organizations, and so on, who made representations to the Government during the consultation period. It is evident that their views were taken seriously by the Government.

Honourable Members are aware that since the Bill was introduced into this Council, a Bills Committee was established and has to date met 25 times (more than 90 hours), in addition to hosting four public hearing sessions to receive the views and comments of more than 100 individuals and organizations. Some 100 information papers and 200 written submissions have been considered by the Committee. As a result, the Government has announced that it will make the following Committee stage amendments:

- A likelihood test is introduced so that the offence of sedition would be limited to situations where a person intends, and is likely to, induce others to commit treason, subversion or secession, or engage in violent public disorder; and a three-year time limit, instead of no limit, as originally proposed, is imposed for prosecuting an offence of handling seditious publications.

- The reference of "national security" is removed from the existing section 8 of the Societies Ordinance, so that the Secretary for Security could only proscribe an organization on the ground of national security in the limited situations specified in the new section 8A. In addition, the rules governing the special appeal arrangements shall be made by the Secretary for Security, subject to the positive approval of this Council (as opposed to what Dr YEUNG Sum said that the Secretary for Security was free to make whatever rules she wanted), instead of by the Chief Justice as originally proposed.
- The exercise of emergency search powers under the new Part IIA of the Crimes Ordinance must be authorized by a police officer at or above the rank of Assistant Commissioner of Police.
- The application, interpretation and enforcement of the relevant Ordinances must be in a manner consistent with the human rights guarantees entrenched in Chapter III of the Basic Law instead of Article 39 only.

These changes were again made on the recommendation of Honourable Members, the legal profession, academics, the media and non-governmental organizations, and so on, who made representations to the Bills Committee. They include, amongst others, the views of Prof Albert CHEN, the Hong Kong Bar Association, the Law Society of Hong Kong, the Association of the Bar of the City of New York, the Society of Publishers in Asia, News Executives Association, and so on. The Government does listen to their views and takes the legislative process seriously.

Because of the sensitivity of the Bill, we have taken meticulous care to maintain a good balance between protecting national security and safeguarding the fundamental rights and freedoms of Hong Kong people. Indeed, the Bill contains more human rights safeguards than any other ordinance. To name a few, they are:

- An express provision that the application, interpretation and enforcement of the law must be in a manner that is consistent with Chapter III of the Basic Law.

- The use of force, violence, serious criminal means or public disorder is an element of the offences of treason, subversion, secession and sedition. As such, the possibility of relying solely on thoughts, opinions or speeches to constitute an offence is being ruled out.
- The right to elect trial by jury.
- The repeal of overly broad provisions relating to treasonable offences and offences relating to the head of state.
- The retention of provisions to ensure that expressions of opinion and criticism of the Government remain lawful.

We are convinced that the Bill complies with the human rights standards set by the ICCPR. The dispute is how far above this yardstick we should place our level of acceptance. The fact that we do not agree to certain demands of some Honourable Members for amendment does not mean that we are in breach of the ICCPR. The Government must find a proper balance between national security and the rights and freedoms of the citizens.

Time does not permit me to deal with all the controversial issues in respect of which requests for amendments have not been acceded to. I would deal with some major ones:

- (1) Regarding the proscription of a local organization that is subordinate to a mainland organization that has been banned on the grounds of national security, it has been alleged that this introduces mainland law into Hong Kong, blurs the distinction between the "two systems" and is targeted at certain identified local organizations. All these allegations are incorrect. Since 1949, the British Government made it known that Hong Kong should not be used as an anti-China base. Is it even more so when China has resumed the exercise of sovereignty over Hong Kong? Because of the free flow of information and people across the border, there is a need to prevent local organizations from being used for endangering national security. Crimes against national security cause calamities, resulting in the loss of lives and enormous damage to property, and every effort should be taken to prevent them from happening.

Terrorist associates can be proscribed under the United Nations (Anti-Terrorism Measures) Ordinance without having committed any crime of terrorism. By the same token, it should be possible to proscribe local organizations if they are subordinate to organizations which endanger national security in the Mainland, and they are themselves a threat to national security. When we talk about national security, there is only one nation, that is, the People's Republic of China. But the manner in which national security is to be protected and the procedure for proscription must be dictated by the laws of the respective jurisdictions, that is, the laws of the People's Republic of China applies to mainland organizations and the laws of Hong Kong apply to local organizations. If an organization in the Mainland is banned on the ground of national security, the Secretary for Security is, of course, put on alert whether a similar threat to national security would be perpetrated by a local subordinate organization whose funding comes mainly from such mainland organization, or is under the direction or control of the mainland organization, or has its policies determined directly or indirectly by the mainland organization. Procedurally, the mainland organization is banned in accordance with the mainland law, and the Hong Kong organization may be proscribed in accordance with the Hong Kong law, which gives the Secretary for Security the discretion whether or not to proscribe. In other words, an organization having been banned in the Mainland does not necessarily mean it will be banned in Hong Kong. In the exercise of such discretion, the Secretary for Security must have reasons to believe that the proscription is necessary in the interests of national security and is proportionate for such purpose. On appeal, if the Court is not satisfied that the Secretary for Security has correctly applied the law, or that there is sufficient evidence to prove that the ground exists or that there is sufficient evidence to justify a reasonable belief that the proscription is necessary in the interest of national security and is proportionate for such purpose, it will set aside the proscription. It can be seen therefore, the provisions for proscription is an exact illustration of "one country, two systems": the enactment of the law is necessary for the protection of one country, but what would justify a proscription and the procedure for proscription are determined by the respective laws and procedures of the two jurisdictions. The issuance of a certificate is to facilitate

the proof of the fact of proscription of the organization in the Mainland in accordance with the legal system in the Mainland, and does not affect the right of the Court to set aside the proscription of the local organization if the Secretary for Security does not exercise her power properly.

- (2) Regarding the offence of handling seditious publications, it has been said that the retention of this offence is a threat to the free flow of information. This is untrue. The Bill defines sedition so narrowly that it takes away from the current law of seditious intention concepts such as "hatred", "contempt", "discontent", "feelings of ill-will" or "enmity". It replaces them with straightforward definitions, namely incitement to commit the offence of treason, secession or subversion, or incitement to engage in violence or public disorder that will seriously endanger the stability of the Mainland or the Hong Kong Special Administrative Region (SAR). Furthermore, the proposed Committee stage amendment to add a "likelihood to induce" test introduces a further safeguard. As a result of this, sedition will only be committed when there is a likelihood for a person to incite others to commit the offence of treason, subversion or secession. The new offence cannot be a threat to the media or to the free flow of information.
- (3) Regarding the introduction of public interest as a defence to unauthorized disclosure of protected information, much controversy has arisen on this subject. Such a defence has never been provided either in Hong Kong's official secrets legislation, or in the United Kingdom legislation on which it is based. The issue was thoroughly debated in the United Kingdom Parliament in 1989 and in Legislative Council of Hong Kong in 1997 when the Official Secrets Act was localized. Both legislatures rejected the call for such a defence. Unauthorized disclosure of protected materials would only constitute an offence if the protected materials were obtained through defined illegal means and the disclosure is damaging. It is unsafe to ask journalists or others to decide what is and what is not in public interest, because the damage would be irreparable if later on they are found to have made a wrong judgement. Without such a statutory defence, the public interest is still a matter to be taken into consideration in exercising the prosecutorial decision, and as a matter of mitigation.

Madam President, I speak against the resolution not because I am against people taking to the streets. 1 July is a day of celebration in Hong Kong: the anniversary of its reunification with the Mainland and the establishment of the SAR, and when families will come out in a jovial mood to enjoy themselves after overcoming Severe Acute Respiratory Syndrome (SARS). The enactment of law and the scrutiny of a bill is best done in this Chamber, by those in whom the public has placed its trust, and where the public has already had plenty of opportunity to express their views. Be that as it may, I respect people's freedom of procession and of demonstration so long as they exercise their right in an orderly way in accordance with the law. I rise to speak against the motion because I cannot agree that the enactment of legislation to implement Article 23 of the Basic Law should be protested against. It is our obligation to enact laws to protect national security in accordance with Article 23, and the Bill enables us to fulfil such obligation. All the talk about erosion of human rights and freedoms, damaging the rule of law and destroying "one country, two systems" is a repetition of what has been said in the past six years on almost every issue when people hold different views from the Government. In the Asian Intelligence published by the Political and Economic Risk Consultancy Limited on 4 June 2003, our current situation in respect of the legal system was described as "very good" with the perception trend of "improving". It said, and I quote: "There is probably no aspect of Hong Kong that better illustrates how the 'one country, two-systems' concept works in practice than Hong Kong's judicial system." It is unfortunate that we cannot appreciate our strength and use it in reviving our economy, improve our public hygiene and make Hong Kong a better place in which to live, but frighten people with doomsday prophecy that never come true, while people from outside acclaim our success in maintaining "one country, two systems", the rule of law and independence of the Judiciary, transparency and the combat against SARS. I urge Honourable Members to vote against the motion.

Thank you, Madam President.

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Cantonese): Madam President, the Secretary for Justice has already given Honourable Members detailed explanations on the legislative proposals in respect of Article 23 of the Basic Law (Article 23). I am now going to further respond to Mr LEE Cheuk-yan's motion.

Mr LEE's motion mentions "return of political power to the people". In fact, Hong Kong people have more actively participated in the governance of Hong Kong since the reunification, as compared to many aspects before the reunification. The Chief Executive is returned by an Election Committee representing various classes and sectors and all Legislative Council Members are returned by election. Although Members from functional constituencies and directly elected Members are returned by different modes of election, they are representative. Directly elected Members can bring into the Legislative Council the opinions of various sectors, while Members from the functional constituencies can bring into the Council voices of various sectors. In fact, Members from functional constituencies can reflect the views of the business and professional sectors, and Members from the labour sector and District Councils can reflect the interests of the grassroots and the general public.

Moreover, according to the design of the Basic Law, the executive authorities and the legislature exercise checks and balances on and monitor each other. For instance, the Government has to table all bills and budgets in the Legislative Council and their passage thereby is required before they can be implemented. The arrangement of checks and balances is actually similar to that in advanced political systems overseas. Thus, the general public can participate in the social affairs of Hong Kong through functional constituencies, the existing channels and their representatives in the Legislative Council and monitor the performance of the Government of the Hong Kong Special Administrative Region (SAR).

Furthermore, the number of directly elected Members of the Legislative Council has gradually increased in accordance with the Basic Law since the reunification. In the next Legislative Council Election in 2004, half of the seats of the Legislative Council would be returned by direct elections. It is also stated very clearly in the Basic Law that while Hong Kong promotes constitutional reform and development, it must follow the principle of gradual and orderly progress and take the actual situation of Hong Kong into account, with the ultimate goal being election by universal suffrage.

I have said time and again that we would focus on an internal study on this in the year 2003 in the hope of starting a public consultation in the year 2004 or 2005 and the relevant legislative work in the year 2006. We will continue to work in the prescribed order in line with these time segments.

Actually, Members present will agree that the ultimate goal as specified in the Basic Law is universal suffrage. This is the only ultimate goal, but different

parties and groups and Members have various views on the timetable, pace and process, which is the political reality.

Therefore, we have a task when we conduct a constitutional review. The Government and Members have their respective tasks, that is, to seek a common point among different views as far as possible. It is because the Basic Law has endowed the Legislative Council with a very important mission and a very important role, that is, any amendments and new proposals relating to the electoral must be passed by a two-third majority of all Members of the Legislative Council before being passed to the SAR Government and the Chief Executive for consideration.

Such a design in the Basic Law has two purposes. First, it is meant to let Legislative Council Members reflect the views of the community; and second, it is meant to require Members to communicate, understand and have dialogues more frequently to gradually narrow differences in society in the hope of broadening social consensus and securing the support of the two-third majority of Members before moving forward.

For this reason, whenever I talk about the constitutional review, I will emphasize that I will handle the relevant work in accordance with the principle of seeking common grounds and establishing a consensus. To achieve this objective, Legislative Council Members from different parties and groups must be practical, respect one another and be tolerant. They must cast aside personal considerations before they can create better conditions and new room for the constitutional development after the year 2007.

Madam President, I think that principal officials and Members should actually try their best to reach a consensus about our constitutional development. To move along this path together, we have to drum up our political wisdom, boldness and courage. The conquering and overcoming of the challenge of seeking a consensus is actually more important and meaningful than taking to the streets. I am convinced that if all of us are willing to look for the path together, the constitutional development of Hong Kong is promising and full of hope.

Madam President, in this connection, I wish to respond in passing to a point raised by Ms Cyd HO earlier in the debate. Ms Cyd HO reminds officials and Members present to respect the views of one another, and I fully agree with her most readily. As an official speaking in this Council on behalf of the Government, I fully respect the rules of procedure of this Council and I do not

agree that one may fling abuses and insults on anybody. Therefore, to seek a consensus, the first step is to respect the right of each other to speak and the freedom of expression. If Members have the right to criticize the Government, this I believe Ms HO will agree, then as representatives of the Government, we have the right to reply. Besides, I hope Ms Cyd HO and her colleagues will understand that while they have their positions, my colleagues in the Government are committed towards Hong Kong, therefore, we should encourage one another.

Madam President, I wish to return to the legislation on Article 23. I see that many members of the community have expressed worries about the bill relating to national security. This reminds me of the time before the reunification when Hong Kong people were at a loss and completely lacked confidence in the future of Hong Kong.

I remember that I went to Toronto, Canada in 1991 and set up the Hong Kong Economic and Trade Office, I came to know this aunt in Toronto who used to work as a civil servant. She migrated to Canada after retirement and was then living in Toronto. She often asked me three questions. First, would the reserves of the SAR Government be taken away by Beijing after the year 1997, or taken away by Britain before the reunification? Second, would the retired civil servants continue to draw pensions after the reunification? Third, even if they could draw the pensions, would there be foreign exchange control preventing her from changing her pensions into Canadian dollars to maintain her living?

Of course, I replied this aunt on each occasion that Hong Kong would not need to turn over revenues to the Central Authorities after the reunification and the Central Authorities certainly would not need to, and they would not, utilize our reserves. As an international financial centre and a trade centre, Hong Kong would not change its free port policy and the policy as a financial centre, and there would not be any exchange control. Today, this aunt is still living in Canada peacefully and she continues to change her pensions into Canadian dollars for spending.

Madam President, I have cited this example to indicate clearly that Hong Kong people are very realistic. They often have worries about the future, but as I look back at the time before the year 1997, when Hong Kong people were worried about the future, I can say that their worries have now vanished. Madam President, I believe a few years later when we hold yet another debate,

when we look back at the legislation on Article 23 in this Chamber again, we will see very clearly that time will have proven everything, proven that our worries today are unfounded.

Madam President, as regards the legislation on Article 23, many people have expressed worries about whether the legislation related to national security will introduce into Hong Kong the mainland practice. Nevertheless, the facts since the reunification have shown us that Hong Kong people's confidence in the Central Government and support for the central leaders are increasingly strong, and there are facts that illustrate this. It is because, during the past six years, the Central Government has firmly observed the Joint Declaration and the Basic law as well as the principles of "one country, two systems" and "Hong Kong people ruling Hong Kong". The Central Government is also very willing to assist Hong Kong in tiding over difficulties and tackling the material issues confronting us. I wish to cite a few examples:

The first example is related to the atypical pneumonia incident. Hong Kong people have seen very clearly that Vice-Premier WU Yi made efforts to fight for the lifting of the travel advisory against Hong Kong when she attended the annual meeting of the World Health Organization (WHO) in Geneva. The matter was handled properly afterwards, and Hong Kong has certainly taken matching actions to deal with the epidemic.

Secondly, to tie in with our economic recovery and transformation, the Central Authorities will execute the Mainland and Hong Kong Closer Economic Partnership Arrangement with the SAR Government in late June. The new arrangement will allow our products to enjoy zero tariff benefits when they enter the mainland market and make it easier for our service industries and professionals to enter the mainland market.

The third example that I wish to cite is that before and after the reunification, the Central Authorities were very concerned and supportive of residents in Hong Kong who held SAR passports. In order to facilitate their travelling and running business abroad, the Central Authorities endeavoured to complement the work of the Immigration Department in seeking and fighting for visa-free arrangement with more than 120 regions and countries for Hong Kong people.

Madam President, I have cited these practical examples to indicate clearly that the overall situation is actually very clear. Although these examples are not

directly related to the legislation on Article 23, they have demonstrated that the Central Government is concerned about Hong Kong people and take them into consideration in all respects. Furthermore, it also strictly observes the principle of "one country, two systems" and has helped us solve problems in many aspects.

The Basic Law has expressly endowed the SAR Government with the rights and responsibilities to make laws on its own to prohibit acts that jeopardize national security. This fully embodies "one country, two systems" and the confidence of the Central Government in the SAR. Therefore, the relevant bill that we have introduced fully complies with the provisions of and the legislative spirit of the Basic Law.

Madam President, as to the SAR itself, actually, over the past 20 years, this generation of colleagues within the Government have tried their best to maintain various institutions in Hong Kong and devoted to implementing the principle of "one country, two systems". These colleagues understand very well that the foundation for the success of Hong Kong includes the rule of law, human rights and freedom. We will definitely not allow anybody to render the hard work and joint efforts made by Hong Kong people over the last 20 years null and void.

Madam President, finally, I wish to point out that there is a judicial system in Hong Kong that meets the international standard fully. Local judges and judges from overseas have the abilities and determination and independent thinking to maintain the human rights and freedom protected under the Basic Law and the Hong Kong Bill of Rights Ordinance. The relevant provisions have also been set out clearly in the relevant bill.

Madam President, I remember that in the evening of the reunification day six years ago, there were many ceremonies of celebration and there was a fireworks display, and festooned vessels were parading the Victoria Harbour. I still remember that I felt very deeply that Hong Kong had really reunited with our Motherland when I watched those festooned vessels at the Convention and Exhibition Centre.

During the past six years, Hong Kong has encountered quite a number of difficulties. We experienced the Asian financial turmoil a few years ago and we have recently been hit by the atypical pneumonia epidemic. Yet, "one country, two systems" still remains unscathed after the attacks in various aspects. Hong Kong people are fearless in the face of changes.

In face of the changes of the times and controversial issues, we, Members or government officials, have the common responsibilities of sticking to the principles of the Basic Law and we should not unnecessarily intensify social disputes.

I believe most Members in this Council will agree that it is most appropriate for us to look forward at this stage insofar as the legislative proposals on Article 23 are concerned. According to the Basic Law, we must enact legislation relating to national security to fulfil our constitutional responsibilities. At the same time, we should sufficiently protect human rights and freedom in Hong Kong and continue to put into effect the principles of "one country, two systems" and "Hong Kong people ruling Hong Kong".

With these remarks, Madam President, I implore Members to vote against this motion today.

PRESIDENT (in Cantonese): Mr LEE Cheuk-yan, you may reply and you still have six minutes 53 minutes.

MR LEE CHEUK-YAN: Madam President, first, I would like to thank the Honourable Margaret NG and the Honourable Audrey EU for their support of the motion, as they are persons who rarely go to the street to march. I believe that they share my sentiment. We cannot stand it anymore. And only by unleashing people's power on the street and go to the march that we can defend our freedom, fight for democracy, and make the people's voices heard, when the voice in this Legislative Council is drowned by puppet legislators.

MR LEE CHEUK-YAN (in Cantonese): Madam President, Secretary Stephen LAM has just made one point which is shared by me. He said that he had felt Hong Kong had really reunited with the Motherland. I also feel here that Hong Kong has really reunited with the Motherland. It is because I see a reincarnation of YUAN Mu here. In a seminar attended by many foreigners, I also saw the YUAN Mu of Hong Kong. Secretary Stephen LAM talked about this aunt he knew and he said to her that after 1997, Hong Kong would not have to submit anything to the Central Government, and that is true. We only need to submit Article 23 legislation and that is all, and the Central Government would give us a face mask. That is a fact. We do not need to submit any money to the Central Government. However, personally I think that we should submit

money to the Central Government, why not? In fact, the people of Hong Kong should submit money to the Central Government and say to it with dignity that we will not submit Article 23 legislation. We would rather contribute by some other means.

The Secretary has also mentioned that he would never permit anyone to ruin the achievements of hard effort by the people of Hong Kong over the past 20 years. Maybe he is right to say that he does not allow anyone to do this, for he has made a monopoly of it. He has done that and this is done by TUNG Chee-hwa together with his three Secretaries of Departments and 11 Directors of Bureaux. No one has ever thought of doing it. Secretary Stephen LAM has also mentioned the way forward for the future constitutional review, in fact that is in line with the important theme of returning political power to the people in our proposed march. He said that such a review would have to obtain the consent of a two-third majority of the Members of this Council. Madam President, I wonder whether or not there will be a two-third majority then? The people of Hong Kong have a stronger reason to take to the streets. For the Basic Law has shaped an undemocratic political system, making this Council to be entirely subjected to the SAR Government, a government which is returned by merely 800 people. Therefore, if we do not take to the streets, we can never hope to fight for democracy. The Secretary has enlightened me, and that is, not only should we take to the streets on 1 July, but we should also do so all the time.

Secretary for Justice Elsie LEUNG has said a lot of things concerning Article 23, but I think we had better leave these for 9 July. However, I hope that on 9 July we would not have to discuss these anymore, for I hope the Government will have withdrawn the Bill. Ms LEUNG has made a remark and that is also a good reason why we have to take to the streets this time. She says that we should make Hong Kong a better place to live. That is right, we should make Hong Kong a better place to live. For without Article 23 legislation, Hong Kong would be a better place to live. If there is no TUNG Chee-hwa, there will be democracy and Hong Kong will be a better place to live. Ms LEUNG, let us work together for that.

After talking about so many serious matters, and since Mr Frederick FUNG is now in this Chamber, I would like to tell him some technical matters. That is, do not ever meet in the basketball courts of the Victoria Park on 1 July, for the FTU will hold a carnival in the six playgrounds and basketball courts there. May I ask Mr FUNG not to join their carnival, never. Come to our march.

Dr Philip WONG says that there are many other ways to express our opinions, for example, asking for an audience with the officials. If Dr Philip WONG is sober now, I hope he can hear what I say. *(Laughter)* But I can tell him in his dream that it would be hopelessly out of the question if the public wants to meet with an official. It is never easy. If members of the public can meet with an official easily, that would be very fortunate.

Mr TAM Yiu-chung says that those who go to the march have ulterior motives and they are opposing China and creating disorder in Hong Kong. He also says that we are blaming the Government for some natural disasters. Then could he please ask the old lady who appeared on the TV yesterday, who lives in Amoy Gardens and has lost her son, if she has any ulterior motives.

Mr LEUNG Fu-wah, Mr IP Kwok-him and many other Honourable Members have all said that we should discuss this matter in a rational manner. Madam President, perhaps they would like to know that the most rational Member of this Council, Miss Margaret NG, is fed up with them.

Thank you, Madam President.

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

(Members raised their hands)

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

(Members raised their hands)

Mr LEE Cheuk-yan rose to claim a division.

PRESIDENT (in Cantonese): Mr LEE Cheuk-yan has claimed a division. The division bell will ring for three minutes.

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

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

Functional Constituencies:

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

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

Geographical Constituencies and Election Committee:

Ms Cyd HO, Mr Albert HO, Mr LEE Cheuk-yan, Mr Fred LI, Mr LEUNG Yiu-chung, Dr YEUNG Sum, Mr LAU Chin-shek, Ms 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 TANG Siu-tong, Dr David CHU, Mr NG Leung-sing, Mr YEUNG Yiu-chung, Mr Ambrose LAU and Mr MA Fung-kuok voted against the motion.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 25 were present, five were in favour of the motion and 20 against it; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 26 were present, 14 were in favour of the motion and 11 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.

SUSPENSION OF MEETING

PRESIDENT (in Cantonese): I now adjourn the Council until 9 am tomorrow.

Suspended accordingly at Eleven o'clock.

Annex I

EVIDENCE (MISCELLANEOUS AMENDMENTS) BILL 2002

COMMITTEE STAGE

Amendments to be moved by the Secretary for JusticeClauseAmendment Proposed

4

(a) In the proposed section 57 -

(i) in subsection (3), by deleting everything after "compellable" where it first appears and substituting -

"-

(a) to give evidence for the prosecution but only in respect of any specified offence with which the accused or a co-accused is charged; or

(b) to give evidence on behalf of a co-accused but only in respect of any specified offence with which the co-accused is charged.";

(ii) by adding -

"(3A) An offence is a specified offence for the purposes of subsection (3) if -

(a) it involves an assault on, or an injury or threat of

ClauseAmendment Proposed

injury to, the husband or wife of the accused;

- (b) it involves causing the death of, an assault on, or an injury or threat of injury to, a child of the family who -

(i) at the material time was under the age of 16 years or was a mentally incapacitated person; or

(ii) at the time when the evidence is given is a mentally incapacitated person;

- (c) it is a sexual offence alleged to have been committed in respect of a child of the family who -

(i) at the material time was under the age of 16 years or was a mentally incapacitated person; or

ClauseAmendment Proposed

- (ii) at the time when the evidence is given is a mentally incapacitated person; or
 - (d) it consists of attempting or conspiring to commit, or of aiding, abetting, counselling, procuring or inciting the commission of, an offence falling within paragraph (a), (b) or (c).";
- (iii) in subsection (4), by deleting everything before "neither" and substituting -
 - "(4) Subject to subsection (4A), where an accused and the husband or wife of the accused are standing trial together,";
- (iv) by adding -
 - "(4A) Subsection (4) shall not apply to either spouse who is no longer liable to be convicted of any offence in the trial (whether as a result of pleading guilty or for any other reason).";
- (v) in subsection (10) -
 - (A) in the definition of "被控人", by deleting the full stop at the end and substituting a semicolon;

ClauseAmendment Proposed

(B) by adding -

" "mentally incapacitated person" (精神上無行為能力的人) means a mentally disordered person within the meaning of section 2(1) of the Mental Health Ordinance (Cap. 136) or a mentally handicapped person within the meaning of that section;".

(b) In the proposed section 57A(1), by adding "at any time" after "may".

New

By adding immediately after clause 10 -

"Magistrates Ordinance

10A. Procedure on hearing appeal

Section 118(1)(b) of the Magistrates Ordinance (Cap. 227) is amended by repealing "paragraphs (a), (b) and (c)" and substituting "subsections (1) and (6) to (10)".

12

In the heading, by deleting everything after "院" and substituting "實現協助申請的權力".

16

In the proposed section 79I -

(a) in subsection (1), by deleting "A" and substituting "Subject to subsection (2), a";

(b) by deleting subsection (2) and substituting -

ClauseAmendment Proposed

"(2) The court shall not give permission under subsection (1) if -

- (a) the person concerned is in Hong Kong;
- (b) the evidence can more conveniently be given in Hong Kong;
- (c) a live television link is not available and cannot reasonably be made available;
- (d) measures to ensure that the person will be giving evidence without coercion cannot reasonably be taken; or
- (e) it is not in the interests of justice to do so."

19

- (a) In subclause (2)(b), by adding -

"(ia) by adding "or otherwise than on oath" after "oath";".

- (b) By adding -

"(2A) section 10 is amended by adding -

"(2A) A magistrate may only take the evidence of a witness under subsection (2)(a) otherwise than on oath where this is asked for by

ClauseAmendment Proposed

the appropriate authority of the place outside Hong Kong."."

New By adding before the heading "**Consequential Amendments**" -

"19A. Regulations

Section 33(i) is amended by adding "or otherwise than on oath" after "oath".

20 By deleting the clause and substituting -

"20. False unsworn statement under certain Ordinances

Section 32A of the Crimes Ordinance (Cap. 200) is amended by repealing everything after "giving" and before "makes" and substituting "evidence otherwise than on oath pursuant to section 10 of the Mutual Legal Assistance in Criminal Matters Ordinance (Cap. 525), or where required to do so by an order under section 76 of the Evidence Ordinance (Cap. 8) or that section 76 as extended by section 77B of the Evidence Ordinance (Cap. 8),".

New By adding -

"22. Procedure on hearing appeal

Section 118(1)(b), as amended by section 10A of this Ordinance, is amended by repealing "(10)" and substituting "(17)".

ClauseAmendment Proposed**Mutual Legal Assistance in Criminal
Matters Regulation****23. Failure of witness to answer
questions, etc.**

Section 5 of the Mutual Legal Assistance in Criminal Matters Regulation (Cap. 525 sub. leg. A) is amended -

(a) in paragraph (a), by repealing everything after "witness" and substituting "or refuses to take any other step to similar effect in accordance with the law of the place outside Hong Kong the appropriate authority of which has made the request concerned;"

(b) by adding -

"(aa) without lawful or reasonable excuse, refuses to answer a question when required to do so by the magistrate; or";

(c) in paragraph (i), by adding ", to take the step" after "sworn".

24. Schedule amended

The Schedule is amended, in Form 3 -

ClauseAmendment Proposed

- (a) by repealing everything after "by me to" where it first appears and before "refuses to" and substituting "be sworn (or affirmed) as a witness (or to take any other step to similar effect in accordance with the law of the place outside Hong Kong concerned) now refuses so to do*/(or being a witness)";
- (b) by adding "or take the step in accordance with the law of the place outside Hong Kong concerned" before "*/answer".

Annex II**REVENUE BILL 2003****COMMITTEE STAGE**

Amendments to be moved by the Secretary for Financial Services
and the Treasury

ClauseAmendment Proposed

2

By adding before paragraph (a) -

"(aa) in the definition of "declared value", by adding ", an employee or agent authorized by a registered distributor under section 4D(3)" after "registered distributor";".

6(d)

(a) By adding after the proposed section 4D(2) -

"(2AA) Where an accessory declared in a declaration made under subsection (2) ("new accessory") is fitted to the motor vehicle to replace another accessory ("replaced accessory"), the registered owner may, together with the registered distributor who fits the new accessory (if the distributor so wishes), apply to the Commissioner to deduct the value of the replaced accessory from the taxable value of the vehicle by setting out in the declaration such details of the replaced accessory as the Commissioner may reasonably require and attaching to the declaration such documentary evidence as the Commissioner may reasonably require in support of the application.".

(b) By deleting the full stop at the end and substituting a semicolon.

ClauseAmendment Proposed

6

By adding -

"(e) by adding -

"(3A) Subject to subsection (3B), where a registered distributor has authorized a person under subsection (3), a reference to registered distributor in this section, in so far as it relates to an obligation to make a declaration, shall be deemed to be a reference to the person so authorized, and a reference to registered distributor in section 4I(1)(ea) shall be construed accordingly.

(3B) Subsection (3A) shall not apply in relation to a matter in respect of which the registered distributor has made a declaration under this section despite the authorization."."

7(f)

By deleting the proposed section 4E(2A) and (2B) and substituting -

"(2A) After receiving a declaration made under section 4D(2) or (2A), the Commissioner shall revise the taxable value of the motor vehicle to which the declaration relates in the manner provided in subsection (2AA) and, if applicable, subsection (2AB) and calculate the additional first registration tax payable for the vehicle, if any, accordingly.

(2AA) The Commissioner shall add the value of the accessory or taxable warranty as declared in the declaration or, if applicable, the market value of the accessory or taxable warranty as assessed under subsection (2B) to the existing taxable value of the motor vehicle.

ClauseAmendment Proposed

(2AB) Where an application is made under section 4D(2AA) to deduct the value of a replaced accessory from the taxable value of the motor vehicle, if the Commissioner is satisfied that -

- (a) the function of the new accessory is the same or substantially the same as that of the replaced accessory; and
- (b) the replaced accessory was fitted to the vehicle and has been removed,

the Commissioner shall deduct from the total taxable value of the vehicle as calculated under subsection (2AA) the value of the replaced accessory as declared in the declaration or, if applicable, the market value of the replaced accessory as assessed under subsection (2B).

(2AC) Where the revised taxable value of a motor vehicle is lower than its taxable value before the accessory declared in the declaration is fitted, any excess first registration tax paid shall not be refunded.

(2B) If the Commissioner is of the opinion that the declared value of an accessory, including a replaced accessory, or a taxable warranty does not reflect the market value of the accessory or taxable warranty, the Commissioner may assess the market value of the accessory or taxable warranty for the purposes of subsection (2AA) or (2AB), having regard to the declared value or the range of market values of any similar accessory or taxable warranty."

ClauseAmendment Proposed

- 8 By deleting paragraph (b) and substituting -
- "(b) in subsection (5), by repealing "or (e)" and substituting ", (e), (ea) or (eb)".".
- 10(a) By deleting subparagraph (i) and substituting -
- "(i) in paragraph (e) -
- (A) by adding ", an employee or agent authorized by a registered distributor under section 4D(3)" after "registered distributor";
- (B) by repealing "or (2)";".
- 10(a)(ii) (a) In the proposed section 4I(1)(ea), by adding ", an employee or agent authorized by a registered distributor under section 4D(3)" after "registered distributor".
- (b) By adding -
- "(eb) being a registered owner, a registered distributor or an employee or agent authorized by a registered distributor under section 4D(3), makes a false declaration in connection with an application made under section 4D(2AA);".
- 11 In the proposed Schedule -
- (a) by deleting item 1 and substituting -
- "1. Private cars -

ClauseAmendment Proposed

- (a) on the first \$150,000.... 35
 - (b) on the next \$150,000 ... 65
 - (c) on the next \$200,000 ... 85
 - (d) on the remainder 100";
- (b) by deleting item 6 and 7 and substituting -
 - "6. Motor cycles 35
 - 7. Motor tricycles 35";
- (c) by deleting item 8(b) and substituting -
 - "(b) Van-type light goods vehicle not exceeding 1.9 tonnes permitted gross vehicle weight -
 - (i) on the first \$150,000.... 35
 - (ii) on the next \$150,000 ... 65
 - (iii) on the remainder..... 85".

Annex III**REVENUE (NO. 2) BILL 2003****COMMITTEE STAGE**

Amendments to be moved by the Secretary for Financial Services
and the Treasury

<u>Clause</u>	<u>Amendment Proposed</u>
2	By deleting "This Ordinance applies" and substituting "Sections 3 to 6 and 9 to 15 apply".
3	By deleting the clause and substituting -

"3. Definition of income from employment

Section 9 of the Inland Revenue Ordinance (Cap. 112) is amended -

(a) by repealing subsection (1)(a)(i), (ii) and (iii);

(b) in subsection (2A) -

(i) by repealing paragraph (a) and substituting -

"(a) any benefit that is -

(i) provided by an employer otherwise than in connection with a holiday journey; and

ClauseAmendment Proposed

- (ii) capable of being converted into money by the recipient;"
- (ii) in paragraph (b), by repealing the comma at the end and substituting "; or";
- (iii) by adding -
 - "(c) any amount paid by an employer in connection with a holiday journey,"
- (c) in subsection (6), by adding -
 - " " holiday journey" (度假旅程) means -
 - (a) a journey taken for holiday purposes; or
 - (b) where a journey is taken for holiday and other purposes, the part of the journey taken for holiday purposes;". "

ClauseAmendment Proposed

- 9(b) By deleting "until superseded" and substituting "for each year after that year".
- 12(b) By deleting "until superseded" and substituting "for each year after that year".
- 15(6) By deleting ", as appropriate".

REVENUE (NO. 2) BILL 2003

COMMITTEE STAGE

Amendments to be moved by the Honourable SIN Chung-kai

<u>Clause</u>	<u>Amendment Proposed</u>
10	By deleting the clause.
11	<p>In paragraph (b) -</p> <ul style="list-style-type: none">(a) in the subheading "For the year of assessment 2003/04", by adding "and for each year after that year" at the end;(b) in the second column under the subheading "For the year of assessment 2003/04 and for each year after that year" -<ul style="list-style-type: none">(i) in item 1, by deleting "\$104,000" and substituting "\$108,000";(ii) in item 2, by deleting "\$208,000" and substituting "\$216,000";(iii) in item 8, by deleting "\$104,000" and substituting "\$108,000".";(c) by deleting the subheading "For the year of assessment 2004/05 and for each year after that year" and everything after it.

Appendices I and II**WRITTEN ANSWER****Written answer by the Secretary for Financial Services and the Treasury to Ms Cyd HO and Mr Martin LEE's supplementary questions to Question 3**

Being bound by the secrecy provisions of the Banking Ordinance, the Hong Kong Monetary Authority (HKMA) cannot disclose information pertaining to individual applications, including the time taken to process and approve individual applications. Attached please find the statistics provided by the HKMA on the processing time for applications of senior management appointments of banks for the past three years (at the Annex) for Members' reference.

As explained in our reply at the Legislative Council meeting on 25 June 2003, the specific length of time required in the HKMA's review and approval process depends on the required number of checks with other authorities and how long these authorities take to provide the HKMA with the required information. The attached statistics show that there are a considerable number of cases in which the applications were approved in just a few days' time, particularly when vetting of the applicant is waived. All applications were processed and approved in accordance with the HKMA's established criteria and procedures.

As further information, it is noted that out of the 135 cases processed within seven working days in the three-year period, 79 (that is, 59%) involved applications in relation to authorized institutions (AIs) that are outside the world top 100 banking groups. On the other hand, 20 cases out of the 75 (that is, 27%) processed in more than 42 working days involved applications in relation to AIs that are within the world top 100 banking groups. There is therefore no ground to the allegation that large banks are favoured in this regard.

WRITTEN ANSWER — *Continued*

Annex

Consolidated Position

CE/ACE/Director applications processed

Year (1) 1 June 2002 to 31 May 2003

Year (2) 1 June 2001 to 31 May 2002

Year (3) 1 June 2000 to 31 May 2001

<i>Processing time (working days)</i>	<i>No. of applications processed</i>				<i>Cumulative total</i>	
	<i>Year (1)</i>	<i>Year (2)</i>	<i>Year (3)</i>	<i>Total</i>		
1 to 7	41	48	46	135	135	(17%)
8 to 14	32	26	33	91	226	(28%)
15 to 21	62	86	73	221	447	(55%)
22 to 28	29	58	47	134	581	(72%)
29 to 35	23	38	39	100	681	(84%)
36 to 42	8	7	41	56	737	(91%)
> 42	13	30	32	75	812	(100%)
Sub-total	208	293	311	812		
Applications pertaining to authorization of AIs	18	10	24	52	864	
Total	226	303	335	864		

Note: For applications pertaining to authorization of AIs, the processing time in each case depends on the timing of the relevant AI authorization which generally takes a much longer time than vetting the CE/ACE/Director applicants.

CE/ACE/Director applications processed with vetting waived

<i>Processing time (working days)</i>	<i>No. of applications processed</i>				<i>Cumulative total</i>	<i>No. of jurisdictions (that is, home countries of the banks involved)</i>
	<i>Year (1)</i>	<i>Year (2)</i>	<i>Year (3)</i>	<i>Total</i>		
1	7	4	6	17	17	6
2	1	9	10	20	37	11
3	8	13	8	29	66	13
4	5	10	2	17	83	16
5	1	5	6	12	95	18
6	5	5	3	13	108	20
7	1	0	1	2	110	20
> 7	8	17	23	48	158	20
Total	36	63	59	158		
Out of	208	293	311	812		

Note: 1. Vetting will be waived where an earlier check in relation to the same individual has been conducted with the same local authorities in the past three years, or with authorities in overseas jurisdictions within which the individual has not worked since the earlier check.

2. There was an error in classifying one case between the three-day category and the four-day category for Year (1) in the reply to the Legislative Council on 25 June 2003.

Appendix III**WRITTEN ANSWER****Written answer by the Secretary for Housing, Planning and Lands to Mr LAU Ping-cheung's supplementary question to Question 5**

There is no provision under the Town Planning Ordinance for requests for amendments to statutory plans. Currently, these requests are processed administratively by the Town Planning Board (TPB). Hence, there is no mechanism for appeal of the TBP's decisions on these requests. Nevertheless, if a request is rejected by the TBP, the proponent could submit a fresh request to address the concerns of the TPB.

The Planning Department has pledged to submit to the TPB a request for amendments to statutory plans within three months upon receipt of the request. This applies to both first submissions and resubmissions.