

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 14 January 2004

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.

DR THE HONOURABLE ERIC LI KA-CHEUNG, G.B.S., 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, J.P.

THE HONOURABLE CHAN YUEN-HAN, J.P.

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, G.B.S.

THE HONOURABLE WONG YUNG-KAN

THE HONOURABLE JASPER TSANG YOK-SING, G.B.S., J.P.

THE HONOURABLE HOWARD YOUNG, S.B.S., 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, J.P.

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, J.P.

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.

PUBLIC OFFICERS ATTENDING:

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

THE HONOURABLE STEPHEN IP SHU-KWAN, G.B.S., J.P.
THE FINANCIAL SECRETARY, AND
SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR

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

PROF THE HONOURABLE ARTHUR LI KWOK-CHEUNG, G.B.S., J.P.
SECRETARY FOR EDUCATION AND MANPOWER

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

DR THE HONOURABLE PATRICK HO CHI-PING, J.P.
SECRETARY FOR HOME AFFAIRS

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

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

THE HONOURABLE AMBROSE LEE SIU-KWONG, IDSM, J.P.
SECRETARY FOR SECURITY

THE HONOURABLE JOHN TSANG CHUN-WAH, J.P.
SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY

CLERKS IN ATTENDANCE:

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

MS PAULINE NG MAN-WAH, ASSISTANT SECRETARY GENERAL

MR RAY CHAN YUM-MOU, ASSISTANT SECRETARY GENERAL

TABLING OF PAPERS

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

No. 50 — Estate Agents Authority
Annual Report 2002/2003

No. 51 — Report of changes to the approved Estimates of
Expenditure approved during the second quarter of
2003-04 (Public Finance Ordinance : Section 8)

No. 52 — Consumer Council
Annual Report 2002-2003

No. 53 — Legal Aid Services Council
Annual Report 2002-2003

Report of the Bills Committee on Education (Miscellaneous Amendments)
Bill 2003

ORAL ANSWERS TO QUESTIONS

PRESIDENT (in Cantonese): Questions. First question.

LCSD's Policy of Not Renewing Employment of Course Instructors Aged over 60

1. **MR IP KWOK-HIM** (in Cantonese): *Madam President, it has been reported that the Leisure and Cultural Services Department (LCSD) has decided not to renew the employment of its course instructors aged over 60 so as to bring the retirement age of course instructors employed on contract terms in line with that of civil servants. In this connection, will the Government inform this Council:*

(a) *of the number of course instructors employed by the LCSD who will soon reach the age of 60 as well as the types of courses in which they*

are engaged, and the other government departments which also set the retirement age for their contract staff;

- (b) whether it will consider not applying the above retirement age to the course instructors employed by the LCSD on contract terms; if not, the reasons for that; and*
- (c) whether, apart from age, other factors such as the health of the instructors concerned will be taken into account by the LCSD in deciding whether or not to renew the employment of its course instructors who are over, at or will soon reach the age of 60?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, I would like to thank Mr IP Kwok-him for raising the questions. As Mr IP has made enquiries to the LCSD about the age of part-time Tai Chi instructors employed on contract terms by the Department and requested for follow-up action, I will focus on explaining the arrangements for employing instructors of recreation and sports training programmes.

In order to promote sport-for-all, the LCSD organizes a wide variety of recreation and sports training courses to provide opportunities for people of different ages to learn and participate in sports so that they may develop an interest in sports and take up regular exercise or join suitable progressive training courses according to their physical conditions and interest. By so doing, the physical well-being of the community can be enhanced and the aim of promoting sports can be achieved.

At present, there are 4 546 qualified instructors of recreation and sports training programmes registered with the LCSD. Among them, 4 177 are below the age of 60. Any person aged 18 or above who has completed intensive training programmes offered by the respective national sports associations and holds a valid and recognized instructor certificate can apply to the LCSD as a registered coach for recreation and sports training programmes. The LCSD currently employs 2 537 coaches on contract terms, among them 2 382 are below the age of 60. Various training programmes being offered by the LCSD are held as central courses. To hire coaches for these programmes, the Department will select suitable coaches from the Register by considering the preferred

district of the candidates, their past performance and availability for the schedule of the programmes. The candidates selected will be offered part-time employment on a fixed-term contract basis.

Since its establishment in 2000, the LCSD has employed part-time instructors of training programmes according to the non-civil service contract (NCSC) terms set out by the Civil Service Bureau in early 1999. Some of these employment criteria include: the salaries, emolument and other conditions of service offered to NCSC part-time staff should not be more favourable than those to civil servants. As the LCSD's instructors are employed under short-term part-time mode, the question of retirement age does not exist. However, the Department will still make reference to the retirement age of civil servant, that is, the age of 60, as the age ceiling for part-time instructors. Meanwhile, the Department has previously received a number of enquiries and opinions from registered instructors who claimed that they were not offered employment opportunity though having waited for a long time. Therefore, starting from the end of 2003, the Department no longer renews the employment contract of part-time instructors aged 60 or above so as to provide more job opportunities for those younger qualified instructors and to reduce their waiting time. However, the Department will, depending on operational needs, consider employing registered instructors aged 60 or above on the list when no suitable instructors aged below 60 are willing to accept the job.

Now I would like to reply to the three questions raised by Mr IP Kwok-him one by one as follows:

- (a) At present, there are 2 537 people who have entered into part-time instructor contracts with the LCSD. Among them, only 155 are aged 60 or above and 13 of them are aged 59. These relatively older instructors are mainly instructors of Tai Chi while some others are instructors of gateball or lawn bowl. As far as I know, the criteria regarding the employment of NCSC staff as stated above are also adopted by other government departments. However, I do not have the specific data in hand on the employment of NCSC staff aged above 60 by other departments.
- (b) We will continue to comply with the above criteria of employing NCSC staff and will take into consideration the operational needs of

the Department when appointing part-time instructors for the various recreation and sports training programmes of the LCSD. For example, at present there are a total of 941 eligible Tai Chi instructors on the list of the LCSD. Among them, 244 are aged 60 or above. For the remaining 697 registered instructors aged below 60, only 149 of them have been offered appointment, with the remaining 548 on the list still awaiting to be appointed. The LCSD will continue to take into account the arrangement of civil servants retiring at the age of 60 and appoint part-time instructors aged below 60. However, the Department will appoint registered instructors aged 60 or above when no suitable instructors aged below 60 are willing to accept the job.

- (c) When appointing part-time instructors, the LCSD will take into account the following factors:
 - (i) the requirements of the course;
 - (ii) whether the appointed instructor is on the list of qualified instructors of the Department;
 - (iii) the appointed instructor's preference for the districts where the courses are held;
 - (iv) the past performance of the appointed instructor; and
 - (v) the above criteria regarding the employment of NCSC staff.

MR IP KWOK-HIM (in Cantonese): *Madam President, the Secretary has mentioned in the third paragraph that as there are 4 546 qualified instructors, the Department has adopted a "broad-brush" approach in refraining from employing instructors over the age of 60 in order to provide employment opportunities for others. However, as Members are aware, instructors aged 60 are actually in their prime in terms of maturity. Does it mean that the public are being denied the opportunities to be trained or coached by the best instructors? Furthermore, will this decision amount to age discrimination? Had legal advice been sought when this decision was made? Can the Secretary inform us of the legal advice?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, I wonder if the mastery of a Tai Chi instructor increases with his age. As Members are aware, all Tai Chi instructors must have completed intensive training programmes before they can register with the LCSD. Moreover, they must possess a valid and recognized instructor certificate issued by the Hong Kong Tai Chi Association or the relevant national sports associations. They must be qualified as an instructor to ensure the quality of instructors. As I stated at the beginning of my reply, the main objective of the LCSD in organizing these training programmes is to promote sport-for-all. Therefore, the programmes are generally designed for beginners.

As regards whether the age requirement is discriminatory, the priority given by the LCSD in recruitment of part-time instructors to persons aged below 60 is actually based on the requirement that the departmental principle governing the recruitment of NCSC staff and the retirement age should be comparable to the conditions of employment of civil servants. In general, the maximum retirement age of civil servants is 60. As such, part-time instructors employed as NCSC staff have to be comparable to civil servants. In this respect, there is no question of age discrimination.

MR IP KWOK-HIM (in Cantonese): *Madam President, the Secretary has not answered the point as to whether legal advice has been sought.*

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, we have not sought legal advice on this.

MR TAM YIU-CHUNG (in Cantonese): *It is the hope of many people that more Tai Chi courses can be organized by the LCSD at the district level. From the information we have gone through, we know that there are a considerable number of qualified Tai Chi instructors. Moreover, from the medical point of view, Tai Chi is very good to health, particularly the health of the elderly. Will the Secretary consider employing more qualified instructors and organize more training courses to resolve the problem of a large number of instructors awaiting an opportunity to give instruction despite having waited for a long time? Can the problem be ameliorated by doing so?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): As I have mentioned in the main reply, a large number of Tai Chi instructors aged below 60 are still waiting for employment. Of course, more training courses can be organized gradually. We will surely do so if there is such a need among the public.

MR TAM YIU-CHUNG (in Cantonese): *Madam President, I am afraid my question was not clear enough. Actually, many members of the public want to join the training programmes. However, the number of classes organized by the LCSD is still very small; only 149 persons are employed at the moment. It has been confirmed that many people are waiting to sign up for such programmes. Can the Secretary respond clearly to this point? He seems to think that not many people are interested in the programmes.*

PRESIDENT (in Cantonese): So you think the Secretary has not answered your supplementary question in relation to the point that there is such a need among the public.

MR TAM YIU-CHUNG (in Cantonese): *Yes.*

PRESIDENT (in Cantonese): Will the Secretary consider organizing more programmes?

SECRETARY FOR HOME AFFAIRS (in Cantonese): If there is such a need among the public, the Secretary will surely consider organizing more programmes. *(Laughter)*

MR CHAN KAM-LAM (in Cantonese): *Madam President, I can see from the Secretary's reply that he is a master Tai Chi practitioner. He has blamed the unemployment of instructors aged 60 on the failure of some younger instructors to secure teaching posts and thereby transforming the problem into conflicts among instructors. Can the Secretary inform us of the amount of resources injected annually into the employment of these instructors? Given the fact that some instructors over the age of 60 hope to be employed, and some instructors*

below the age of 60 are still awaiting employment, will the Secretary increase resources, as there is indeed such a need?

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, I do not have the specific information about the LCSD's resources in this area at hand. I will furnish a reply in writing later. (Appendix I)

I would like to tell Members here that these programmes are a form of sport-for-all education that seeks to promote sports awareness. It is hoped that, through participating in introductory programmes, more people can develop an interest in sports, and this will in turn give them an incentive to continue pursuing their interest through advanced programmes. They may also continue pursuing these sports activities by practising individually or in groups. We will pay attention to the needs of the public at different levels and provide them with assistance.

MS LI FUNG-YING (in Cantonese): *Madam President, the Secretary has clearly indicated in the third paragraph that any person aged 18 or above who has completed intensive training programmes offered by the respective national sports associations and holds a valid and recognized instructor certificate can apply to be registered as a coach for these programmes. As the conditions of employment have been clearly set out, why is it still necessary to impose an age limit? Given that this is a non-civil service contract, what is this if this is not age discrimination?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, I wish to clarify that persons aged above 18 and recognized by national sports associations can apply to be registered. The register is actually a waiting list of instructors we may engage. It is only in doing so can deployment be made. In the event that there is a need among the public for organizing training courses, we will ask the instructors according to the order of the waiting list if they are willing to serve the public, and where and when they can provide the service. If no one is willing to do so, we will identify suitable candidates in accordance with the order of the register. As the list is very long, we have to devise certain rules to provide people on the register with an opportunity of employment. This will prevent some of them from waiting for several years without being offered an

opportunity to be employed as instructors, while some other instructors with a large number of trainees have been able to keep their jobs. According to our principle, we have to, first, bring our system in line with the Civil Service and, second, offer young instructors an opportunity to be employed as instructors.

MS CYD HO (in Cantonese): *Madam President, the Secretary has reiterated time and again that the organization of Tai Chi classes is people-oriented in the hope that more people can master the sport. However, some trainees of the district to which I belong complained that their instructor had been forced to retire, as he had reached the retirement age of 60, and replaced by a new one. A gap has thus arisen because the new instructor is not clear about their standard. Will the Secretary run the risk of neglecting and violating the people-oriented approach he has been reiterating in rigidly following the requirement concerning the retirement of civil servants at the age of 60?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, there must be a clear and specific system for compliance in the employment of training staff with public money. Without imposing an age limit on the employment of part-time instructors, how can the LCSD decide whether the instructor's jobs should be given to older or younger instructors? Does it mean that as long as instructors are interested in being employed as instructors, the LCSD should offer the jobs to them even though individual instructors may be at or above the age of 70 or 80? Should the job offers be decided by individual public officers? What criteria can they follow? In what ways can more job opportunities be given to qualified young instructors for the purpose of arranging sufficient successors? Without an age limit, such problems may possibly arise.

I am going to answer the question raised by Ms Cyd HO in a more specific manner. If some trainees have become accustomed to instruction by an instructor, who is unable to continue to coach them because he has exceeded the age limit, or it is not possible for him to be employed under normal conditions of employment for certain reasons, they can organize themselves into a group for the purpose of engaging that instructor. The difference in fees should not be considerable. As far as I understand it, some community and district organizations are willing to sponsor, finance or assist in the organization of such groups.

PRESIDENT (in Cantonese): This Council has spent more than 18 minutes on this question. We shall now proceed to the second question.

Body Contact Between Police Officers and Prostitutes in the Course of Anti-vice Operations

2. **MS AUDREY EU** (in Cantonese): *Madam President, regarding body contact between police officers and prostitutes in the course of anti-vice operations, will the Government inform this Council of:*

- (a) *the specific instructions, as set out in the police internal guidelines concerning anti-vice operations issued to police officers, on the conduct of police officers while posing as clients in order to gather evidence for charging vice-operators (commonly known as "covert operations");*
- (b) *the criteria adopted by the police for determining which types of body contact are considered acceptable; and*
- (c) *the police's justifications for its view that body contact is genuinely necessary for collecting evidence?*

SECRETARY FOR SECURITY (in Cantonese): Madam President,

- (a) The police internal guidelines issued to officers conducting anti-vice operations forbid sexual intercourse and oral sex between the undercover officers and the prostitutes. The guidelines also require supervisors to fully brief the undercover officers and take measures to ensure that the operations are conducted in accordance with the rules set out in the guidelines.
- (b) The objective of conducting undercover operations by posing as clients for sexual services is to collect evidence for charging vice-operators. In order to conceal their identity and to collect evidence on vice activities, it is understandable that undercover officers need to have body contact with the prostitutes in the operations. Since the circumstances surrounding each individual operation vary, the

kinds of body contact that may occur also differ. Hence, the basic criterion for determining what types of body contact are acceptable during an undercover operation is that whether the contact is genuinely necessary in order to achieve the objective of the operation, which is to successfully obtain evidence on the vice activities. Nevertheless, such contacts shall not include sexual intercourse or oral sex.

- (c) If undercover officers behave differently from normal clients seeking sexual services, their identity will be easily exposed and they will not be able to complete the task of collecting evidence. For this reason, limited body contact is genuinely necessary for collecting evidence against vice-operators.

MS AUDREY EU (in Cantonese): *Madam President, part (b) of the Secretary's main reply mentions the prohibition of two specific types of contact under the police internal guidelines; and it is further explained that supervisors are required to fully brief the undercover officers and take measures to ensure that the operations are conducted in accordance with the rules set out in the guidelines. It is first said that the rules prohibit the two types of contact, and it is further mentioned that operations must be conducted in accordance with the rules. But what exactly are the rules? We learn from the press that in one such case, three police officers posed as clients in a vice establishment for six days and received seven masturbations. Has this already violated what is allowed under the rules? Do the rules specify any scope and specific number of such contacts?*

SECRETARY FOR SECURITY (in Cantonese): Madam President, I think the rules are about the requirement that before each operation, the supervisor must brief the police officer involved in the undercover operation. First, the police officer must be instructed to act according to the guidelines. Second, the circumstances surrounding each individual case vary. Of course, after each undercover operation, the police officer concerned must make a report to the supervisor. The supervisor will then examine whether the police officer has complied fully with the guidelines, whether he has acted in accordance with the law and whether the objective of collecting evidence has been achieved.

In regard to the case mentioned by Ms Audrey EU, I must say we are equally concerned about such complaints, that is, complaints about abuse of power by police officers in undercover operations. For this reason, we do call upon those sex workers who have been victimized by such abuse of power to lodge complaints with us. I know that not too long ago, an organization named Zi Teng did lodge a complaint with a Legislative Council Member. Precisely because of this complaint, the Commanders of Yau Tsim Mong once met with the sex workers concerned, expressing the hope that they could lodge a formal complaint with us to enable the Complaints Against Police Office (CAPO) to conduct an investigation. But so far, we have not received any complaint in relation to the case. In regard to the case mentioned by Ms Audrey EU, we have not received any actual complaint.

MS AUDREY EU (in Cantonese): *Madam President, the case mentioned by me is not as simple as a complaint, but a court case I learnt from the press, numbered WSCC283 in 2002, the date of sentencing being 19 April 2002. It was reported that*

PRESIDENT (in Cantonese): Please indicate which part of your question has not been answered. If you wish to make a point of elucidation, or if you wish to give any information to the Secretary for Security, please do so after the meeting, for other Members are still waiting for their turns to ask questions.

MS AUDREY EU (in Cantonese): *Madam President, I see your point. The Secretary replied a moment ago that no complaint about the case had been received. I therefore wish to clarify that it is not as simple as a complaint, but an actual court case reported in the press. It was reported that there were seven masturbations in six days. That is why I wish to ask the Secretary whether this is already more than what is necessary. This was the question I had asked, but the Secretary did not answer it.*

SECRETARY FOR SECURITY (in Cantonese): I suppose Ms Audrey EU should be referring to a court case, the prosecution of the operator of a vice establishment. At the time of trial, the circumstances of case were reported in the press. This is how I understand her question. Is my understanding correct?

To prosecute the operator of a vice establishment, we must need time for undercover operations; what is more, we must not conduct just one operation, but several undercover operations before enough evidence can be gathered to prove that it is a vice establishment, because the relevant ordinance carries a clear requirement on "more than once". In that case, is it against the guidelines for the police officers concerned to go there one or two times more? It can be said that this is compliant with the guidelines.

MR ALBERT HO (in Cantonese): *Madam President, if the Secretary really wants members of the public or those affected to lodge complaints, he must make sure that the criteria are clear enough. The sex workers who complained to the Legislative Council alleged that some undercover police officers simply went to a suspected vice establishment, claiming that they wanted to receive sex services. They then received sex services other than oral sex and sexual intercourse, such as masturbation. Some undercover police officers would receive the whole course of service, that is, the complete course that led to their orgasm. But then, they would prosecute the sex workers in the end. That being the case, may I ask the Secretary whether, as a matter of principle, it is really necessary to collect evidence in this manner? And, is it moral at all to collect evidence in this way? Is this an immoral way of collecting evidence that brings the police into disrepute?*

SECRETARY FOR SECURITY (in Cantonese): Madam President, as I have mentioned, actual sexual intercourse and oral sex are strictly forbidden under our internal guidelines. If there have really been any violations of the guidelines as alleged by Mr Albert HO, we very much hope that the sex workers concerned can lodge complaints with us direct, so that we can conduct an investigation. But I can also tell Members that those police officers conducting undercover operations in fact do not find the task exactly enjoyable. There is a process of selection. We will study the psychological and physical conditions of these police officers beforehand to make sure that they will not abuse their power. Before the commencement of an operation, the supervisor will brief them thoroughly, and they have to make a report afterwards, so that the supervisor can monitor their performance. If a case is brought before the Court for trial, the police officers concerned will have to give an account of the whole undercover operation to the Court. That is why there is already a certain degree of monitoring. We therefore do not think that police officers undertaking such duties will do anything wrong or should have any guilty conscience anyway.

MR ALBERT HO (in Cantonese): *The Secretary has not answered my supplementary question, which is about whether such a method of collecting evidence is warranted and whether it is in compliance with the guidelines in the complaint cited by me. The Secretary seems to have failed to say whether the method is warranted and whether it is in compliance with the guidelines.*

SECRETARY FOR SECURITY (in Cantonese): In regard to the case mentioned by Mr Albert HO, I very much hope that they can really lodge a complaint with the CAPO. I do not wish to comment on any unsubstantiated "facts". As far as my understanding goes, we have already put in place a sound set of guidelines requiring police officers to perform their prescribed duties in undercover operations.

MR ALBERT HO (in Cantonese): *Madam President, I am sorry to say that the Secretary has still failed to say whether the practice is in line with the guidelines. To begin with, let us not bother about whether the complaint can be substantiated. But as a matter of principle, assuming that something like this does happen, is it in compliance with the guidelines? Can the Secretary answer this question?*

SECRETARY FOR SECURITY (in Cantonese): I think the Secretary has already done his best to answer the question.

MR LEE CHEUK-YAN (in Cantonese): *Madam President, the Secretary has stressed that should sex workers find any abuse of power by the police, they should complain to the police. Last time, when some sex workers approached the Complaints Division of the Legislative Council (I do not know how the Secretary will respond), they claimed that they had tried to lodge complaints, but since the police tried to pester them frequently afterwards, they never dared to do that any more. I do not know what the Secretary is going to do to rid them of such worries, because they are afraid that once they lodge a complaint, they may suffer immensely, as police officers in the various police districts may frequently try to pester them.*

SECRETARY FOR SECURITY (in Cantonese): I have never heard of anything like that described by Mr LEE Cheuk-yan. The information I have got on hand shows that in the past three years, there was only one complaint about abuse of power by undercover police officers. There were no such complaints in 2001, nor were there any in 2002. As for 2003, there was one, where the complainant was a woman who had come here for prostitution on a Two-way Permit. She was arrested by the police during an undercover operation in August 2003. When she was prosecuted in Court, she complained about the undercover police officer for having had sexual intercourse with her. The CAPO immediately arranged a meeting with her in the Court, but she subsequently said in Court that she would withdraw the complaint. Therefore, so far, we have not received any actual complaint. According to Mr LEE Cheuk-yan, once sex workers lodge any complaint, police officers in various police districts may pester them or make life difficult for them. I think that since there was no actual complaint in the past three years, I cannot agree with Mr LEE Cheuk-yan that once they lodge any complaint, our police officers will pester them.

I wish to state here once again that the CAPO is an independent office, a division independent of front-line police divisions. Investigation reports compiled by the CAPO are submitted to the Independent Police Complaints Council for review and endorsement. Should sex workers really have any such complaints, I call upon them to lodge a complaint with the CAPO.

MRS SOPHIE LEUNG (in Cantonese): *Madam President, having listened to the Secretary's replies to Members' supplementary questions, I wonder if he will consider one point — the present method of collecting evidence, having to comply with the guidelines, may well lead to open-ended arguments, with those feeling a need to lodge complaints saying that they may be pestered. To be fair, under such a situation, law enforcers do face difficulties, but it is likewise very difficult to ask sex workers to lodge any complaints. I hope the Secretary can realize this point. Is it possible for the Secretary to look at the matter from a fresh perspective? While the method of collecting evidence must comply with the guidelines, should there in fact be some flexibility for law enforcers, so that they can avoid any unnecessary misunderstanding that may arise from their collection of evidence (and sufficient evidence they must collect too)? Is it possible, even before there is any complaint, for the authorities concerned to look at all these cases, to get a better understanding of them, and then to examine from a fresh*

perspective, from the legal perspective of evidence collection and compliance with the guidelines, how the whole matter can be followed up and new ideas introduced, instead of leaving everybody to hold on to his or her own arguments?

PRESIDENT (in Cantonese): Mrs Sophie LEUNG, yours is a good supplementary question, only that it is a bit too long.

SECRETARY FOR SECURITY (in Cantonese): I fully understand what Mrs Sophie LEUNG wishes us to do. Currently, sexual intercourse and oral sex are already prohibited very clearly under our existing guidelines, but in order to conceal their identity and collect evidence of prostitution, undercover police officers are bound to have some physical contact with the targets of their operations. Since the circumstances surrounding each operation vary, it will be impossible, and unrealistic, I must say, to state exhaustively what kinds of physical contact are disallowed. If any such guidelines are set down to allow the touching of hands but not any legs, for example, people will know very quickly. If a police officer's behaviour is markedly different from that of ordinary whoremongers, his identity will be cracked very easily, thus reducing the effectiveness of the whole operation.

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

MR JAMES TO (in Cantonese): *Madam President, although the guidelines forbid front-line police officers to have sexual intercourse and oral sex, their identity may still be cracked. The problem now is that we have come to a very fine detail: Under what circumstances should a police officer be permitted to receive masturbation service, a point which has been subject to so many complaints, or even to receive masturbation service that leads to their ejaculation and orgasm. Is it necessary for his colleagues to break in at a particular juncture to stop the whole operation, that is, to end the whole operation at a juncture when enough evidence has been collected? What we are talking about is such a fine detail. In the case of prosecuting "one-woman brothels", since these brothels are not illegal, the women involved have to be charged for operating a massage establishment without a licence, and this does not require*

any multiple physical contacts, nor any repeated masturbation service that leads to ejaculation. With this example in mind, may I ask the Government whether it will voluntarily conduct a review to determine whether it is necessary to tighten up the guidelines and its monitoring of front-line police officers, if there are so many complaints of this nature?

SECRETARY FOR SECURITY (in Cantonese): I can tell Members that the set of guidelines is subject to frequent review. In the meantime, I again call upon those sex workers who claim that they have been victimized by abuse of power to report to us. The detection of irregularities and abuse of power among police officers will make us realize the areas in which improvement is warranted. But according to our records, in the past three years, we have not received any actual complaints that can substantiate the allegations by some sex workers.

MR JAMES TO (in Cantonese): *Madam President, in regard to this fine allegation, I asked the Government whether it would find it necessary to tighten up its monitoring of front-line police officers, even if there were no actual complaints but just mere allegations?*

SECRETARY FOR SECURITY (in Cantonese): Madam President, I think the internal guidelines cannot possibly specify each and every physical movement as suggested by Mr James TO. In other words, it is impossible for the guidelines to specify what physical movements are allowed and what are not. The guidelines cannot be written in such a detailed manner. We can only set down a broad principle, or specify one or two things which must never be done. Besides, we must trust that the supervisor of each operation will brief the police officers involved beforehand. And, the police officers responsible for conducting undercover operations will also have to write reports afterwards. In this way, their supervisors will be able to determine whether their conduct was reasonable.

MR JAMES TO (in Cantonese): *Madam President, I was not talking about the guidelines. I simply asked whether monitoring would be tightened up under such circumstances.*

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

SECRETARY FOR SECURITY (in Cantonese): Madam President, I wish to reiterate that our supervisors are already maintaining very tight monitoring of undercover operations.

PRESIDENT (in Cantonese): Third question.

Intermediaries Providing Overseas Studies Services

3. **MR YEUNG YIU-CHUNG** (in Cantonese): *Madam President, it has been reported that some parents have recently complained about intermediaries, which provide overseas studies services, not meeting the advertised descriptions in that the students were sent to overseas educational institutions of inferior qualities, the courses they took were different from those they had applied for, and the host families neglected the students in residence, and so on. In this regard, will the Government inform this Council:*

- (a) *of the current number of intermediaries in Hong Kong providing overseas studies services to local students, and whether it knows the number of students who went overseas for further studies through these intermediaries in each of the past three years;*
- (b) *of the respective numbers of complaints received by the Education and Manpower Bureau (the Bureau) and the Consumer Council about the services of these intermediaries in each of the past three years; and*
- (c) *how it regulates the services of the above intermediaries?*

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

- (a) Most of the intermediaries provide overseas studies services on a commercial basis and are registered as commercial bodies. At

present, the Government does not have statistics on the number of these intermediaries and the number of students studying abroad through the arrangement of these intermediaries.

- (b) Up to the present, the Bureau has not received any complaints about the services of these intermediaries. It may be that members of the public are well aware that the complaints are not about education but are related to consumer interests. According to the Consumer Council, the numbers of complaints they received in the past three years were 10 in 2001, 14 in 2002 and 20 in 2003.
- (c) Generally speaking, members of the public can seek the assistance of the Consumer Council if they have complaints about the goods and services they purchase. Upon receipt of a complaint, the Council will seek relevant information from the parties concerned to mediate and to help resolve the dispute. If the complaint involves a possible criminal case, the Council will refer it to the police.

We believe that a great number of students do not arrange their overseas studies through the assistance of the intermediaries. At present, there are private and official or semi-official organizations providing services for overseas studies. Official and semi-official organizations include the Education Section of the Australian Consulate General in Hong Kong, the British Council, the Canadian Education Centre, the Institute of International Education (for studies in the United States) and the New Zealand Education Centre of the New Zealand Trade Development Board. These organizations mainly provide advisory services while a few also handle applications to individual institutions. As the government of the relevant countries regulates these organizations and they have been operating well, the Government does not propose to exercise additional control over them.

Regarding the services provided by the private intermediaries, since they are commercially oriented and we have legislation in place to regulate general commercial behaviour and to safeguard consumer interests, the Government will not consider imposing further regulatory measures. Moreover, the Bureau maintains close liaison with overseas government educational organizations

stationed in Hong Kong to provide up-to-date information and tips about overseas studies to interested students, careers teachers and parents through the periodic issue of school circulars, leaflets, publications, its webpage and talks.

MR YEUNG YIU-CHUNG (in Cantonese): *Madam President, the Secretary has said in part (b) of the main reply that members of the public are well aware that the complaints are not about education but are related to consumer interests. May I ask the Secretary for Education and Manpower how you would look at this problem? Do you agree with the public? Why?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, the Bureau agrees to the public view, for these are commercial operations that have nothing to do with the quality of education or education programmes.

DR YEUNG SUM (in Cantonese): *Madam President, as the Government holds the view that overseas studies cannot be regulated, it has led to the consequence that services offered by this kind of consultants or intermediaries are not subject to any regulation. May I ask if there is really nothing the Government can do? The Education Ordinance and the Non-local Higher and Professional Education (Regulation) Ordinance presently do impose some control on the advertisements related to these programmes, for example, it is an offence for these advertisements to carry any false or misleading information. Has the Government ever considered requiring the advertisements of this kind of education-related services be subject to regulation so as to prevent recurrence of any case where the services provided do not match the advertised descriptions or that the services provided are abruptly discontinued?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, these intermediaries do not offer any programmes in Hong Kong, they are only providing services as an intermediary, that is why it is difficult for us to bring them under any regulation. In addition, their operations are of a business nature and they bear no relation to education *per se*.

DR YEUNG SUM (in Cantonese): *I was referring mainly to advertisements. Under the Education Ordinance, if the contents of advertisements on education programmes are false, then it is an offence in law. Can regulation be effected in this aspect?*

PRESIDENT (in Cantonese): Which Secretary would like to take this question?

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): Madam President, I would try to say something on the protection of consumers. Now there are a few laws protecting consumer interests, and they include the Supply of Services (Implied Terms) Ordinance, Trade Descriptions Ordinance, Unconscionable Contracts Ordinance and Control of Exemption Clauses Ordinance. Of course, sometimes a criminal offence may be involved, such as fraud and misleading consumers, and so on. With respect to the cases cited by Dr YEUNG Sum, the Consumer Council has already referred them to the police to examine if an element of fraud is involved. Actually, I consider it most imperative, and this is shared by the Consumer Council, to engage in more education and publicity efforts. In fact, I have looked up *Choice*, the monthly magazine published by the Consumer Council, and noted that the Consumer Council has been reminding the consumers through leaflets and other information on overseas studies services to exercise caution. While parents are concerned about the further education of their children, they should do some research on this, such as making enquiries about information of schools, or enquiring the overseas studies centres of the fees payable, the consultation fee, service charges, the process, and so on before making an application. The most effective way indeed is to do more research. Apart from these private overseas studies centres, official organizations from many countries have also set up many such education centres in Hong Kong. I think Secretary Prof LI has spoken on this earlier. The best way is to make enquiries with these official organizations. I think this would be most helpful to them.

DR YEUNG SUM (in Cantonese): *Will this kind of advertisements be subject to regulation? The Secretary has not answered that point.*

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): That will have to depend on the provisions found in the laws cited by me. In looking into these cases, we should see whether or not they have breached any individual ordinances.

MR CHEUNG MAN-KWONG (in Cantonese): *Madam President, when overseas educational institutions offer programmes in Hong Kong, the Bureau will regard this as an education issue and so laws are enacted for the purpose of regulation. However, when local students go overseas for studies through these local intermediaries, the services provided are regarded as commercial activities and disregarded. This is self-contradictory. But the crux of the problem is that young people have been stranded helplessly in a foreign country, threatened or even died of accident because of these intermediaries. So the personal safety of these young people is a cause of great concern. Will the Government inform this Council if local private intermediaries which have undertaken to provide some transport and accommodation arrangements overseas should be required to register or take out insurance policies for the students concerned in order to assure protection of the personal safety of the students and compensation for students and to prevent these intermediaries from acting irresponsibly and in disregard of the interests and safety of the students concerned?*

PRESIDENT (in Cantonese): Which Secretary would like to answer this question?

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): Madam President, I will try to answer this question. Speaking purely from the perspective of a consumer, we have to examine whether there is any discrepancy between the services and the advertised descriptions, or as I have said earlier, what undertaking that intermediary has given in supplying the service. So we have to look at the contract it has entered into with the consumer. I think the clients will have to pay for the services provided by these intermediaries and contracts are entered into. The supplementary question which Mr CHEUNG Man-kwong has raised is about the transport and accommodation services undertaken by the intermediaries, then I think that will

depend on whether or not these services are supplied ultimately and whether they meet the advertised descriptions. As I have said, if there are complaints, we will have to determine whether or not there are any breaches of consumer protection laws which I have mentioned and the Consumer Council will follow up. It remains, of course, when fraud is involved, the police will conduct investigations.

MR CHEUNG MAN-KWONG (in Cantonese): *He has not answered whether or not these institutions which undertake to provide overseas services and education services will be required to register and take out insurance policies. I am not just talking about taking out insurance policies, but that they should be required to register. In view of that, there may be a need for the Government to do something in terms of legislation.*

PRESIDENT (in Cantonese): Which Bureau Director would like to take this question?

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Currently, these institutions are required to register, but it is business registration which is not related to education.

MR CHEUNG MAN-KWONG (in Cantonese): *Madam President, as the Secretary has missed that point in his reply, so I have highlighted the issue of registration. But actually these two things are interrelated, that is, apart from registration, insurance policies should be taken out. For that is a protection given to the students. And these intermediaries may not take out insurance policies after they have completed their business registration.*

PRESIDENT (in Cantonese): Do the two Secretaries have anything to add?

(The two Secretaries shook their heads to indicate that they had nothing to add)

MR CHAN KWOK-KEUNG (in Cantonese): *Madam President, many of these intermediaries which offer overseas studies services presently are non-profit-making organizations and I have personally come into contact with some of them and served as a host for some exchange students. May I ask, if these intermediaries are non-profit-making and they may act on their own initiative and contact the Bureau about these cases, whether the Bureau will act on this? In other words, will the Bureau make a record of the case and encourage these institutions to contact the Bureau?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): We will certainly welcome and consider it.

MR YEUNG YIU-CHUNG (in Cantonese): *Madam President, all along the Secretary has been stressing that these are purely ordinary business activities. However, the safety of the students and their precious time are involved, for they may be cheated and so much time may be lost. May I ask the Secretary, under what circumstances the Government, the Bureau or the Bureau for Economic Development and Labour will intervene in such cases?*

PRESIDENT (in Cantonese): Which Secretary would like to reply?

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Perhaps I will say a word on that. If someone comes out and says that he sells woks and that if a person puts a wok on his head he will certainly come first in examinations, but it turns out that this is not the case. Will this be an education issue? Or is that wok useless? *(Laughter)* So the Bureau just looks after local education and the quality of local education and it is not concerned about commercial issues in relation to institutions which make profits out of education. Hong Kong upholds sound rule of law and good regulations and commercial operations are subject to the rule of law as well.

PRESIDENT (in Cantonese): Fourth question.

Employers Instructing Foreign Domestic Helpers to Perform Motor Driving Duties

4. **MR LEUNG FU-WAH** (in Cantonese): *Madam President, under the new arrangement which has come into operation since 2000, employers how have obtained special permission from the Immigration Department (ImmD) may instruct their foreign domestic helpers (FDHs) to perform motor driving duties incidental to domestic duties. In this connection, will the Government inform this Council of:*

- (a) *the number of applications from employers that the ImmD received, the number of applications it approved and the percentage of this number in the annual average number of FDHs, as well as the number of rejected cases and the reasons for rejection, in each year from 2000 to 2003;*
- (b) *the mechanism and criteria adopted by the ImmD in vetting these applications, and whether it has carried out a comprehensive review on the vetting mechanism and the criteria, as well as on their effectiveness; if it has, of the outcome; if not, whether it will do so; and*
- (c) *the monitoring measures adopted by the ImmD against employers who instruct their FDHs to perform motor driving duties not incidental to domestic duties; and of the total number of such cases found since the implementation of the arrangement and how they have been handled?*

SECRETARY FOR SECURITY (in Cantonese): Madam President,

- (a) The figures requested in relation to applications for special permission for FDHs to perform driving duties from January 2000 to December 2003 are set out in the main reply for Members' reference, which perhaps I can briefly explain.

<i>Year</i>	<i>Category of Applications¹</i>	<i>No. of Applications²</i>	<i>Approved⁴</i>		<i>Rejected</i>	<i>Withdrawn⁵</i>
2000 ³	Entry visa	1 003	903 (0.42 %)		23	42
	Contract Renewal/Change of employer					
2001 ³	Entry visa	1 112	1 030 (0.44 %)		12	47
	Contract Renewal/Change of employer					
2002	Entry visa	45	42	1 024 (0.43 %)	0	5
	Contract Renewal/Change of employer	1 017	982		14	29
2003	Entry visa	26	24	1 026 (0.47 %)	0	2
	Contract Renewal/Change of employer	1 006	1 002		7	24
Total		4 209	3 983		56	149

¹ There are two categories of applications, viz fresh applications submitted together with applications for entry visa, and applications submitted together with applications for contract renewal or change of employer.

² Applications pending approval at the end of a year will be processed in the following year.

³ Applications not broken down into the two categories stated above.

⁴ () denotes the approved cases as a percentage of the FDH population at the end of a year.

⁵ Including applications withdrawn by applicants and where applicants did not provide sufficient information.

Reasons for rejection include failure of employers to justify their genuine needs for FDHs, or for FDHs to perform driving duties incidental to and arising from domestic duties; or the possession of adverse records by FDHs. In 2002, the ImmD started to compile separate records of two categories of applications, and the figures

indicate that over 96% of approvals relate to applications arising from contract renewal or change of employer, rather than fresh applications. This reflects that the number of FDHs with special permission to perform driving duties has remained steady. As a standard employment contract for FDHs covers a duration of two years, the actual number of FDHs currently holding valid permission to perform driving duties should be far below the total number of approvals given. As at the end of 2003, it is estimated that there should currently be no more than 2 050 FDHs holding valid permission to perform driving duties.

- (b) As regards the vetting mechanism, the ImmD will consider each application on its own merits, having regard to the following general requirements:
 - (i) the employer must give full justifications for the need for, and specific details of, driving service to be provided by his/her FDH incidental to and arising from any of the five broad categories of domestic duties, namely household chores; cooking; looking after aged persons in the household; baby-sitting; and child-minding;
 - (ii) the employer must state the ownership, description and registration number of the vehicle to be driven by his/her FDH. The vehicle concerned should be either a family saloon car or a mini-van of no more than eight seats. It must be registered under the name of the employer or his/her spouse. If it is registered under the name of a company, the employer should provide a certificate from the company to the effect that the vehicle is provided for the personal and family use of the person concerned;
 - (iii) the FDH must be a live-in helper;
 - (iv) the FDH must possess a valid Hong Kong driving licence. An international driving licence will not be acceptable; and
 - (v) the employer and the FDH must sign on the application form to the effect that both parties agree to and abide by the proposed driving duties.

Under the special arrangement, an employer and his/her FDH must provide sufficient justifications and specific details in the application form. They must also complete and sign an addendum setting out the arrangements for accommodation and domestic duties. Upon approval of the application, the Addendum will be attached to the Schedule of Accommodation and Domestic Duties in the employment contract and form a part of the contract.

The Government of the Special Administrative Region (SAR) has been closely monitoring the social situation and the vetting results in order to ensure that the special arrangement meets the needs of stakeholders. As the existing mechanism has been running smoothly, there is no plan to revise it at this stage. We will review the vetting mechanism from time to time in line with social developments.

- (c) To ensure that the special permission to perform driving duties is not abused, the Task Force of the ImmD (the Task Force) conducts ad hoc field operations as and when necessary. We believe this achieves some deterrent effects. Complaints made to the ImmD are also followed up by the Task Force. Since January 2000, the ImmD has investigated a total of 14 cases involving suspected abuses. There was insufficient evidence to support a charge of breach of condition of stay in 12 of these cases. The remaining two are still under investigation.

FDHs found contravening the ban or conditions of the special permission are liable to prosecution under the Immigration Ordinance. Employers found aiding and abetting FDHs to breach conditions of stay also commit an offence. Upon conviction, the maximum penalty is a fine of \$50,000 and imprisonment for two years.

MR LEUNG FU-WAH (in Cantonese): *Madam President, according to the main reply of the Secretary, I think this will be the perfect one among all the policies implemented by the Government. It is because the Secretary said in the main reply that 3 983 applications were approved, but only 14 cases required investigation. In the last part of the main reply, the Secretary also said that*

there was insufficient evidence to support the charge in any one of the cases. Then why are our professional drivers so worried? May I ask the Secretary whether he can take the initiative to investigate into the cases again or do even more? For example, to those FDHs who have obtained government approval to work in Hong Kong where driving is not their major duty, can we put a mark on the vehicle concerned so that the public can also participate in monitoring the situation, and see whether this government policy is really 100% perfect?

SECRETARY FOR SECURITY (in Cantonese): The question as to whether this policy is perfect is a matter of opinion. For every complaint received, we will investigate it in depth. But why does it seem that there has been no prosecution? It is because a lot of complainants cannot provide the so-called sufficient information, so that we are unable to follow up the cases. Besides, in some complaints, we found that the persons being complained had actually got our special permission to drive. In regard to the suggestion made by Mr LEUNG Fu-wah just now, that a special mark be put on the vehicle concerned to indicate that it is driven by a FDH, I have to think about it back in my office and see whether there are other problems that we must note or solve.

MR ANDREW WONG (in Cantonese): *Madam President, I would like to know the definition of aged persons. Does the Administration classify by age or by mobility? If the employer himself is an aged person, then will the main duty of a FDH become looking after an aged person and thus a driver can be employed? If the employer himself is not an aged person but has children, then will the FDH be allowed to perform the duties of child-minding or household chores and drive the employer to work as a matter of convenience?*

SECRETARY FOR SECURITY (in Cantonese): In order to obtain special permission, two conditions must be met, and the first condition is incidence. If the FDH has to drive the employer to work every day, this is not incidental and thus will not be granted special permission. The second condition is that the duty must be related to domestic need. What is domestic need? I have just mentioned five categories, including looking after aged persons. At present, the Government's definition of aged persons is that they should be 65 or 70 years of age. However, I think that when processing the application, the ImmD should have some discretion. As Mr Andrew WONG said just now, they will

also look at the health condition of the aged persons and determine whether they have any difficulty getting about. I think there are mainly two reasons, the first is being incidental while the second is related to domestic need.

MR ANDREW WONG (in Cantonese): *Madam President, the question is I want a clear definition. I do not understand whether it is defined by age, by mobility, or the Director of Immigration has absolute discretion in granting approval. Besides, once an application is approved, the duty concerned can be constantly performed as it falls into the category of looking after aged persons and is not incidental.*

SECRETARY FOR SECURITY (in Cantonese): What I said just now were the broad principles. First, it should be incidental. Second, it should be related to the five main categories of domestic duties, namely household chores, cooking, looking after aged persons in the household, baby-sitting and child-minding. I do not understand the question of Mr Andrew WONG on how aged persons are defined. Are you referring.....

PRESIDENT (in Cantonese): Secretary, Mr WONG asked how aged persons are defined.

SECRETARY FOR SECURITY (in Cantonese): I do not have the information concerning that definition at hand. However, by common sense, the Government presently requires that only those who are at least 65 or over 70 can receive old age allowance. Perhaps I can give some supplementary information to Mr Andrew WONG. Let me look up our explanatory note to confirm whether the definition of aged persons is set at 70 or 65 years of age. (Appendix II)

MISS CHAN YUEN-HAN (in Cantonese): *Madam President, when answering part (b) of the main question from Mr LEUNG Fu-wah, the Secretary said that consideration would be given to a number of situations and mentioned five categories. On receipt of a related complaint, did the Secretary consider the fact that currently a lot of drivers of private vehicles are unemployed and they*

have been criticizing this government policy? As you mentioned in the beginning of the reply to Mr LEUNG Fu-wah's main question, this policy was only revised in 2000, and before then, it was not so clearly stated that such applications could be submitted. May I ask the Secretary whether he has considered that the implementation of this policy is jeopardizing their interest in view of the prevailing serious unemployment situation where a lot of drivers of private vehicles are unemployed?

SECRETARY FOR SECURITY (in Cantonese): First of all, I have to clarify that we did not start allowing FDHs to perform driving duties only since 2000. If Members still remember, before 2000, according to the employment contract, FDHs could actually perform driving duties. However, it was exactly because we felt that this might be abused in some measure that in 2000, we required employers to file applications to the ImmD if there was a need for FDHs to perform driving duties. At that time, employers reacted strongly, saying that we were tightening up the policy. I have to stress to Miss CHAN Yuen-han that we did not relax the policy in 2000, allowing FDHs to perform driving duties in Hong Kong and thus to snatch the "rice bowls" of Hong Kong people. At that time, we actually tightened up the policy, because originally, the 100 000-odd to 200 000-odd FDHs could theoretically perform driving duties. However, we proposed that employers had to apply for a special permission if they needed the FDHs to perform driving duties. We feel that the government policy as it stands does not have any impact on the income of local drivers.

Of course, it is rather difficult to conduct scientific analysis as employers have to justify their need for FDHs to perform driving duties incidental to and arising from domestic duties before they can meet our existing rather stringent conditions and have their applications approved. We believe this arrangement will not affect the "rice bowls" and income of local drivers.

MISS CHOY SO-YUK (in Cantonese): *Madam President, I believe the principles mentioned by the Secretary in his reply will not cause many problems. However, has the Government genuinely and seriously implement the policy to control those FDHs working as full-time drivers? In fact, a lot of employers, in addition to employing one maid, also employ the maid's husband as a full-time driver. In that way, while such employers do not have to provide additional accommodation, they can also save hiring a Hong Kong driver. However, this*

will affect the employment opportunities of Hong Kong drivers. May I ask the Secretary if he will deal with this issue of employing male FDHs? I am sorry, I am not practising sex discrimination, but this is the true picture. It is rather rare to have male FDHs. In view of this, will the authorities conduct in-depth investigations? Besides, will you investigate into the number of FDHs already employed by individual households? For example, if there are already three female FDHs, then what are the special reasons for employing an additional male FDH?

SECRETARY FOR SECURITY (in Cantonese): Madam President, I thank Miss CHOY So-yuk for providing us with a few ideas on how to vet these applications so as to pre-empt any abuse. We basically are doing all this. For instance, we will consider the size of the residential unit, the income of the family, and so on. But we will not pay attention to the gender of the FDH. However, we will ask the applicant, since the family has already employed a FDH, if it is necessary to employ a second or third FDH? The employer has to give very good reasons to justify that there is a need to employ one more FDH to perform domestic duties. If it is simply for driving duties, the application will definitely not be approved. The employer has to prove that there are sufficient domestic duties for the FDH, and the FDH has to perform driving duties incidental to and arising from domestic duties, before he can apply for a special permission from us.

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

MR TAM YIU-CHUNG (in Cantonese): Madam President, I would like to follow up the situation of prosecution. In my opinion, the Government is rather passive in conducting inspections. In this regard, should the Government be more proactive in trying to determine whether there are actually any abuses? This should be better than conducting investigations passively. Besides, statistics show that at least 2 000-odd persons have been granted special driving permission. However, in the past three years, there were only 14 cases of suspected abuse. The figure is really on the low side. Should the Government be more proactive in conducting inspections?

SECRETARY FOR SECURITY (in Cantonese): Madam President, upon receipt of a complaint, we will definitely investigate into it. Moreover, the Task Force has also been doing its level best to combat such illegal employment, including FDHs performing unapproved driving duties. We have been proactively conducting enforcement work. In the past, the Task Force did conduct a few large-scale inspection exercises in Central and school areas, inspected a few dozen vehicles parking curbside, inspected the identity of the drivers waiting in the vehicles and checked their driving licences, in order to verify whether they were FDHs who had obtained our special permission. In the few large-scale operations, no one was arrested for suspected breach of the condition of stay or violation of our policy.

PRESIDENT (in Cantonese): Fifth question.

Illegal Dumping of Wastes

5. **MR MARTIN LEE** (in Cantonese): *Madam President, it was reported that the contractor of the flood prevention project of the Drainage Services Department (DSD) had dumped a large amount of debris at the "buffalo fields" in the Kam Tin wetlands in late October last year. There have been comments that the incident shows the futility of the Government's system to monitor the transportation of site wastes to designated locations for dumping. According to the Trip Ticket System (the System) for monitoring wastes from government sites, a truck carrying debris should first obtain a ticket on leaving the construction site, then dump the debris at the designated location and finally have the ticket stamped and returned to the construction site. In this connection, will the Government inform this Council:*

- (a) *how it will penalize the above contractor and monitor fly tipping of public fills and construction and demolition (C&D) wastes by contractors; and whether it will review the System; if it will, of the details; if not, the reasons for that;*
- (b) *of the respective amounts of contractors' fly tipping of public fills and C&D wastes, and the numbers of cases in which the dumping locations were not the ones marked on the trip tickets in each of the past three years; and*

- (c) *of the measures to deal with owners who dump debris at their land which has ecological value and engage in other activities which will upset the ecology of their land?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): Madam President,

- (a) The DSD contractor of the flood prevention project has without authorization allowed the C&D materials to be used by a private landowner as fill materials in a private development. Although this does not constitute fly tipping, the contractor has breached the contractual requirement to transport C&D materials such as mud and crushed stones to a designated public filling area for disposal under the System. In this project, we have initially instructed the contractor to dump the debris at the Tuen Mun Fill Bank, and later, we have also instructed that the debris be dumped at the West New Territories Landfill. The DSD subsequently issued a written warning to the contractor and, in accordance with the contract, deducted the part of project payment intended for the disposal of C&D materials. The DSD has also rated the contractor's performance as unsatisfactory in its evaluation report, as a result of which the contractor may be disqualified from tendering for future public works.

To prevent fly tipping of C&D materials, all government public works contracts have to incorporate the System to monitor the disposal procedures of this particular type of materials. The current practice is for the site supervisor to regularly monitor the mode of disposal of the C&D materials generated; to inspect in advance the location to be used by the contractor for the disposal of the surplus C&D materials; and to monitor the actual disposal during the construction period. The government works departments concerned will conduct audit inspections to ensure compliance by the contractor.

We have recently reviewed the System. A new initiative is put in place to require the site supervisor to review the implementation of the System with the representative of the contractor at the monthly

site meeting in addition to conducting the abovementioned regular inspections. The works departments concerned will conduct an independent monthly audit to ensure effective implementation of the System. We will continue to closely monitor the situation and if necessary will further review and fine-tune the System.

- (b) We launched more than 1 200 public works projects during the past three years. The C&D materials thus generated amounted to some 9.1 million tonnes each year and the majority of the contractors have complied with the System as specified in the contracts to return the trip tickets on schedule.

Of these 1 200 projects, we have recorded 14 cases of contractors allowing the use of the C&D materials as fill materials by private landowners without prior authorization of the relevant works departments. The materials involved amounted to about 74 000 tonnes. In addition, there were six cases of loss of trip tickets for about 1 700 tonnes of C&D materials.

- (c) According to the Town Planning Ordinance, each draft Outline Zoning Plan specifies the always permitted uses of each designated zone and other uses which require the approval by the Town Planning Board. Any pond filling works or excavation works within the conservation zones, including "conservation areas", "coastal protection areas" and "sites of special scientific interest", in nearly all rural areas in the New Territories must obtain the prior approval of the Town Planning Board. Any such activities conducted in these zonings or any activities incompatible with the designated land use will be considered unauthorized developments which may be subject to law enforcement actions by the Government.

In addition, I introduced the Waste Disposal (Amendment) (No. 2) Bill 2003 to this Council on 17 December last year, with a view to effecting the construction waste disposal charging scheme and strengthening control against illegal disposal of waste. At present, the Waste Disposal Ordinance has already provided for sanctions against illegal disposal of waste. However, to prevent people from evading their responsibilities after the introduction of the charging

scheme, we proposed to implement the following measures to strengthen control against illegal disposal of waste:

- (i) To empower the Court to order the person convicted of illegal disposal of waste to remove the waste on government land. In cases where the removal work has already been carried out by the Government, the Court may order the convicted person to pay all or part of the removal cost incurred by the Government;
- (ii) To empower the Director of Environmental Protection (DEP) to enter without warrant any places, other than domestic premises and private land for dwelling purpose, to remove the waste in cases where there is an imminent risk of serious environmental impact and immediate remedial actions are required. The DEP shall only enter domestic premises and private land for dwelling purpose when a warrant is obtained. The DEP will be entitled to apply to the Court to recover from the convicted person the cost of removing the waste; and
- (iii) To amend the existing offence of illegal disposal of waste to make available the exception of having lawful authority or excuse or permission of the owner or occupier of the land regardless of where the waste is deposited; to further stipulate that the driver of a vehicle (not being a public transport carrier) from which waste is deposited as well as the employer of that driver are to be regarded as the persons causing waste to be deposited; and to provide for the statutory defences of reasonable precautions and due diligence to a defendant charged with the offence of illegal disposal of waste.

I hope Members will support the Bill so that these measures can be implemented as soon as possible to strengthen control against illegal disposal of waste.

MR MARTIN LEE (in Cantonese): *Madam President, now that the debris has been dumped and the ecology there upset. Can the Government inform this*

Council what it will do with the damaged wetland? Will the debris be cleared and the wetland restored? If so, when will it be done and who will be responsible for it? If not, please inform us of the reasons.

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): Madam President, the "buffalo fields" (the agricultural land under our discussion, on which a large amount of debris has been dumped) is a piece of private land. It does not fall within the jurisdiction of our Bureau, that is, it does not fall into the several types of conservation zones just mentioned by me. As such, we have consulted the Planning Department on the relevant planning provisions insofar as land administration is concerned. According to the advice tendered in the reply by the Department, the owner has the right to proceed with site preparation. Therefore, from a planning perspective, the Government will not require the owner to do anything with the damaged wetland.

DR LAW CHI-KWONG (in Cantonese): *Madam President, following up the previous question, I would like to ask the Secretary a question. The piece of land was originally agricultural land and if its land use has been changed to a place for storing rubbish, that is, a piece of agricultural land has been converted for construction waste storage, that would mean two different land uses. Why has this not violated some relevant town planning legislation? I hope the Secretary can respond to this point.*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): Madam President, this is a question of land administration. I shall try my best to answer this one. This is because he considers that the move is not waste dumping. Instead, it is debris, inert waste, which is different from rubbish in our normal understanding. He obtains the debris for site preparation. He may claim that he could not grow certain crops on the land now, so he has to switch from wet farming to dry farming, or he may claim he has to restore the land before farming on it again. We have no evidence to prove that he has changed the land use. Nor does he agree that these are rubbish. He claims that he has the need to use the debris as fill materials on his own land. Therefore, this is our constraint in the legal aspect.

MR HOWARD YOUNG (in Cantonese): *Madam President, this case clearly illustrates that there are really large quantities of fill materials from construction and demolition projects. I often hear that our landfills are near exhaustion. However, this case shows that such a demand does exist. May I ask the Secretary whether the Government has reviewed, after the occurrence of such cases, if we can have a clearer and simpler system in place to facilitate the easy acquisition of such dumped materials, or whether such materials can be dumped in a way that will not upset the environment or for the levelling of the ground, thereby bringing about a "all-win" situation for the three parties concerned? Has the Government taken the opportunity to conduct a review in order to improve the system?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): Madam President, on the question of reusing waste, for example, the mud or crushed stones excavated in a river training project, if they are suitable for use in construction works, we shall encourage the legitimate use of such materials. This can also reduce unnecessary damage to natural resources. In a reclamation project, we may and have to remove a hill for the purpose. But if this is compared with using the mud obtained from a river excavation project for the purpose, then the latter is obviously a better option.

However, what we must review is illegal dumping of waste. This is a technical issue. What is illegal dumping? And what is really the re-use of waste materials? As mentioned in the last part of my main reply, we are in the process of amending the existing offence of illegal disposal of waste. We hope that, in our future discussion on the amendment to the Ordinance, we could consider it very carefully. I have been advocating this ever since I assumed office. It would be relatively difficult for us to deploy inspectors to watch out for illegal dumping throughout the territory. Certainly, the monitoring by the public do have some effect. However, according to legislation in overseas countries, the waste producers are also held responsible. So whoever has dumped the debris — if we are the producers of the waste, in such circumstances, even if it is a government project, we also have the same responsibility and could become one of the persons who have allowed the illegal dumping. The spirit of the legislation is, for all the processes, from generating to dumping the waste, everyone is responsible, not just the person who has eventually dumped the waste

should bear the responsibility. We shall stipulate this very clearly in future legislation.

As for the land use of private land, this belongs to the sphere of land administration. In the aspect of town planning, we shall also conduct a review. This is because patrolling officers of the Agriculture, Fisheries and Conservation Department (AFCD) have the power to take law enforcement actions only on lands that are within the jurisdiction of the Department, such as country parks, or marine parks which I have just mentioned, or some sites of special scientific interest (SSSI). As for other private lands, be they agricultural lands or vacant lands, we have no jurisdiction over them (you know there are many different land uses for lands in the New Territories). This is a planning problem, and a comprehensive review is also required in terms of land administration.

MR ALBERT CHAN (in Cantonese): *Madam President, from the several replies given by the Secretary just now, it has been fully illustrated that the existing legislation is too lax. Acts such as illegal dumping of debris or unauthorized removal of mud or crushed stones have become highly unscrupulous and prevalent in the New Territories now. In her reply to Mr Martin LEE's main question, the Secretary mentions that the Administration is in the process of amending the existing offence of illegal disposal of waste. However, large amounts of debris are being dumped illegally every day in many different districts, on valuable wetlands or some valuable agricultural land, or there are problems like the excavation of mud and crushed stones every day. May I ask the Secretary whether she would consider expediting as far as possible the process of amending the offence, and when the amendment of legislation is expected to complete, so as to offer protection to such valuable natural lands in Hong Kong?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): Madam President, Mr Albert CHAN's supplementary question is on conservation policy. Of course, it is an issue different from illegal dumping of debris or the excavation of land. In this review of the conservation policy, we intend to lay down a priority policy with regard to classification from the perspective of ecological diversity and biodiversity. As there are large areas of land in Hong Kong, the AFCD must set priorities in its conservation initiatives,

otherwise the Department will not have sufficient resources to conserve all the lands. As for the land use of private lands, as I have just said, it may be necessary for us to do some work in terms of planning and land administration. For example, is it necessary to tighten the provisions governing the restriction of land use? This is because landowners are allowed to carry out ripping and excavation on their own lands. Therefore, we must allow landowners to conduct some reasonable operations on their lands. If his land cannot grow certain crops, or his produces are no longer wanted in the market, then we must allow him to use the land for some other purposes. Therefore, this involves some other considerations, which have to be handled by the Lands Department and the Planning Department.

MR ALBERT CHAN (in Cantonese): *Madam President, the Secretary must have misunderstood my supplementary question. Can I repeat my question in simpler terms? For the Secretary has misunderstood my question.*

PRESIDENT (in Cantonese): Mr Albert CHAN, please make it simple. All you have to do is to repeat what you have raised in your supplementary question just now.

MR ALBERT CHAN (in Cantonese): *Madam President, my supplementary question was asking this: Although it is a piece of agricultural land, what I mean is some valuable For example, it is originally used for growing vegetables, but now he has converted to growing aloe. Of course, we would not object to such a change. However, what I am asking is, what would happen if he excavates some mud or crushed stones, or he dumps some wastes on a piece of valuable agricultural land? This is the focus of my question. Madam President, though it is a piece of private agricultural land, will the Secretary consider strengthening the supervision in this aspect?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): Yes, we shall. In part (b) of the supplementary question, if it is rubbish that is being dumped, we shall strengthen the regulation of it through the Waste Disposal Ordinance, which has now been tabled to the Legislative Council

for scrutiny. If it involves illegal dumping, then we are trying to deal with it at the level of the Bureau, and we hope that we can have the support of the people. As for regulating the land uses, for example, can he excavate some mud from this piece of land and use such mud for site preparation of another piece of land? Is he allowed to do this? There are no explicit provisions on this in the existing land legislation. We must also study this issue from another perspective.

PRESIDENT (in Cantonese): This Council has spent more than 20 minutes on this question. We shall now proceed to the last question.

Hospital Authority Awarding Year-end Bonuses to Management Staff

6. **DR LO WING-LOK** (in Cantonese): *Madam President, will the Government inform this Council if it knows:*

- (a) *the criteria adopted by the Hospital Authority (HA) in determining whether or not to award year-end bonuses to its management staff;*
- (b) *whether the HA plans to award year-end bonuses to them this year; if it does, of the estimated total amount; and*
- (c) *whether the HA has reviewed if the award of year-end bonuses despite the fiscal deficits conforms to the principle of proper use of public funds; if it has; of the results; if not, whether such a review will be conducted?*

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

- (a) In the design and determination of the total remuneration package of the Chief Executive of the Hospital Authority (CE/HA), Cluster Chief Executives (CCEs) and Hospital Chief Executives (HCEs), an annual performance incentive award was incorporated. The award is a part of the terms and conditions provided in their employment contract.

The annual performance incentive award is intended to provide a management tool for continuous improvements in hospital services. Granting of the award in each year is subject to an annual performance assessment by an assessment panel. In the case of CE/HA, the panel comprises the Chairman of the HA, Chairpersons of the HA's six standing committees, and a representative of the Health, Welfare and Food Bureau. The assessment of CE/HA is based on his performance in five areas: firstly, achievement of the HA Annual Plan; secondly, support to the HA Board and Committees; thirdly, organization reform and management of senior executives; fourthly, management of staff and staff unions; and fifthly, relations with the Government, the legislature and the community at large. In the case of the CCEs and HCEs, the assessment panel is made up of members of the HA Board, members of the relevant Hospital Governing Committee and CE/HA. Generally speaking, the panel would assess the performance of CCEs and HCEs in a number of areas, including strategic roles and direction; governance; achievement of operational/clinical objectives and results; financial planning and performance; community relations and public affairs; and staff management.

- (b) The annual performance incentive award is intrinsic to the total remuneration package for CE/HA, CCEs and HCEs. The HA does not see any justification for not honouring its contractual obligation. As this year's assessment of some of these senior executives is still ongoing, it is not possible to provide the total amount of the awards for 2003-04 at this time. In 2002-03, the total amount of such awards amounted to \$12.6 million.

It should be noted that when the HA renewed its contract with CE/HA in September 2002, CE/HA voluntarily lowered the ceiling of his annual performance incentive award from 30% of his basic salary and cash allowance to 24%, in view of the tight financial situation faced by the HA. The CCEs and HCEs also took the initiative in October 2002 to voluntarily reduce the ceiling of their annual performance incentive award from 15% of the total basic salary and cash allowance to 10% on a permanent basis. The lowering of the award ceiling by CE/HA, CCEs and HCEs was on

top of two reductions in basic salary — a 4.42% cut in October 2002 and a further reduction with effect from 1 January 2004 in line with the civil service pay reduction — that these senior executives had consented to.

- (c) The employment contract of the CE/HA is renewed every three years and the HA Board reviews the remuneration package of CE/HA at every renewal of the contract, which is subject to the approval of the Chief Executive. The remuneration packages of all other HA staff, including the CCEs and HCEs, are also kept under regular reviews by the HA. Changes to the remuneration packages will be made, where necessary, taking into account various factors, including modern human resource management practices and overall consideration of remuneration packages in the organization.

The HA is of the view that payment of the annual performance incentive award to CE/HA, CCEs and HCEs is a proper use of resources. Over the past decade, the award has established to be a valuable management tool for encouraging continuous improvements in hospital management. The annual performance assessment exercise has also improved the transparency of the assessment process and provided an effective mechanism for monitoring the performance of CE/HA, CCEs and HCEs.

DR LO WING-LOK (in Cantonese): *Madam President, the HA expended some \$12 million to encourage its executives to perform their duties, and one of their duties is to achieve the objective of compressing expenditure which may consequently affect the quality of medical services. On the contrary, with this \$12 million, 30-odd junior doctors and 60-odd junior nurses can be employed for one year. Has the Secretary considered putting this amount of money to more proper use?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, in fact, I already gave an answer in the main reply. Perhaps I should explain it again. This performance incentive award is designed as part

of the total remuneration package. The total remuneration package has already estimated the reasonable remuneration of the CE/HA or the chief executives. But it is only a preliminary estimate and the amount of the award will then be deducted from it. So, the award is in fact not an extra bonus. If the HA does not grant this award, this amount of money will then be incorporated into the basic salary. So, Members must understand that this is not extra money. Rather, an estimate will be worked out on the remuneration that each executive is worth and in designing the total remuneration package, this part of the remuneration will be withheld subject to their performance. So, it does not entail additional resources.

MR NG LEUNG-SING (in Cantonese): *Madam President, from part (b) of the main reply, it can be noted that the CE/HA voluntarily lowered the ceiling of the award from 30% to 24% upon renewal of his contract in September in the year before last, and the ceiling of the award for CCEs was also lowered from 15% to 10%. Has the management considered that such reductions voluntarily proposed by them would affect their successors? If we consider it from this angle, could this award serve as an encouragement or incentive as mentioned earlier? It is because, according to the Secretary, a part of the normal remuneration is taken out to grant this award. Now they have voluntarily proposed a reduction of the award in view of the tight financial conditions of the Government. But as it is said earlier, that 30% or 15% is granted after a scientific process of assessment. Then, although the reduction is voluntary, will it adversely affect their successors and be unreasonable for other people when their contracts are renewed? Has such an assessment been conducted?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, in fact, at every renewal of contract, the HA will regularly review the overall financial situation, and in designing the remuneration package, consideration will be given to how much the executives should generally be remunerated. Then how is their remuneration package designed? The rate of this award is not very important. But certainly, if it involves a very high rate, then the problem as described by Dr LO earlier might arise and there would be the concern that the service quality would eventually be affected if they really pull their weight to achieve the financial targets. However, in assessing the

award, the achievement in the implementation of financial plans is not the only consideration. Rather, their overall performance will be considered. As I mentioned just now, their performance in a diversity of areas would be considered, and this is very important. As to whether the award should be pitched at 10% or 15%, the HA did discuss this in the general meeting, and this will not have a significant effect. Whether it be 10% or 15%, it is sufficient as long as the design has provided such encouragement. So, the last pay cut was actually effected in the following way: The 4.42% pay cut was implemented by cutting the basic salary and cash allowance on the one hand and cutting the award on the other hand. That is, there was reduction in both parts. So, generally speaking, their remuneration was cut by over some 4%. A reduction was effected in both parts. That is, the award was cut and so was the basic salary. There was a cut in both.

MR MICHAEL MAK (in Cantonese): *Madam President, the Secretary said that this award was part of the remuneration package. But this has aroused criticism from many people who think that this award appears to be a bonus. The Secretary already made it clear just now that this award is not a bonus and that it is very clearly a part of the remuneration package. I would like to ask the Secretary this: Although the granting of this award is subject to their performance assessment, since this is part of the remuneration to which they are entitled, and given the need to balance public understanding and to go through many administrative procedures, such as making assessments, this all appears to be a waste of time and efforts. Has the Secretary considered making the award part of their basic salary to obviate so much unnecessary administrative work?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, Mr MAK was absolutely right. In fact, the chief executives themselves do not wish to have this award which has also aroused many misunderstandings in the community. Just as I explained earlier, and as Mr MAK also understands, it is part of the total remuneration package, and it does not mean giving extra money to them. The HA has discussed this issue for many times because there have been some misunderstandings in the community. But considering that this is a very useful tool, because irrespective of how much a chief executive is remunerated, there is still the need for an annual assessment

of the structure of hospital and performance, that is, his performance in the hospital management and in enhancing service quality. Irrespective of whether or not this performance incentive award is granted, the mechanism and methodology of assessment have to be established in order to assess whether an executive can meet our requirements in respect of leadership, implementation of reforms and service delivery. So, this assessment process must be carried out. The merit of this incentive award is that it is a very good tool which focuses on and enhances transparency. In granting this award, careful consideration can be given to whether the performance of the relevant staff meets the targets. So, after considering the pros and cons, we maintain that it is an effective tool and should therefore not be abolished.

DR LUI MING-WAH (in Cantonese): *Madam President, there is also incentive award for workers in a factory. But why is this award granted to only a few "big wigs" in the top echelon, but not the other employees of the HA? Insofar as a factory is concerned, if there is this award, then everyone can have a share of it on the basis of their performance. Is this practice of the HA unfair?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, in fact, this practice can be considered unfair to the executives. As I have explained, when designing the remuneration package, a part of their total remuneration is taken out to be the incentive reward. The reward is not an extra bonus as it was described earlier. It is not granted as a bonus to the staff when certain profits or savings have been achieved. So, it is a bit different in concept, as it is taken out from the remuneration and the granting of this award depends on whether the executive's performance is up to standard. So, why are the other employees not granted this award? In fact, the HA does wish to extend this award downwards but faces difficulties as to how assessments can be made, and this may also lead to many disputes. The granting of this award to the executives alone has aroused so many disputes. Besides, members of the community do not quite understand this measure or tool. So, this award has not been extended to the lower echelons. However, we generally think that this is an effective tool and consideration has been given to extending this performance incentive award to the next tier. Anyhow, the granting of this award incurs no extra money, for it is only the part of salary held up in the first place.

PRESIDENT (in Cantonese): We have spent over 16 minutes on this question. Last supplementary question.

MR ANDREW WONG (in Cantonese): *Madam President, the Secretary has already given us an answer as to why such a good system is not extended to all staff members. But the basic question is that, in some companies or factories which have made profits, as Dr LUI Ming-wah has said, it would depend on the performance, or to be more exact, the profit is taken as a criterion in assessing employees' performance. However, insofar as public affairs are concerned, this criterion cannot be adopted even by the Hong Kong Monetary Authority, let alone the HA, because this criterion simply does not exist. So, how can their performance be assessed? They may sometimes have bad luck. For example, the case of Mr FUNG Hong is pitiful, for he happened to be caught in a serious outbreak in the Prince of Wales Hospital. In the case of the police, even if they manage to maintain law and order in their districts (but peace means no cases to crack), no award would be granted to them either. So, it is questionable as to whether this system is reasonable, and it will certainly arouse doubts about whether, before a part of remuneration is held up to be the bonus or award, the amount of remuneration is first inflated to make room for a part to be held up as the award. There will certainly be such doubts in the community. So, can the Secretary and the HA seriously and practically discuss on the abolition of the entire system?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, I understand the question asked by Mr WONG. However, there is absolutely no question of inflating the total remuneration. When reviewing the remuneration package, the general remuneration of a position will be determined first before designing the award, rather than deciding on the amount of the incentive award before determining the total remuneration package. It is absolutely the case that we will first estimate the total remuneration of each level of executives with reference to the general remuneration of their counterparts in the market or similar public bodies before the award will be determined. The HA has taken this factor into consideration over the years. We propose the abolition of this award only to reduce disputes, but we still consider it an useful tool. According to our experience in the past decade, and as Mr WONG has rightly said, assessments were of course not

completely conducted in that way, but there is at least a mechanism to go by. This mechanism encompasses a high degree of transparency and is a more equitable and reasonable way to assess the performance of executives.

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

WRITTEN ANSWERS TO QUESTIONS

Consultancy Study Contracts

7. **MS CYD HO** (in Chinese): *Madam President, it has been reported that the president of a local tertiary institution has suggested that the Government should include, in the consultancy study contracts to be awarded in the future, a term to the effect that the core research teams concerned must comprise a certain percentage of Hong Kong people, so as to enable the Government to commission the local tertiary institutions to conduct more of its consultancy studies in the future. In this connection, will the Government inform this Council:*

- (a) *of the respective numbers of government-commissioned consultancy studies conducted by the tertiary institutions in Hong Kong in each of the past five years, as well as the study topics and the amounts of consultancy fees involved; and*
- (b) *of the percentages of the consultancy fees that were paid to the eight University Grants Committee-funded tertiary institutions, in the Administration's total expenditure on consultancy fees in each of the past five years?*

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

- (a) Based on the information provided by the concerned Policy Bureaux and departments, the number of government-commissioned consultancy studies conducted by the tertiary institutions in Hong Kong in each of the past five years and the amount of consultancy fees involved are as follows:

<i>Tertiary Institutions</i>	<i>Number of Consultancy Studies Conducted and Fees</i> <i>(\$'000) (in brackets)</i>				
	<i>1999</i>	<i>2000</i>	<i>2001</i>	<i>2002</i>	<i>2003</i>
City University of Hong Kong	3 (5,186)	4 (3,137)	9 (16,528)	4 (1,310)	5 (4,278)
Hong Kong Baptist University	1 (200)	1 (120)	1 (200)	2* (985)	0 (0)
Lingnan University	1 (290)	0 (0)	1 (275)	0 (0)	0 (0)
The Chinese University of Hong Kong	4 (7,835)	7 (4,509)	10 (6,062)	12 (9,165)	9 (3,410)
The Hong Kong Institute of Education	4 (11,254)	2 (1,000)	1 (800)	1 (600)	0 (0)
The Hong Kong Polytechnic University	8 (3,036)	13 (5,693)	11 (4,123)	20# (15,614)	9 (5,628)
The Hong Kong University of Science and Technology	2 (1,330)	2 (1,950)	3 (2,183)	3# (695)	6 (1,292)
University of Hong Kong	8 (4,627)	15 (9,624)	15 (5,735)	29*# (11,671)	20 (16,372)

* One study jointly conducted by the University of Hong Kong and the Hong Kong Baptist University (with fees put under the University of Hong Kong).

One study jointly conducted by the University of Hong Kong, The Hong Kong Polytechnic University and The Hong Kong University of Science and Technology (with fees put under the University of Hong Kong).

The study topics of the consultancy studies concerned are set out in Annex.

- (b) Given that a large number of consultancy studies are commissioned by the Government each year, and that the consultancy fees are met from many different sub-heads and not necessarily separately shown in separate accounts, a lot of resources would be required to calculate the percentage of the Administration's total consultancy fees paid to the tertiary institutions concerned in each of the past five years. Moreover, such information cannot be gathered within a short time.

Annex

Government-commissioned Consultancy Studies Conducted by Local Tertiary Institutions

Name of Institution : City University of Hong Kong

<i>Year</i>	<i>Item</i>	<i>Title of the Study</i>
1999	1	Survey on "Focus Groups on the Responsibility for Taking Care of Our Elderly"
	2	Consultancy Study on Quality of Life of Elderly Residents in the Community in Hong Kong
	3	Consultancy Study on Fisheries and Marine Ecological Criteria for Impact Assessment
2000	1	Testing the Lethal and Sublethal Effect of Suspended Solids on Groupers
	2	Study on Application of Clay to Control Red Tides/Harmful Algal Blooms in Hong Kong
	3	Provision of Service to Investigate the Physiological Response of the Amphipod, <i>Melita koreana</i>
	4	Staff Attitude Survey in Lands Department
2001	1	Survey on the Attitudes of International Institutional Investors towards Corporate Governance Standards in Hong Kong
	2	Consultancy on the Roles and Functions of Audit, Nomination and Remuneration Committees
	3	Comparative Survey and Analysis of the Development of Corporate Governance Standards in Other Jurisdictions
	4	An Extended Study of the Key Economic Characteristics of Indirect Taxes in Hong Kong
	5	Study on the Deployment of Artificial Reefs and Edible Shellfish to Reduce the Environmental Impact of Fish Culture Zones in Hong Kong
	6	Consultancy Study on Marine Benthic Communities in Hong Kong
	7	Development of a Biological Indicator System for Monitoring Marine Pollution
	8	Provision of Services to Derive Turbulence and Micro-Meteorological Dispersion Parameters for Local Dispersion Calculation by Using Large Eddy Simulation (Les)
	9	An Evaluation Research on Pilot and Existing Services for the Homeless Persons

Government-commissioned Consultancy Studies Conducted by Local Tertiary Institutions

Name of Institution : City University of Hong Kong

<i>Year</i>	<i>Item</i>	<i>Title of the Study</i>
2002	1	Research on Measures Alternative to Prosecution in Handling Unruly Children and Young Persons in Overseas Countries
	2	Evaluation of "Ending Exclusion" Project
	3	Study on the Competition in the Residential Fixed Telecommunication Network Services (FTNS) Market in Hong Kong
	4	The Safety Benefit of Pedestrian Flashing Green Count Down Display
2003	1	Consultancy Study on the Impact of the Reform of the Primary One Admission System on Teaching and Learning in Early Childhood Education and Primary Education
	2	Provision of Services for the Validation of the Sediment Toxicity Testing Protocol Using an Indigenous Marine Benthic Amphipod Species, <i>Melita koreana</i>
	3	Lands Administration Office Customer Satisfaction Level and Opinion Survey
	4	To Conduct a Survey on Customers Service Provided by Public Swimming Pools and to Develop a Training Package, Based on the Outcome of the Survey, for Promoting and Developing a Quality Service and Customer Focused Culture for Staff Working in Swimming Pools
	5	Survey on the School Curriculum Reform and Implementation of Key Learning Area Curricula in Schools 2003

Government-commissioned Consultancy Studies Conducted by Local Tertiary Institutions

Name of Institution : Hong Kong Baptist University

<i>Year</i>	<i>Item</i>	<i>Title of the Study</i>
1999	1	Analysis of Sewage Treatment Works Sediment
2000	1	To Review the Quality Assurance System of the Complaints Investigation Unit for Meeting the ISO Accreditation Requirements
2001	1	To Provide Expert Advice on Good Practices in Educational Television (ETV) and to Perform Surveys on Schools to Ascertain Their Viewing Rates of ETV Programmes and Their Views of these Programmes
2002	1	Hong Kong 2030 : Planning Vision and Strategy — Consultancy Study to Analyse Broad Land Use Pattern of the Pearl River Delta Region
	2	Consultancy Study on Hong Kong Zoological and Botanical Gardens — Review on Zoological and Botanical Collections and Supporting Facilities (Jointly conducted with the University of Hong Kong)

Government-commissioned Consultancy Studies Conducted by Local Tertiary Institutions

Name of Institution : Lingnan University

<i>Year</i>	<i>Item</i>	<i>Title of the Study</i>
1999	1	Public Perception Survey
2001	1	Statistics and Opinion Survey on Extra-Curricular Culture and Arts Education Services Required

Government-commissioned Consultancy Studies Conducted by Local Tertiary Institutions

Name of Institution : The Chinese University of Hong Kong

<i>Year</i>	<i>Item</i>	<i>Title of the Study</i>
1999	1	Pilot Studies of the Understanding the Adolescent Project in Secondary Schools (Project 3)
	2	Evaluation of the Effectiveness of the Pilot Projects on Dementia Units in Subvented Residential Care Homes for the Elderly and Day Care Centres for Demented Elders
	3	Evaluation of "Support for Self-reliance" Scheme
	4	Evaluation on the Implementation of the Medium of Instruction Guidance for Secondary Schools (Secondary 1-3)
2000	1	Preliminary Study on Reviewing the Progress and Evaluating the Information Technology in Education Projects
	2	Study on Promoting Parent Education
	3	A Longitudinal Study of Chronic Drug Abusers in Hong Kong
	4	The 2000 Survey of Drug Use among Students
	5	An In-depth Study of Psychotropic Substance Abuse Problem in Hong Kong
	6	Review of Central Registry of Drug Abuse
	7	Consultancy Study to Analyse Broad Land Use Pattern of Hong Kong
2001	1	Provision of Research Development of the Understanding Adolescent Project (Primary)
	2	Consultancy Study on the Way Forward for the Secondary School Places Allocation (SSPA) System after the High Court Judgement on the SSPA System
	3	An Economic Analysis Co-relating the Performance of Listed Companies with Their Shareholders' Profile
	4	The Fourth Follow-up Study on Public Attitudes towards People with a Disability
	5	Study on the Suitability of Cresnet Island and Kat O Area as a Marine Park
	6	Provision of Consultancy Services for Development of Pre-employment Physical Fitness Test for Recruiting Disciplined Staff of Correctional Services Department

Government-commissioned Consultancy Studies Conducted by Local Tertiary Institutions

Name of Institution : The Chinese University of Hong Kong

<i>Year</i>	<i>Item</i>	<i>Title of the Study</i>
	7	Study of Personality Assessment System
	8	For the recruitment of Immigration Service Members, consultancy study on the following was conducted : <ol style="list-style-type: none"> 1. Review on Height & Weight Requirements; and 2. Evaluation of Physical Fitness Test.
	9	Marine Department 2001 Staff Opinion Survey and Brainstorming Workshops
	10	Opinion Survey on Junk Fax Problem in Hong Kong
2002	1	Provision of Evaluation of the Adolescent and Family Counseling Service under the Understanding Adolescent Project (Primary)
	2	Further Evaluation on the Implementation of the Medium of Instruction Guidance for Secondary Schools (Secondary 4-5)
	3	Cross-boundary Substance Abuse Problem among Youths in Hong Kong
	4	Establishing a Reference Collection and Field Guides for Hong Kong Scleractinian Coral
	5	Biological Monitoring in Tung Ping Chau Marine Park
	6	Coral Mapping at Tung Ping Chau Public Pier
	7	A Study on the Urban and Port Development in Hong Kong (1843-2002)
	8	Development and Validation of Clinical Risks & Needs Evaluation Measures for Offenders
	9	Review of Recruitment and Selection System
	10	Evaluation of the Understanding the Adolescent Project in Secondary Schools 2001/02
	11	Study on an Inventory of Social Conflicts in Hong Kong : 1996-2002
	12	Study on Middle Class in Hong Kong

Government-commissioned Consultancy Studies Conducted by Local Tertiary Institutions

Name of Institution : The Chinese University of Hong Kong

<i>Year</i>	<i>Item</i>	<i>Title of the Study</i>
2003	1	Perception Survey on Changes in Teaching and Learning as well as Student Performance in Secondary Schools Subsequent to the Reform of the Secondary School Places Allocation (SSPA) System
	2	Marine Flora Studies in Hoi Ha Wan Marine Park
	3	Coral Monitoring in Hoi Ha Wan and Yan Chau Tong Marine Parks
	4	Biological Monitoring in Sha Chau and Lung Kwu Chau Marine Park
	5	Supplementary Contract on the Provision of Consultancy Services for Development of Pre-employment Physical Fitness Test for Recruiting Disciplined Staff of Correctional Services Department
	6	Study of Leadership Assessment and Enhancement
	7	Feasibility Study for Establishment of Air Ventilation Assessment System
	8	Study on Hong Kong and the Western Pearl River Delta : Cooperative Development from a Cross-border Perspective
	9	Study on Hong Kong's Economic Integration with the Pearl River Delta : Quantifying the Benefits and Costs

Government-commissioned Consultancy Studies Conducted by Local Tertiary Institutions

Name of Institution : The Hong Kong Institute of Education

<i>Year</i>	<i>Item</i>	<i>Title of the Study</i>
1999	1	Consultancy Study on the Multiplicity of Handicaps among Students of Aided Special Schools, Practical Schools and Skills Opportunity Schools
	2	Development of Performance Indicators for Measuring Students' Performance in the Social and Affective Domains
	3	Development of Performance Indicators for Measuring Value-added Improvement of Students' Academic Performance
	4	Study on the Multiplicity of Handicaps among Students of Special Schools, Practical Schools and Skills Opportunity Schools
2000	1	Biological Monitoring in Marine Parks and Reserve (Sha Chau and Lung Kwu Chau Marine Parks)
	2	Investigation on Oil Spill Effect in Sha Chau and Lung Kwu Chau Marine Parks
2001	1	Biological Monitoring in Marine Parks and Reserve (Sha Chau and Lung Kwu Chau Marine Parks)
2002	1	Biological Monitoring in Sha Chau and Lung Kwu Chau Marine Parks

Government-commissioned Consultancy Studies Conducted by Local Tertiary Institutions

Name of Institution : The Hong Kong Polytechnic University

<i>Year</i>	<i>Item</i>	<i>Title of the Study</i>
1999	1	To provide advice and report on : (a) Good Practices in Road Maintenance and Road Opening; (b) Practices of Overseas Highways Authorities; and (c) an Assessment of the Current Practices of Highways Department.
	2	Joint Probability Analysis of Extreme Sea Level and Wave Height
	3	Testing of Tensile Strength of Plastic Chain
	4	Provision of Service for Feasibility Study of Retrofitting Low Cost Traps to In-use Diesel Vehicles below 4 Tonnes Gross Vehicle Weight
	5	Provision of Service for Feasibility Study of Retrofitting Diesel Oxidation Catalysts to In-use Diesel Vehicle above 4 Tonnes Gross Vehicle Weight
	6	Procurement of Service for Determining of International Terrestrial Reference Frame Co-ordinates of GPS Reference Station in Kau Yi Chau & Fanling
	7	Evaluation Report on "Opportunities for the Elderly Project"
	8	Review of Annual Traffic Census
2000	1	Consultancy Study on Socio-Economic-Political Development Trends in Japan and South Korea
	2	The Potential of Hong Kong as a Replenishment Port
	3	Survey on Youth Leadership Training Programmes
	4	Harmonic Measurement of Main Pumps
	5	Assessment of Flow Management Method of Kwun Tong Preliminary Sewage Treatment Plant
	6	Feasibility Study on Various Types of Hybrid Sewage Treatment Process
	7	Independent Checker for Graded Multi-Point Chlorination
	8	Tai Po STW Stage V Review Studies — Ozone Disinfection Pilot Plant Trial

Government-commissioned Consultancy Studies Conducted by Local Tertiary Institutions

Name of Institution : The Hong Kong Polytechnic University

<i>Year</i>	<i>Item</i>	<i>Title of the Study</i>
	9	Assessment of Underground/Structural Noise
	10	Provision of Service for Emission Measurement by Using Emulsified Water Diesel, Purinox as Motor Fuel in Buses in Hong Kong
	11	Provision of Service for Feasibility Study of Retrofitting Passive Particulate Trap onto In-use Diesel Vehicles
	12	Procurement of Service for the Computation of the 1999 Asia and the Pacific Region Geodetic Network
	13	Evaluation Report on "Opportunities for the Elderly Project"
2001	1	Study on Hong Kong People's Participation in Gambling Activities
	2	Stanley Sewage Treatment Works Process Review Part I
	3	Study of Odour Generation and Control
	4	Provision of Service for White Smoke Emission from Heavy-Duty Diesel Vehicles with Diesel Oxidation Catalyst Retrofitted
	5	Provision of Service for Feasibility Study of Retrofitting Passive Particulate Trap onto Government In-use Diesel Vehicles
	6	Provision of Service for Road Side Survey of Carbon Monoxide (CO) and Hydrocarbon (HC) Emissions from Petrol Vehicles
	7	To Conduct a Feasibility Study to Investigate the Effectiveness of Retrofitting Passive Particulate Trap to Reduce the Exhaust Emissions, including CO, HC, NOx and Smoke from Diesel Vehicles of the Government Fleet
	8	Demand of Ex-seafarers of the Port, Maritime and Related Industry in Hong Kong
	9	Evaluation Report on "Opportunities for the Elderly Project"
	10	An Exploratory Survey of Boards of Directors of Subvented NGOs in Hong Kong
	11	To Find out the Performance of Not Fully Cured Epoxy for Protective Lining to Steel Pipes under Flow Condition

Government-commissioned Consultancy Studies Conducted by Local Tertiary Institutions

Name of Institution : The Hong Kong Polytechnic University

<i>Year</i>	<i>Item</i>	<i>Title of the Study</i>
2002	1	Development of Tourism in the Northern New Territories
	2	A Tourism Education Kit : "Can I help you?"
	3	Career Counselling and Support Services, and Building Up a Data Archive for the Youth Work Experience and Training Scheme (YWETS)
	4	Evaluation of Programme Implementation of the Youth Work Experience and Training Scheme (YWETS)
	5	Comprehensive Study of YWETS Trainees' Post-training Involvement in Employment-related Activities
	6	Overall Study on Reviewing the Progress and Evaluating the Information Technology in Education Projects
	7	Health Financing Focus Group Research — Investigating General Public Views on Medical Savings Account
	8	Pilot Study on Mikania Distribution Analysis in Certain Areas by Infrared Aerial Photography and Image Processing Technology
	9	Investigation of the Incident of High-voltage Motor Starter No. 2 at Tung Chung Sewage Pumping Station
	10	Modelling Tests for Wang Chau Pumping Station
	11	Provision of Service for the Feasibility Study of Using Waste Glass in Paving and Partition Blocks
	12	Provision of Service for Emission Study of Government's Diesel Vehicle (With Passive Particulate Trap) Driving in Tunnel
	13	Safety Management System Consultancy Services to GFS
	14	The Consultancy is for Independent, Third-party IT Technical Advice to IPD to Assist the Department in Evaluating Issues or Proposals made by its Outsourcing Contractor
	15	Evaluation Report on "Opportunities for the Elderly Project"

Government-commissioned Consultancy Studies Conducted by Local Tertiary Institutions

Name of Institution : The Hong Kong Polytechnic University

<i>Year</i>	<i>Item</i>	<i>Title of the Study</i>
	16	To Provide Advisory Services on Treatment of Sediments in Kai Tak Approach Channel
	17	Review of Road Safety Strategy (Jointly conducted with the University of Hong Kong and The Hong Kong University of Science and Technology)
	18	Consultancy Study for a Review of Publications on the Future Development Prospects of Hong Kong/Pearl River Delta
	19	Third Sector Landscape Study in Hong Kong — Sampling and Tabulation Services
	20	Study on the Third Sector Landscape in Hong Kong — Data Collection and Analysis
2003	1	Second Pilot Study on Mikania Distribution Analysis in Certain Areas by Infrared Aerial Photography and Image Processing Technology
	2	Consultancy Study on Structural Use of Steel Using Limit State Approach
	3	Preliminary Study for Capacity Maximization for the Sai Kung Sewage Treatment Works
	4	Provision of Service to Develop the Hong Kong Driving Cycles
	5	Provision of Service for Measuring the Characterization of Emission Factors for Vehicular Exhaust in Tunnel
	6	Provision of Service for the Evaluation of the Performance of Diesel Oxidation Catalyst Retrofitted onto Long Idle Heavy-duty Vehicles in Reducing White Smoke
	7	Assist the Central Health Education Unit to Define its Vision, Mission and Values
	8	Stonecutters Bridge — 3-D Finite Element Based Buffeting Analysis
	9	Fatigue Study on the Working Hours, Patterns and Limitations for Officers on High Speed Craft in Hong Kong

Government-commissioned Consultancy Studies Conducted by Local Tertiary Institutions

Name of Institution : The Hong Kong University of Science and Technology

<i>Year</i>	<i>Item</i>	<i>Title of the Study</i>
1999	1	Study of the Appropriate Science and Technology Indicators for Hong Kong
	2	The Temporal and Seasonal Changes of Subtropical Benthic Communities attached to Artificial Reefs Made of Different Materials
2000	1	Corrosion Study
	2	Study on Future Development of Waterborne Transport Services
2001	1	To Provide Expert Advice on Good Practices in Promoting a Liberalized Telecommunications Market and to Carry out Study to Assess the Extent of Liberalization of Local Telecommunications Market
	2	Employment of Independent Checker to Oversee the Compact Sewage Treatment Technologies Pilot Plant Trials at Stonecutters Island Sewage Treatment Works
	3	Pilot Plant Trial of Membrane Bio-Reactor
2002	1	Provision of English Language Consultancy Services to the Official Languages Agency's Research and Training Capabilities in the Area of English
	2	Pilot Plant Trial of Membrane Bio-Reactor Extension
	3	Review of Road Safety Strategy (Jointly conducted with the University of Hong Kong and The Hong Kong Polytechnic University)
2003	1	Research on the Effect of the Temperature of Sewage and the Distribution and Size of Suspended Solids on Chemical Enhanced Primary Sewage Treatment
	2	Research on the Effect of Conductivity of Sewage and the Amount of Suspended Solids on Chemical Enhanced Primary Sewage Treatment Process
	3	Determination of Coagulation Performance between Total Suspended Solids and the Non-settled Solids in Sewage
	4	Effect of Oil and Grease on Sewage Coagulation Performance and Effluent Particles Size Distribution
	5	Stonecutters Bridge — Wind Tunnel Tests to Evaluate the Wind Parameters for Buffeting Analysis
	6	Consultancy Agreement for Production of Additional Virtual Training Modules (US\$22,000)

Government-commissioned Consultancy Studies Conducted by Local Tertiary Institutions

Name of Institution : The University of Hong Kong

<i>Year</i>	<i>Item</i>	<i>Title of the Study</i>
1999	1	Research Study on the Cause of Elderly Suicide in Hong Kong
	2	Consultancy Study on the Review of Day Care Centres, Multi-service Centres and Social Centres for the Elderly and Development of Integrated Care Service for the Elderly
	3	Providing Information on the Proposed Country Park Extension at North Lantau and Addition Information on the Lantau North Country Park
	4	1999 Management Survey
	5	1999 Public Opinion Survey
	6	1999 Staff Opinion Survey
	7	Gate-keeping Initiative for Elderly Services : System of Assessment for Service Matching and Prioritisation of Services
	8	Comparative Study of Performance Indicators in Higher Education
2000	1	Consultancy Study on Socio-Economic-Political Development Trends in Southeast Asia
	2	Study on Overseas Social Security System
	3	A Study on the Psychotropic Substance Abuse Problem in Hong Kong
	4	A Focus Group Study on Psychotropic Substance Abuse
	5	d.c. Electrochemical Disinfection
	6	Kai Tak Transfer Scheme — Hydraulic Modelling
	7	Tai Hang Tung Flood Storage Scheme — Hydraulic Modelling
	8	Provision of Service for the Feasibility and Recommendation Study of Biodegradability Test for Biodegradable Food Containers and Bags
	9	2000 Staff Opinion Survey
	10	2000 Customer Satisfaction Survey

Government-commissioned Consultancy Studies Conducted by Local Tertiary Institutions

Name of Institution : The University of Hong Kong

<i>Year</i>	<i>Item</i>	<i>Title of the Study</i>
	11	Design of Service Quality Standards Assessment Tools
	12	Review of Family Services
	13	Consultancy Agreement for Production of Virtual Training Programme on Regulation and Policy Based on OFTA Experience
	14	A Comparative Study of Tuition Policies in the World
	15	Study on Hong Kong's Urban Innovations and Their Impact on the City's Physical Form and Metropolitan Structure
2001	1	Survey on Graduates of the Healthcare Retraining Courses Organized by the Employees Retraining Board
	2	Evaluation on the Effectiveness of the Capacity Enhancement Grant and Review of the Funding Arrangement
	3	Research on the Impact of Abolishing the Academic Aptitude Test on Teaching and Learning in Primary Schools
	4	Evaluation of the Skills Upgrading Scheme
	5	Research Project on Overseas Experience in Developing Reverse Mortgage for Retirement Protection
	6	Study on the Influence of Information Technology on Youth
	7	Initiation, Continuation and Impact of Drug Use among Females
	8	Independent Review of Port Work Design Manual : Part 1 — General Design Considerations for Marine Works
	9	Independent Assessment for the Flood Investigation Report on the New Territories and Tsuen Wan in June 2001
	10	Provision of Professional Service for Collection of Background Information on the Alternative Faecal Indicators in the Environmental Waters of Hong Kong and Their Correlation with Escherichia Coli

Government-commissioned Consultancy Studies Conducted by Local Tertiary Institutions

Name of Institution : The University of Hong Kong

<i>Year</i>	<i>Item</i>	<i>Title of the Study</i>
	11	Provision of Service for Feasibility Study of Using Biodiesel as Motor Fuel in Hong Kong — Performance Test
	12	2001 Public Opinion Survey
	13	2001 Staff Opinion Survey
	14	Evaluative Study of the Pilot Projects on the Implementation of the Review of Family Services
	15	Study on Performance Indicators
2002	1	Studies on Sustainable Development Assessment System in Overseas Countries
	2	Approaches to Integrate Sustainable Development in the Mainland
	3	Opinion Survey on the Public's View on Age Discrimination in Employment
	4	Evaluation of the Continuing Education Fund
	5	Professional Actuarial Services for the Design of Healthcare Financing Options
	6	Project to Update the Hong Kong Domestic Health Account
	7	Study of Substance Abuse in the Context of Underground Rave Culture
	8	Study on the Cognitive Impairment and other Harmful Effects from Ecstasy and Ketamine Abuse in Hong Kong Chinese
	9	To Provide Technical Advice and Support on Matters relating to Rating Assessment and Property Valuation, including an Evaluation of Rating and Valuation Department's Mechanism and Procedures for Conducting Rating Assessment as compared with International Best Practices
	10	To Provide Expert Advice and Assistance in Conducting Surveys with School Principals, Teachers, Parents and Students on the Quality and Effectiveness in the Delivery of Primary Education
	11	Review of Factors of Safety for Design of Seawalls and Breakwaters

Government-commissioned Consultancy Studies Conducted by Local Tertiary Institutions

Name of Institution : The University of Hong Kong

<i>Year</i>	<i>Item</i>	<i>Title of the Study</i>
12	Pilot Test Analysis for Use of Public Fill in Seawall Foundation at North Tsing Yi Reclamation Works	
13	Provision of Service for On-road Emission Testing for 2 Diesel Goods Vehicles of Using Biodiesel as Motor Fuel	
14	2002 Customer Satisfaction Survey	
15	Workshops for the Senior Managers of the Lands Department on How to Cultivate a Customer Service Culture within the Department	
16	Consultancy Study on Hong Kong Zoological and Botanical Gardens — Review on Zoological and Botanical Collections and Supporting Facilities (Jointly conducted with the Hong Kong Baptist University)	
17	Consultancy Study on the Review of Integrated Neighbourhood Projects in Targeted Old Urban Areas	
18	Evaluation on the Engagement of Peer Counsellors for Secondary 3 School Leavers	
19	Study on Homicide-Suicide in Hong Kong	
20	Opinion Survey on the In-building Access Publicity Campaign	
21	To Provide Advisory Services on Treatment of Sediments in Kai Tak Approach Channel	
22	Enhancement of Comprehensive Transport Study 3	
23	Review of Road Safety Strategy (Jointly Conducted by The Hong Kong Polytechnic University and The Hong Kong University of Science and Technology)	
24	Data Mining	
25	Consultancy Study on a Baseline Study on Hong Kong's Creative Industries	
26	Consultancy Study on the External Relations Strategy for the HKSAR Government	
27	Study on "An Economic Analysis of Deflation in Hong Kong"	
28	Consultancy Study on Hong Kong's Social Cohesion and Identity	
29	Study on Socio-Economic-Political Trends in Southeast Asia, with Particular Emphasis on Singapore, Malaysia and Thailand	

Government-commissioned Consultancy Studies Conducted by Local Tertiary Institutions

Name of Institution : The University of Hong Kong

<i>Year</i>	<i>Item</i>	<i>Title of the Study</i>
2003	1	Consultancy Service for a Training Programme for Members of the Administrative Services and Departmental Officers on Point 1 or 2 of the Directorate Pay Scale
	2	Perception Survey on Impact of Reform of the Secondary School Places Allocation System on Teaching and Learning as well as Learning Outcomes in Primary Schools
	3	Stakeholder Monitoring Survey on Education Reform and Major Education Initiatives
	4	Study on Teacher Education
	5	To Conduct Audit Testing of Avian Influenza Virological Surveillance on Vaccinated Chickens
	6	Avian Influenza Virus (Particularly H5 Virus) — Genetic and Antigenic Characterization for Viruses Isolated by AFCD Monitoring and Surveillance System
	7	Avian Influenza Virus Culture on Swabs from Waterfowl Parks and Aviaries
	8	Trapping, Sample Collection and Virus Culture from Wild Birds and Bet Bird Shops for Avian Influenza
	9	To Provide Technical Advice and Support on Matters relating to Maintenance and Safety of Existing Private Buildings in Hong Kong, including an Evaluation of the Buildings Department's Mechanism and Procedures for Ensuring the Proper Maintenance and Procedures for Ensuring the Proper Maintenance and Safety of Existing Private Buildings as compared with International Best Practice
	10	To Conduct an Audience Survey of the Hong Kong Harbour Fest Concert-goers
	11	To Conduct a Survey on the Public's Perception of the Hong Kong Harbour Fest
	12	Verification of Field Performance of Wave Absorbing Seawall at Jordan Road Reclamation Phase III Works
	13	Independent Review of Port Work Design Manual : Part 2 — Guide to Design of Piers and Dolphins
	14	Development of the Preventive and Treatment Programmes for Offenders with Problems of Psychotropic Substance Abuse

Government-commissioned Consultancy Studies Conducted by Local Tertiary Institutions

Name of Institution : The University of Hong Kong

<i>Year</i>	<i>Item</i>	<i>Title of the Study</i>
15		Study of Long-term Strategy to Improve Internal Communication of the Customs and Excise Department
16		Consultancy Service for the Study on Good Practices in Secondary Schools for Enhancing Students' English Language Proficiency
17		Provision of Service for Implement a New Gas-phase Chemistry Solver and Flexible Chemistry Mechanism Interface for the Path Modelling System
18		The Study to Evaluate the Effectiveness of Social Welfare Department's Enhanced District Social Welfare Office Functions
19		Study on Child Abuse and Spouse Battering
20		To Carry out for a 12-month Period Laboratory Monitoring and Gas Production Measurements of Sediment Samples from Kai Tak Approach Channel

Crimes Involving Automatic Teller Machines

8. **DR DAVID CHU** (in Chinese): *Madam President, it has been reported that in recent months, the Hong Kong Monetary Authority (HKMA) has received 36 complaints from bank depositors claiming that money totalling about \$1.9 million had been stolen from their accounts. They suspect that criminals got hold of their personal identification numbers (PINs) while they were using the automatic teller machines (ATMs) and then withdrew money from their accounts. In this connection, will the Government inform this Council of:*

- (a) the locations of the ATMs at which the criminals got hold of the victims' PINs;*
- (b) the police's ways to curb such crimes, and whether beat officers have been asked to keep watch on the activities in the vicinity of ATMs; and*
- (c) the progress of the study, undertaken by the HKMA with banks and relevant institutions, on upgrading the security level of ATM cards?*

SECRETARY FOR SECURITY (in Chinese): Madam President,

- (a) According to the reports received by the police relating to theft cases suspected to be caused by stolen PINs of ATM cards, occurrence of the crime is not linked to any specific location. Places where reports on this type of crime have been received include Shau Kei Wan, Mei Foo, Kwai Chung and Tsuen Wan.
- (b) The police have approached this type of cases from the following four fronts:
 - (i) exploring with the banking industry on how to strengthen security features of ATMs;
 - (ii) educating members of the public to keep their PINs secure and reminding them of the necessary precautionary measures while using ATMs;

- (iii) requiring patrol officers to strengthen vigilance in respect of ATMs situated in remote and secluded locations; and
 - (iv) investigating each of the reported ATM theft cases actively.
- (c) The HKMA issued a circular on 14 October 2003 to all authorized institutions (AIs) to set out clearly, among others, the HKMA's expectations on the precautionary measures that should be implemented to enhance the security level of ATMs as well as ATM cards by relevant AIs. The measures include:
- (i) enhancing the security features of ATMs;
 - (ii) continuous monitoring of ATMs by installing closed-circuit televisions;
 - (iii) implementing a mechanism that records relevant information on ATM cards or credit cards so that AIs can determine whether an unauthorized ATM transaction is carried out through a counterfeit card;
 - (iv) more regular and frequent patrols of ATMs during and after office hours;
 - (v) encouraging customers to report any suspicious devices detected on ATMs. Institutions should provide the relevant telephone number for customers to do so at the ATMs; and
 - (vi) alerting customers if any unusual transaction patterns are noted.

Relevant AIs have taken immediate actions to implement the recommended precautionary measures. Satisfactory progress has been made so far, and it is expected that most relevant AIs will be able to put in place these precautionary measures by 31 January 2004.

In addition, the banking industry is reviewing various options and technologies with a view to further enhancing the security of ATMs and ATM cards. In particular, a seminar arranged by the banking

industry, the service providers and relevant vendors was held in December 2003 to explore the feasibility of deploying smart cards or chip cards for ATM transactions. The HKMA will continue to liaise with the banking industry to review the adequacy of the existing measures and, if necessary, implement additional measures to strengthen the security controls.

Safety of Cleaners for Cleaning Carriageways and Flyovers

9. **MR CHAN KWOK-KEUNG** (in Chinese): *Madam President, at present, the Food and Environmental Hygiene Department (FEHD) recruits through subcontractors staff to clean roads, including carriageways and flyovers. These street cleaners are often seen to be working at road shoulders even when there are vehicles moving on the carriageways or flyovers. In this connection, will the Government inform this Council:*

- (a) *whether it has issued instructions on ways to safeguard the safety of cleaners responsible for cleaning the above carriageways and flyovers;*
- (b) *whether any street cleaners were injured or killed in traffic accidents while at work in the past three years; if so, of the dates of the traffic accidents, the casualties involved and other details; and*
- (c) *if there were such traffic accidents, whether the authorities checked if the subcontractors involved had taken out employees' compensation insurance for the street cleaners concerned; if checking was done, of the results; if not, the reasons for that?*

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

- (a) The FEHD engages outside contractors to provide cleansing services on pavements or at roadsides. Such services include street sweeping, street washing, gully cleansing, and so on. Cleansing of carriageways (such as flyovers) is done by mechanized sweeping vehicles. To protect the safety of street cleaners, the FEHD requires contractor staff to wear reflective vests so that they are easily visible to vehicle drivers.

The service contracts between the FEHD and its cleansing service contractors stipulate that contractors must observe the provisions of the Occupational Safety and Health Ordinance (Cap. 509). This is to ensure that their employees follow occupational safety measures in performing their duties at various locations to protect their own safety and health. Moreover, contractors are also required to comply with the contracts, the manufacturer's instructions or guidelines, the Road Traffic Ordinance (Cap. 374), and the requirements of other relevant legislation or codes of practice in their operation of vehicles, equipment and tools.

- (b) According to the FEHD's records, there were five traffic accidents involving contractor staff at work in the past three years. Details of these accidents are set out in the Annex.
- (c) Under section 40 of the Employees' Compensation Ordinance (Cap. 282), employers are required to obtain an insurance policy to cover the loss suffered by their employees as a result of accidents occurring in the course of their employment. It is also stipulated in the service contracts between the FEHD and its cleansing service contractors that the latter must fulfil such insurance requirement. As a normal practice, the FEHD will check whether the contractors have taken out the above insurance for their employees upon commencement of contracts. No contractors have been found breaching the requirement.

Annex

<i>Case</i>	<i>Date of Accident</i>	<i>Injury Sustained by Worker</i>	<i>Details</i>
(1)	27 August 2001	Shoulder injury	A vehicle attendant was injured when a water wagon lost control and overturned.
(2)	11 June 2002	Death	A worker was knocked down by a truck when she was sweeping at a public car park. She died three days after admission to hospital.
(3)	27 October 2003	Contusion at the feet	A worker sustained contusion at her feet caused by a turning vehicle when she was sweeping at a road corner.
(4)	11 November 2003	Abrasion at the thigh	A street cleaner was sweeping along the kerb side when a public light bus passed by and hit her handcart, which in turn injured her.
(5)	22 November 2003	Toes run over by vehicle	The toes of a worker's right foot were run over by a reversing private car when she was depositing refuse into a refuse collection vehicle.

Complaints About Education Consultancy Firms in Hong Kong

10. **MR NG LEUNG-SING** (in Chinese): *Madam President, with regard to the complaints about the services relating to overseas studies provided by education consultancy firms in Hong Kong, will the Government inform this Council:*

- (a) of the handling procedures followed by the authorities upon receipt of the above complaints;*
- (b) whether it will consider implementing measures such as a registration system to regulate these education consultancy firms, so as to safeguard the interests of local students planning to study abroad; and*
- (c) of the measures in place to enhance its assistance to local students seeking to study abroad.*

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

- (a) Since the education consultancy firms offer their services on a commercial basis, members of the public using their services are safeguarded by consumer-related legislation. In general, members of the public can seek assistance from the Consumer Council if they have complaints about the goods and services they purchase. Upon receipt of a complaint, the Consumer Council will seek relevant information from the parties concerned to mediate and to help resolve the dispute. If the complaint involves a possible criminal case, the Consumer Council will refer the complaint to the police.
- (b) Since the services provided by the education consultancy firms are commercial in nature and that we have legislation in place to regulate commercial behaviour and to safeguard consumer interests, the Government will not consider imposing further regulatory measures.

- (c) To help students who would consider studying abroad, the Education and Manpower Bureau maintains close liaison with overseas government educational organizations stationed in Hong Kong to provide up-to-date information and tips about overseas studies to interested students, careers teachers and parents through periodic issue of school circulars, leaflets, publications, its webpage and talks. If students require individual advice on overseas studies, they can contact the student advisors of the Education and Manpower Bureau through telephone or e-mail.

Full Implementation of CEPA

11. **MRS SOPHIE LEUNG** (in Chinese): *Madam President, with the Mainland/Hong Kong Closer Economic Partnership Arrangement (CEPA) fully implemented on the first of this month, will the Government inform this Council:*

- (a) *of its plans and measures to encourage manufacturers, including those who intend to return to Hong Kong, to set up factories in Hong Kong; if it has no such plans, of the reasons for that;*
- (b) *of the promotion strategies formulated to attract local and overseas investors and manufacturers to invest or set up factories in Hong Kong, and whether it has estimated, as a result of the promotion and incentive measures, the number of factories drawn to Hong Kong and the number of new local jobs created for each industry annually in the next few years; if so, the results of its estimation; and*
- (c) *in the light of the recent discussions in the community on the prospects of the local industries and manufacturing sector after the implementation of CEPA, whether it has assessed the role of the local industries and manufacturing sector in Hong Kong's economic development in the next decade; if so, of the assessment results?*

SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY (in Chinese): Madam President, my reply to the question raised by the Honourable Mrs Sophie LEUNG is as follows:

- (a) Under CEPA, with effect from 1 January 2004, Hong Kong products covered by the 374 Mainland 2004 tariff codes (previously 273 items according to the Mainland 2001 tariff codes) can enjoy zero tariff when exported to the Mainland. Since no tariff is required, these Hong Kong products enjoy an edge on pricing compared with those produced elsewhere. The zero tariff preference under CEPA provides an unprecedented incentive for manufacturers to set up factories in Hong Kong. To facilitate manufacturers in carrying out production in Hong Kong, we have adopted a very liberal approach in determining rules of origin under CEPA. We believe that the zero tariff preference will attract to Hong Kong the manufacturing of more brand-name products and high value-added products, or products with substantial intellectual property content.

With regard to macro policies, we will continue to improve our business environment, simplify procedures and improve regulation. The Financial Secretary will merge and reorganize the committees under his purview to establish a high-level body. Its task will be to improve co-operation between government and business, strengthen comprehensively our advantages for doing business and create jobs. We will also continue to provide the necessary support to the industrial sector. Key measures include making available land in the industrial estates managed by the Hong Kong Science and Technology Parks Corporation at close to cost price; providing standards and conformity assessment services through the Hong Kong Accreditation Service, Product Standards Information Bureau and Standards and Calibration Laboratory under the Innovation and Technology Commission to help manufacturers ensure that their products are in compliance with overseas standards; provision of integrated support services across the value chain through the Hong Kong Productivity Council to innovation and growth-oriented Hong Kong companies, in particular those in the manufacturing sector and small and medium enterprises; enhancement of the competitiveness of various sectors through the Small and Medium Enterprises funding schemes and the Innovation and Technology Fund; and vigorous promotion of Hong Kong brand names and establishment of an overall image of Hong Kong products and services through the Hong Kong Trade Development Council (TDC) to help various sectors expand their export markets.

There is now an adequate supply of industrial premises in Hong Kong and their rents and sales prices have dropped considerably. This is another advantageous factor in attracting enterprises to set up production lines in Hong Kong. In view of the new opportunities brought about by CEPA, the Government is considering measures to flexibly allow manufacturers to import skilled labour. Apart from serving to attract new investors or manufacturers to set up factories in Hong Kong, this will also promote economic development and increase local employment opportunities. Specific proposals are being worked out by the Government to facilitate further discussion. The business community and trade unions will be consulted before the scheme is implemented.

- (b) Invest Hong Kong (InvestHK) has been reaching out to both foreign and mainland enterprises through various avenues, including visiting these enterprises, organizing and participating in seminars and trade fairs, launching overseas promotional activities in collaboration with mainland cities, as well as co-hosting with them major international conferences. It seeks to establish extensive contacts with foreign and mainland enterprises at different levels to promote the advantages of setting up companies in Hong Kong.

Since the announcement of CEPA, InvestHK has been vigorously promoting the business opportunities brought about by CEPA to both foreign and mainland enterprises. Such efforts include:

- (i) holding seminars on CEPA in overseas and mainland cities to brief foreign and mainland enterprises on the business opportunities brought about by CEPA. For instance, seminars on CEPA were held in Korea and Japan in October last year;
- (ii) introducing CEPA at events co-organized by InvestHK, such as the exhibition of the APEC Investment Mart held in Thailand in October 2003, to explain to overseas traders the business opportunities brought about by CEPA;
- (iii) working in collaboration with the China Council for the Promotion of International Trade to organize large-scale

exhibitions and seminars in Beijing, Shanghai and Guangzhou between January and February this year. Enterprises of the three places will be briefed on the business opportunities arising from CEPA. Attendance is expected to reach 10 000;

- (iv) preparing promotional leaflets and publications on CEPA that focus on the needs of both mainland and overseas enterprises for distribution in various investment promotion activities; and
- (v) disseminating information on CEPA that is relevant to the needs of foreign investors through the website of InvestHK.

Besides, the 11 Economic and Trade Offices in the Mainland and overseas have been actively promoting the zero tariff preference under CEPA to attract overseas manufacturers to carry out production activities in Hong Kong. To attract overseas technology-based manufacturers to invest in Hong Kong and use Hong Kong as the platform in entering the mainland market, the Hong Kong Science and Technology Parks Corporation and the Cyberport have promoted the advantages brought about by CEPA in their overseas promotional activities. The TDC has also stepped up its activities to promote CEPA in the Mainland and Hong Kong. Starting from January this year, the TDC will set up four pilot CEPA Business Service Centres in Beijing, Shanghai, Guangzhou and Hong Kong. These centres will offer comprehensive support which includes business-matching service for mainland companies looking for suitable Hong Kong partners.

Both the Government of the Hong Kong Special Administrative Region and the Guangdong Provincial Government attach great importance to the implementation of CEPA in Guangdong Province. The Hong Kong/Guangdong Cooperation Joint Conference (HKG CJC) agreed in August last year the setting up of expert groups on the implementation of CEPA and on the promotion of Greater Pearl River Delta (PRD). The two sides will work together to attract foreign investment into the Greater PRD. Besides the HKGCJC, the Government has, through the Hong

Kong/Shanghai Economic and Trade Cooperation Conference and enhanced liaison with other mainland provinces and cities, sought to attract mainland enterprises to invest in Hong Kong.

In Hong Kong, the Trade and Industry Department, the TDC and the Commerce, Industry and Technology Bureau have organized and participated in a number of seminars and briefings to introduce the content and implementation details of CEPA to major local chambers of commerce, mainland delegations, foreign chambers of commerce, and industrial and trade organizations.

Since the announcement of CEPA, we have received a number of local and overseas enquiries, with some enterprises indicating that they are studying the feasibility of setting up production lines in Hong Kong. However, as the planning for each investment project takes time, and as CEPA allows new products to apply for zero tariff treatment, it is difficult at this stage to estimate the number of manufacturers attracted by CEPA to set up their factories in Hong Kong and the number of job opportunities created as a result.

- (c) Industry is one of the important pillars driving economic development. We believe that with the facilitation provided by CEPA, local industries would move towards the direction of high value-added, creative, intellectual property and technology intensive manufacturing, and would seek to increase their competitive edge through innovation, design and technology as well as by building up their own brand names. CEPA has provided a solid infrastructure for local industries to reposition themselves for sustained development, make structural adjustments, and in encouraging the emergence of new industries and providing a fresh impetus for economic development. The Government will carry out a quantitative assessment on the economic impacts of CEPA including the employment implication after it has been implemented for some time. We consider that a meaningful quantitative assessment should be done nine to 12 months following the implementation of CEPA. The Government will work according to this timetable in conducting the assessment and has already started the related preparatory work.

Adoption of Classification System in Deploying Ambulances to Transport Patients

12. **MS LI FUNG-YING** (in Chinese): *Madam President, it has been reported that, in order to optimize the use of resources, the Fire Services Department (FSD) is considering the adoption of a classification system under which priorities are set in the light of the condition of the patients as reported by the callers for ambulance service, and ambulances will then be deployed accordingly to send patients to hospitals. In this connection, will the Government inform this Council of:*

- (a) the numbers of urgent calls for ambulance service in 2002 and 2003 respectively, with a breakdown of such cases by the class determined according to the criteria of the above classification system, and the time lapse between the making of a call for service and the arrival of an ambulance at the scene to pick up the patient;*
- (b) the time the FSD plans to implement the classification system, and whether there will be public consultation before its implementation;*
- (c) the details of the staff training programmes before implementing the classification system; and*
- (d) the measures the FSD will take, after implementing the classification system, to prevent delay in treating patients due to inaccurate information supplied by the caller for ambulance service?*

SECRETARY FOR SECURITY (in Chinese): Madam President,

- (a) To deploy resources more effectively so as to further ensure that patients or injured persons in critical conditions could receive the best emergency ambulance service within the shortest period of time, the FSD will consider the feasibility of introducing a classification system of emergency ambulance service in Hong Kong upon the completion and full commissioning of the Fire Services Communication Centre Third Generation Mobilizing System. The classification system has been adopted in Britain and the United States in recent years and it is understood that the result has been positive.

The numbers of calls for emergency ambulance service in 2002 and 2003 are 505 980 and 478 109 respectively. The FSD has not conducted detailed discussion regarding the classification criteria, as the study on the classification system has yet to begin. Therefore, we are not able to provide a breakdown of calls for emergency ambulance service by class and the respective response times.

- (b) As mentioned above, the classification system of emergency ambulance service is still at a conceptual stage. The FSD will study the feasibility of introducing the classification system in Hong Kong after full commissioning of the Third Generation Mobilizing System. Therefore, there is currently no implementation timetable. Public consultation will be carried out if the result of the feasibility study is positive.
- (c) In conducting the feasibility study, the FSD will carefully assess the reliability and accuracy of the classification system. If such system is to be implemented after the study, the FSD will provide comprehensive training to its staff and draw up clear guidelines.
- (d) In the course of conducting the feasibility study, the FSD will examine measures to prevent delay in treating patients due to inaccurate information provided by the callers for emergency ambulance service. Such measures may include the drawing up of clear operational guidelines so that staff can assist callers in conveying accurate information on the conditions of patients. If such system proves feasible after the study, the FSD will, prior to its introduction, launch extensive publicity to promote the proper use of emergency ambulance service so as to ensure smooth implementation of the system.

Funding Research Projects Conducted in Hong Kong or the Mainland on Controlling Infectious Diseases

13. **MR CHEUNG MAN-KWONG** (in Chinese): *Madam President, in July last year, approval was given by this Council to the Administration for it to use \$500 million to fund research projects conducted in Hong Kong or the Mainland on controlling infectious diseases. In this connection, will the Government inform this Council:*

- (a) *of the justifications for capping the amount of funding at \$800,000 per research project, and the measures to support research institutions in carrying out large-scale research projects with a cost above the cap;*
- (b) *whether expenses on upgrading laboratory or research facilities fall within the scope of funding;*
- (c) *of the number of funding applications received so far and, among them, the respective numbers of applications submitted by individual local institutions, multiple local institutions and joint applications by local and mainland institutions; the research institution(s) involved in each application;*
- (d) *of the number of applications vetted, the respective amounts of funding applied for and approved for each of the research projects which are related to Severe Acute Respiratory Syndrome (SARS) or other emerging infectious diseases, and the commencement dates of work of the funded projects;*
- (e) *whether the relevant authorities and the Grant Review Committee co-ordinate the sharing of research results by the funded research institutions, with a view to enhancing the cost-effectiveness and progress of their researches;*
- (f) *of the ownership of the intellectual property rights of the research results of the funded projects; and*
- (g) *whether the Administration has treated research projects conducted locally and in the Mainland with the same standards with regard to the assessment criteria, the scope of research that may be financed and the amount applicable, monitoring of research progress and the ownership of the intellectual property rights of the research results of such projects?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Chinese):
Madam President, following the SARS outbreak in Hong Kong in 2003, the Finance Committee approved \$500 million to fund research into controlling

infectious diseases. Of this sum, \$50 million was provided to support research projects on infectious diseases in the Mainland through the Chinese Ministry of Science and Technology. The remaining \$450 million is administered through the Research Fund for the Control of Infectious Diseases (RFCID), established under the purview of the Health, Welfare and Food Bureau.

The purpose of the RFCID is to encourage, facilitate and support research on the prevention, treatment and control of infectious diseases, in particular emerging infectious diseases such as SARS. The operation of RFCID is guided by the policy statement laid down by the Research Council, which was established to determine the research agenda, ensure that system and procedures are in place for funding control, and ongoing monitoring and evaluation of approved research projects, promote research in infectious diseases and make the final decision on funding. The RFCID has further developed guidance notes for potential applicants. Both the policy statement and guidance notes, attached as Annex, are also available from the RFCID webpage <<http://www.hwfb.gov.hk/grants>>.

The Research Council has defined the scope of the RFCID to cover four broad areas, as follows:

- Aetiology, surveillance, epidemiology and public health
- Basic research
- Clinical and health services research
- Enhancement of research infrastructure

Researchers from the public, private and academic sectors of Hong Kong are eligible to apply to the Fund. The RFCID also places an emphasis on collaborative research with mainland China and overseas institutions.

Broadly, the RFCID supports two categories of research projects:

- (i) investigator-initiated projects, that is, those that encourage the development of innovations from individual researchers. Investigator-initiated projects are invited through twice-yearly public calls for grant applications. The first round opened on 29 September 2003 and closed on 29 November 2003. The second

round opened on 29 November 2003 and will close on 14 February 2004.

- (ii) commissioned projects, that is, those that address specific research needs, fill gaps in scientific knowledge and respond to public health needs and threats identified by the Health, Welfare and Food Bureau. The commissioned projects are by special invitation only. Since the creation of RFCID, commissioned projects have been solicited from the University of Hong Kong, The Chinese University of Hong Kong, and the Hospital Authority in collaboration with The Hong Kong University of Science and Technology and The Hong Kong Polytechnic University.

My reply to the individual parts of the question is as follows:

(a) *Investigator-initiated research*

For investigator-initiated projects the normal ceiling is set at \$800,000 based on the following factors:

- the prior experience in managing the Health Services Research Fund, where the Major Grant has a ceiling of \$800,000, and
- the average grant awarded by the Research Grants Council of the University Grants Committee of a similar amount.

However, there is a provision in the policy statement of the RFCID for higher grants to be awarded as long as it can be justified.

Commissioned research

There is no maximum stated ceiling for research projects in this category.

- (b) The upgrading of laboratories does fall within the scope of RFCID, in the category of enhancement of research infrastructure. In fact, the projects proposed in the commissioned project category have included a proposal to upgrade laboratory facilities to biosafety level 3 (B-L3) and capability to allow use of animal models in infection studies.

(c) *Investigator-initiated research*

A total of 114 applications to the RFCID were received in the first public call. The breakdown is as follows:

<i>Type of applying institution(s)</i>	<i>Number of applications received</i>
Single local institution	73
Multiple local collaborators	21
Local institution + mainland China collaborator	11
Local institution + overseas collaborator	6
Local institution + mainland China collaborator + overseas collaborator:	3
Total	114

The applying institutions include higher education institutions, hospitals, medical schools, and private organizations.

Commissioned research

A portfolio of research projects in this category have been received from the University of Hong Kong and The Chinese University of Hong Kong covering, among other things, the epidemiology of emerging or potentially emerging infections, microbiology, (including SARS, influenza, multi-drug resistant bacteria), upgrading of laboratory facilities, nosocomial infection, evaluation of new SARS treatments, long-term sequelae of SARS, and so on.

(d) *Investigator-initiated research*

The 114 investigator-initiated applications received in the first public call requested a total of \$72 million. Sixty-six of the applications are related to SARS or other new communicable diseases. All applications are currently undergoing the peer review process involving local and overseas experts. Peer review is a process of independent review to safeguard the quality and standard of the application and approval process. Final decision can only be made after peer review.

Investigator-initiated projects must commence within four to six months of the date of approval.

Commissioned research

Two university-based commissioned projects, spread over five years and comprising at least 10 separate research projects, request a total of \$55 million. The portfolios of research have been assessed and will be considered for funding approval by the Research Council in the second half of January 2004.

Commissioned projects are expected to commence shortly after the contract between the Administering Institution and the Government is signed.

- (e) All funded projects are required to produce a dissemination report that will be reviewed by the Grant Review Board in order to make the results available to a wider audience. Copies will be distributed to local researchers, clinicians, health care workers and managers of the health service. In addition, the dissemination report will be posted on the RFCID website.

Furthermore, it is expected that the research results will be disseminated to an international audience by the applicants themselves in the form of papers submitted to scientific journals and presentations at scientific conferences and symposia.

- (f) As described in the Guidance Notes to applicants, all rights of the project shall jointly belong to the Government and the Administering Institution. This does not, however, preclude in any way normal academic and professional use of research data and documents.
- (g) There is no difference in the treatment of local and mainland China institutions with regard to the scope of projects funded under the RFCID scheme, the amounts applicable, the vetting of applications, the monitoring of research progress and the ownership of intellectual property rights and research results.

POLICY STATEMENT

Research Fund for the Control of Infectious Diseases

Health and Health Services Research Fund

HEALTH, WELFARE AND FOOD BUREAU

Effective Date: 17 October 2003

Version: New

Preamble

In 2001, the Government announced in its Policy Objective the setting up of a Health and Health Services Research Fund (HHSRF) to support local health and health services research. The Fund will follow a focused research agenda in which thematic priorities are formulated together with our partners in health. The Fund is open for application to conduct research studies and projects in public health, health services or Chinese medicine. It is anticipated that the Fund will help strengthen local research capabilities in the field of health and health services, contributing to the ultimate goal of maximising population health.

During the SARS epidemic in 2003, a Research Fund for the Control of Infectious Diseases (RFCID) was established to encourage, facilitate and support research on the prevention, treatment and control of infectious diseases in Hong Kong, in particular emerging diseases such as SARS.

Both research funds are within the purview of the Health, Welfare and Food Bureau (HWFB). A Research Council has been established by the Secretary for Health, Welfare and Food (SHWF) to oversee the research direction and administration of both the RFCID and HHSRF. This Policy Statement lays down the overall framework and policies of the two funds. Procedures, guidance notes or any material that assists the operation of the research funds under the purview of the Research Council should be developed in consistence with this document.

The Research Council should approve exceptions to this policy on a case-by-case basis.

Dr E K Yeoh

Secretary for Health, Welfare and Food

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1 OVERALL FRAMEWORK

1.1 Research Fund for the Control of Infectious Diseases

1.1.1 Mission

The Research Fund for the Control of Infectious Diseases ('RFCID') aims to encourage, facilitate and support research on the prevention, treatment and control of infectious diseases, in particular emerging infectious diseases such as SARS.

1.1.2 Scope

The RFCID will consider funding applications for research projects relevant to the control of infectious diseases in the areas of:-

- Etiology, epidemiology and public health
- Basic research
- Clinical and health services research
- Enhancement of research infrastructure

1.1.3 Funding

RFCID will support studies initiated by individual investigators, an addition to those commissioned by the HWFB, to address health problems, fill scientific gaps and respond to public threats or needs. For investigator-initiated grant applications, the normal cost ceiling for a Full Grant is \$800,000 and for a Mini-Grant is \$80,000. Higher grants may be awarded where justified. Mini-Grants are intended for small scale, non-renewable or pilot studies.

1.2 *Health and Health Services Research Fund*

1.2.1 Mission

The Health and Health Services Research Fund ('HHSRF') aims to maximise population health and improve the quality of life, and enhance the standard and cost effectiveness of the health system through the generation of new knowledge in areas of human health and health services.

1.2.2 Objectives

The objectives of the HHSRF are to:

- Ascertain the health care requirements of the community.
- Strengthen the scientific rigour of evaluating health interventions and their cost effectiveness.
- Disseminate research findings to the wider community.
- Build research capacity in the field of health and health services.

1.2.3 Scope

The HHSRF will consider funding applications for public health, health services research or Chinese medicine from local researchers working in the public, private and academic sectors.

1.2.4 Funding

There are two types of awards: Full Grants and Mini-Grants. The normal cost ceiling for a Full Grant is \$800,000 and for a Mini-Grant \$80,000. Mini-Grants are intended for small scale, non-renewable or pilot studies.

Only the direct costs attributable to the research project will be covered by the grant allocation. The costs of premises, salaries for established academic or service staff, or overhead charges will not be supported. Limited conference expenses of up to \$10,000 may be included in the full grant application. Approval for release of this grant has to be sought prior to making arrangement to participate in the conference.

1.2.5 Thematic Priorities

HHSRF will establish a focused research agenda in which thematic priorities are formulated to guide the decision on funds allocations.

2 ORGANISATIONAL STRUCTURE

RFCID and HHSRF are administered through 2 key committees, supported by 3 task groups: -

Committees

- Research Council
- Grant Review Board

Task Groups

- Grant Review Board Executive
- Research Fund Secretariat
- Referee Panel

2.1 *Research Council*

2.1.1 **Role and Responsibilities:** The Research Council (RC) assumes fiduciary responsibility for all aspects of the administration of RFCID and HHSRF and the allocation of funds for approved grants. The RC appoints members to the Grant Review Board. The funding decision of the RC is final.

2.1.2 **Composition:** The Secretary for Health, Welfare and Food appoints the RC normally for a two-year term.

2.1.3 **Terms of Reference:** The terms of reference for the RC are:

- (a) Determine research agenda and funding control mechanism of the Research Fund for the Control of Infectious Diseases, and the Health and Health Services Research Fund.
- (b) Approve procedures for inviting, and criteria for vetting research applications.
- (c) Approve standard terms and conditions for grant-holders.
- (d) Approve funding allocation after peer-review process.
- (e) Approve processes for the ongoing monitoring and evaluation of approved research projects.
- (f) Establish Grant Review Board to carry out the technical work of the RC.

- (g) Disseminate key findings of funded projects.

2.2 Grant Review Board

2.2.1 Role and Responsibilities: Through the Grant Review Board (GRB) all applications, final and dissemination reports for funded grants are subject to peer review for their scientific merit and compliance with the scope of funding. The GRB acts as the scientific advisor to the RC and makes recommendations with regard to initial funding, requests for additional funds and assesses the outcomes of funded research.

2.2.2 Composition: Members are appointed by the RC and are drawn from a wide spectrum of medical, health, social and analytical sciences. Potential members are identified through established network, publications, scientific roles and committee meetings or collaborative work. The Secretary for Health, Welfare and Food nominates the GRB Chairpersons.

2.2.3 Terms of Reference: The GRB terms of reference are:

- (a) Set Standard Operating Procedures for the grant submission and review process, and the assessment and dissemination of final reports.
- (b) Distribute guidelines for the formulation of research proposals, grant applications and the submission of final and dissemination reports.
- (c) Review and assess applications and recommend projects for funding.
- (d) Review and assess final and dissemination reports.
- (e) Promote the development of research in the areas of health, health services and controlling infectious diseases in the wider community.
- (f) Monitor the progress of approved projects.
- (g) Monitor the financial performance of approved projects.

2.3 *Grant Review Board Executive*

2.3.1 Role and Responsibilities: The Grant Review Board Executive (GRBE) is established to assist the GRB on an *ad hoc* basis, to consider/suggest amendments to standard operating procedures, deal with matters arising for funded grants, monitor grant activity, requests for additional funding or changes to the study proposal.

2.3.2 Composition: Main committee

- Two Grant Review Board Co-Chairpersons
- Three members of the Grant Review Board
- Key Secretariat Personnel

2.3.3 Terms of Reference: The terms of reference for the Grant Review Board Executive are:

- (a) Assess and recommend action (on behalf of the GRB) on requests for additional funds, budget revision, and/or reallocation, changes to study design or methods.
- (b) Monitor the quality of the peer review including the assignment of referees to grants for review.
- (c) Monitor the response of grant applicants and grantholders to requests by the GRB.
- (d) Evaluate and advise the GRB regarding changes to the grant or final report review process.
- (e) Advise the Research Fund Secretariat on the monitoring of the progress of current research projects.

2.4 Research Fund Secretariat

2.4.1 **Role and Responsibilities:** The Research Fund Secretariat (Secretariat) supports all the activities of the RC including the outcome of the grant application review process, financial status on funded grants, monitoring of on-going projects, approved amendments, and the dissemination and final reports.

2.4.2 **Composition:**

- Research Grants Management Specialist
- Secretariat Executive
- Scientific Review Director
- Grant Review Board Coordinator

2.4.3 **Terms of Reference:** The terms of reference of the Secretariat are:

- Support the operations of the RC, GRB, GRBE and Referee Panel.
- Maintain administrative information systems as needed to support the work of the RC, GRB, and GRBE.

2.5 *Referee Panel*

2.5.1 **Role and Responsibilities:** Individual members of the Referee Panel, according to their specific field of expertise, are selected to review grant applications for funding on the basis of scientific merit and to assess the outcomes of funded projects.

2.5.2 **Composition:** Local and overseas referees are identified through a variety of sources: recommendation of the GRB members, bibliographic sources such as Medline, the reference section of the grant proposal or through internet contacts particularly in evidence-based health and health services literature.

2.5.3 **Terms of Reference:** The terms of reference for the Referee Panel are:

- (a) Assess the scientific merit of submitted grant proposals in terms of
 - originality
 - scientific content
 - design and methods
 - statistical analysis
 - outcome measures
- (b) Assess the relevance of the proposal to the thematic priorities and the applicability of the research to the local context.
- (c) Assess the 'value for money' as presented in the final and dissemination report.

3 CONFLICT OF INTEREST

3.1 *Definition*

A conflict of interest arises when a person's judgment concerning a primary interest, such as scientific knowledge, could be unduly influenced by a secondary interest, such as personal advancement or financial gain.

3.2 *Disclosure or Declaration of Conflict of Interest*

Financial or academic conflict of interest should be disclosed to the appropriate body (RC, GRB and Secretariat) in a timely and transparent manner. Declarations of conflict interest may be made verbally during a meeting or in writing to the Chairman.

Failure to disclose conflicts of interest will result in the person's track record with the Fund being adversely affected.

3.3 *Conflict of Interest and the Grant Review Board*

Grant Review Board members when named as an investigator must leave the meeting and not take part in the discussion or review process. GRB members who are colleagues or associates of an applicant (e.g. head or senior member of the same department) are not normally asked to leave the meeting. However, they would not be asked to participate in the discussion but might be asked for points of clarification. This approach has been found to be acceptable and practicable.

4 CONFIDENTIALITY

The RC, GRB, GRBE and Secretariat will abide by internationally recognised standards of personal information in medical research and complying with the local requirements of the Personal Data (Privacy) Ordinance.

It is the grantholder's responsibility to ensure that any conditions relating to data protection in Hong Kong are observed.

5 ALLEGATION OF SCIENTIFIC MISCONDUCT

5.1 *Definition*

Scientific misconduct means fabrication, falsification, plagiarism, or other practices that seriously deviate from those that are commonly accepted within the scientific community for proposing, conducting, or reporting research. It does not include honest error or honest differences in interpretations or judgments of data.

5.2 *Allegation of Scientific Misconduct*

Allegations of scientific misconduct are, fortunately, rare but the RC takes them very seriously as part of its responsibility to the public and the scientific community. In the event of research misconduct found during the course of funded research, the RC will withdraw funding support immediately.

The Administrating Institution should have in place adequate systems to ensure the quality of research that is carried out by their staff. Effective mechanisms for identifying scientific misconduct and agreed procedures for investigating allegations of such misconduct should be clearly publicised by the Administrating Institution.

6 ADMINISTRATIVE GUIDELINES

6.1 *Research Grant Application*

RFCID will support studies initiated by individual investigators as well as those commissioned by HWFB to address specific health problems, fill scientific gaps and respond to public health threats or needs.

For commissioned projects, only institutions specially invited by HWFB will be eligible to submit a portfolio of research for consideration.

For investigator-initiated research projects, the RC aims to hold two funding rounds per year, normally in the first and third quarters of the year. The RC will call for applications 3 months prior to the closing date. The Secretariat maintains an updated database of all funded grants.

6.2 *Grant Review Process*

Research applications are assessed in two stages, first by external referees, and then GRB according to the criteria set out below. The external referees are blind to the grant applicants to protect confidentiality.

Grant Review criteria:-

- originality of the research topic
- relevance to the scope of funding and thematic priorities
- significance of the research question
- quality of scientific content
- credibility for study design and method
- feasibility of the intended project

The GRB will also take into account the past performance and track records of the grant applicant(s), research capability of the administering institution, and the proposal's value for money when considering the funding recommendation. The RC will approve the funding recommendations of the GRB. The GRB will provide specific feedback for each application.

6.3 *Financial Arrangement*

Commissioned Projects

Release of funds will be tied to the attainment of interim objectives of the research activities and the project timelines accepted by the RC.

Mini-Grant

Mini-grants are approved on a lump sum basis. 90% of the value is payable at the start of the project. The remaining 10% payable is subject to receipt of the final report.

Full Grant

Full grants are reimbursed on an actual basis with a pre-approved cost ceiling up to 80% of the approved allocation. The remaining 20% payable is subject to the receipt of an acceptable final report as judged.

6.4 *Monitoring of Research Progress*

To minimise the potential failure to meet targeted aims, the GRB will implement a process for the on-going review of funded grants. Interim reports with financial summary will be submitted yearly and reviewed by the GRBE and the Secretariat.

All requests for amendments to the study design or methods will be subject to peer review.

The RC reserves the right to withhold funds or terminate the award at any time if the grant fails to show satisfactory performance or if the applicants are in breach of the Standard Terms and Conditions of the grant.

6.5 *Dissemination of Research Results*

On completion of approved projects, all grant holders must submit a final report and dissemination report(s). The final and dissemination reports will be assessed and graded by the GRB. The RC will disseminate the outcomes of research funded by the RFCID and the HHSRF. From time to time, principle investigators will be required to conduct press conferences to publicise research projects supported by RFCID and HHSRF.

RFCID/HHSRF

***Research Fund for the Control of Infectious Diseases
Health and Health Services Research Fund***

Guidance Notes - Research Grant Application

This booklet provides the procedures that should be followed to apply for grants, manage projects and report findings to the Research Council.

Please submit applications to:

Research Fund Secretariat Research Office Health, Welfare and Food Bureau 20/F, Murray Building, Garden Road, Central, Hong Kong.
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January 2004 (rev. 3)

Preamble

This document is designed to provide background information and advice on the research funding opportunities offered by the Research Fund for the Control of Infectious Diseases (RFCID) and the Health and Health Services Research Fund (HHSRF).

All applicants are strongly advised to review this document, and particularly, pay special attention to the revised application procedure in para 2.7, the “Standard Conditions of Research Grant” in Part 3 and the “Financial Arrangement” in Appendix B,

Enquiries about this booklet and its contents should be addressed to the Research Grants Management Specialist by fax: 2840 0467 or email: rfs@hwfb.gov.hk.

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	B	Financial Arrangements
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PART 1 RESEARCH COUNCIL**1.1 Background**

- 1.1.1 **Organisation Structure:** The Research Council (RC) has been established to assume responsibilities for all aspects of the administration and recommend to the Health, Welfare and Food Bureau on allocation of funds supported by HHSRF and RFCID. RC is supported by a secretariat and two committees, namely the Grant Review Board (GRB) and the Referee Panel.
- 1.1.2 **Function:** RC functions as a broadly based policy group whereas GRB will interpret policy, set guidelines and procedures for grant application and establish an independent system for two-tiered peer review of applications. Referee Panel provides critical appraisal on grant applications and reports. The funding decision of RC is final.
- 1.1.3 **Setting Policy:** RC will review health care trends and health needs in Hong Kong on a continuing basis, to support its decision making and the formulation and revision of research policy and priorities.
- 1.1.4 **Composition:** RC comprises prominent members of the health care system and academic institutions. GRB has brought together experts with technical skills and experience in a wide spectrum of health sciences to support the work of assessing grant applications and reports. Individual members of the Referee Panel, according to their specific area of expertise, are recruited to review grant applications and assess the outcomes of funded projects. Referees will be drawn from both local and overseas institutions and services. Overseas referees are paid a standard fee for their reports.

1.2 Research Scope

- 1.2.1 **Health and Health Services Research Fund:** Research projects which are relevant to the health and health care needs of the people of Hong Kong are guided by three themes.
- Public health
 - Health services
 - Chinese medicine
- Studies of purely clinical and biomedical nature will not be considered.
- 1.2.2 **Research Fund for the Control of Infectious Diseases:** It covers research projects relevant to the control of infectious diseases in the areas of:-
- Etiology, epidemiology and public health
 - Basic research
 - Clinical and health services research
 - Enhancement of research infrastructure (for example, development of sophisticated research equipment or development of software support systems)

PART 2 APPLYING FOR A GRANT**2.1 Research Grants**

- 2.1.1 RC awards two types of grants. Full Grants are normally awarded for periods of up to 2 years. Mini-Grants will be of shorter duration. Grants are intended to cover the direct costs attributable to the project or programme, and should not include the costs of premises and established academic or service staff; in general, contributions will not be made towards the indirect costs of projects. A list of items which may be included in the grant is shown in Appendix C.

2.2 Full Grants

- 2.2.1 The normal cost ceiling for any one project or programme is \$800,000. Higher grants may be awarded where justified. The general aim is to fund a wide spectrum of research with maximum possible coverage of contemporary health care issues. In the light of that policy, the RC may give higher priority to lower cost projects.
- 2.2.2 It is expected that most Full Grants will start within 6 months of the grant approval date and will be completed in two years or less.

2.3 Mini-Grants

- 2.3.1 The range of grants awarded specifically for mini research projects currently have a limit of \$80,000. The minimum award is \$6,000.
- 2.3.2 These are introduced to give health care providers, managers, and research workers an opportunity to obtain support for small scale research projects or pilot studies which might lead on to more substantive work. These Mini-Grants cannot be used to supplement other funding.
- 2.3.3 It is expected that most Mini-Grant projects will start within 4 months of the grant approval date and will be completed in one year or less.
- 2.3.4 Mini-Grant projects cannot be extended or supplemented. However, new applications for project funding of further work evolving from the Mini-Grant project are welcomed and will be considered by RC. Proposals for funding of dissemination of results from Mini-Grant projects will also be considered.

2.4 Eligibility

- 2.4.1 In principle, members of any discipline or profession in the health or health related field might apply for research funding. Grants may be awarded for research in Higher Education Institutions, hospitals, medical schools or other appropriate centres, units or services. Members of other disciplines, such as social welfare and education may also apply for funding of health related research..
- 2.4.2 For RFCID, collaborative research with Mainland China and overseas institutions will also be considered.
- 2.4.3 Applications declined on scientific grounds by any of the other research funding organisations in Hong Kong cannot be considered.
- 2.4.4 Applicants who have final or dissemination reports overdue for Health Services Research Fund, RFCID, HHSRF or Health Care and Promotion Fund projects (reports should be submitted within 6 months of the date on which funding ended for Full Grants and 3 months for Mini-Grants) or who have not submitted reports of an acceptable standard (grade 3 or below) will not have their applications for new funding considered until the report has been received and approved. Reports, which are finally deemed to be unsatisfactory, may be taken into consideration if further applications are considered.

2.5 Availability of Advice

- 2.5.1 If applicants wish to seek advice on specific aspects of a research proposal, they should approach the Research Fund Secretariat (the Secretariat) by fax: 2840 0467 or email: rfs@hwfb.gov.hk.
- 2.5.2 Appendix A offers basic advice on the preparation of applications with epidemiological or statistical content.

2.6 Grant Application Forms

- 2.6.1 Templates of Application Form (Form A) and Supporting Documents (Form B) with Explanatory Notes can be obtained from the Secretariat or downloaded from <http://www.hwfb.gov.hk/grants>. Only applications submitted on the standard forms will be considered for funding. Applicants are required to complete the forms electronically. Incomplete applications will not be processed and may result in administrative withdrawal.

2.7 Submission of Applications

- 2.7.1 Grants are allocated on the basis of peer review through GRB and the panel of expert referees. Applicants are therefore required to provide adequate photocopies, to the Secretariat by the closing date for receipt of applications. Applications received after the closing date will not be considered.
- 2.7.2 Please refer to the Explanatory Notes for details. The application package should contain.
- The original signed Application Form (Form A) with Supporting Documents (Form B)
 - 20 photocopies, 2-sided, of Form A and Form B (including ethics approval, any in press Key Reference and Additional Material as specified in Section 10(i) & (j))
 - 3 anonymous copies of Form A
 - One soft copy (1.44MB 3.5: floppy disk, MS Word (PC) format) of both Form A and Form B.

2.8 Funding Decisions

- 2.8.1 Each applicant will normally be informed within 18-20 weeks of closing date for application whether or not the application has been successful.

2.9 Start Dates and Expenditure Profiles

- 2.9.1 As soon as possible and within 4 weeks of receiving an offer of a grant, the principal grantholder, in conjunction with the administering institution, must advise GRB of the expected start date and end dates for the project and submit a spending plan for the duration of the grant.
- 2.9.2 The “start date” is deemed to be the first date on which expenditure is incurred, i.e. the purchase of equipment or the first working day on the project for a member of staff whose salary is funded from the grant.
- 2.9.3 Claims for reimbursement of expenditure are compared to the estimate in the relevant period of the spending plan. The grantholder should submit an explanation with any claim which varies markedly from the estimate.

2.10 Expenditure Payments

- 2.10.1 **Financial arrangements:** Details of financial arrangements are shown in Appendix B.
- 2.10.2 Full Grants. Authorised expenditure, up to 80% of the grant limit, is reimbursed monthly in arrears. Claims are submitted by the Administering Institution as soon as possible after the end of each month. These are compared to the relevant estimate in the spending plan and provided they do not exceed the spending plan. The remaining 20% is payable subject to the assessment of an acceptable final report as judged by GRB.
- 2.10.3 Mini-Grants. Grants are approved on a lump sum basis. 90% of the value of the Mini-Grant is payable at the start of the project. The remaining 10% is payable on the assessment of an acceptable final report as judged by GRB. The report must include an accounting for the grant and if total expenditure is less than the grant limit, the balance must be returned to RC.

2.11 Ethics

- 2.11.1 The written approval of a recognised Ethics Committee must be submitted with the application.

2.12 Confidentiality and Data Protection

- 2.12.1 The usual code of practice on confidentiality of personal health information should be followed.
- 2.12.2 Where personal data on individuals who can be identified are held and processed on computer, these data will be subject to the provisions of **Personal Data (Privacy) Ordinance**. Applicants are recommended to consult this document. It is the grantholder's personal responsibility to ensure that any conditions relating to data protection in Hong Kong are observed.

2.13 Wider Application of Research Funding

- 2.13.1 Grantholders are required to inform GRB in writing of any discovery, development, application or technical knowledge which comes to light during the course of the project.

PART 3 STANDARD CONDITIONS OF RESEARCH GRANT

This section sets out the conditions on which RC acting through GRB may offer to support a research project, the objectives of which are set out in Part 2 of this document. Non-compliance to these terms and conditions may result in the suspension of the award and/or impede the grantholders future applications.

3.1 General Terms and Conditions

- 3.1.1 The project shall be carried out by or under the general direction of the person(s) named in the Research Grant Application Form (Application Form) as the grantholder(s) who shall be responsible for the conduct of the project.
- 3.1.2 The grantholder(s) shall confirm with GRB within 4 weeks of the withdrawal of funds of the starting and completion dates of the project and of any events occurring during the project period which could prejudice the completion date.
- 3.1.3 RC will withdraw the award if the project does not commence within 6 months of confirmation of funding for Full Grants, within 4 months for Mini-Grants.
- 3.1.4 The grant holder(s) shall notify RC of any event which may prejudice the project outcome or completion date.
- 3.1.5 The grant holder(s) is responsible for ensuring that the project is completed within the financial limits of the grant and must advise GRB immediately of any occurrences which may prejudice the completion of the project within these limits.
- 3.1.6 The Administering Institution as named in the Application Form shall be responsible for the provision of the basic facilities required to support the work of the project.
- 3.1.7 The grantholder(s) shall submit interim, final and dissemination reports as required by GRB.
- 3.1.8 The Administering Institution and the grantholder(s) are jointly and severally responsible for ensuring that all conditions contained in this section are complied with.

3.2 Staff

- 3.2.1 It is the responsibility of the Administering Institution to enter into contracts of employment with all persons whose salaries are reimbursed from the grant. Such contracts should provide for the rate of pay normally applicable to the appropriate grades of the persons employed by that institution.
- 3.2.2 The grantholder(s) must ensure that staff working on the project devote to it the appropriate amount of time in relation to the amount of financial support received from RC. Subject to agreement by RC, those research workers with other interests (e.g. clinical, teaching or other health care skills) may undertake work in such interests in accordance with their contract with their employer.

3.3 Equipment

- 3.3.1 Any equipment paid for by RFCID/HHSRF, however acquired, shall be, and remain the property of RC and shall be in the care of, and maintained in good condition by, the administering institution.

- 3.3.2 During the period when such equipment is in the care of the Administering Institution, RC or its agents shall not be liable for any claims arising out of the presence or use of such equipment and the administering institution shall defend RC from any such claims.
- 3.3.3 If such equipment is transferred to an institution other than the Administering Institution named in the Application Form, the receiving institution shall be required to accept responsibility for the care and maintenance of such equipment and also to indemnify RC and its agents against any claims arising from the removal, installation and use of such equipment failing which all responsibility and liability therefore shall remain with the Administering Institution.
- 3.3.4 At the conclusion of the project, or following withdrawal of financial support, RC, may
- withdraw any such equipment from the administering institution; or
 - on being satisfied in writing by the Administering Institution and the grantholder(s) that such equipment shall continue to be used for the benefit of the health care system in Hong Kong, agree that it shall be retained in the care of and maintained by the administering institution; or offer such equipment for sale to the Administering Institution at an agreed current valuation; or
 - dispose of such equipment in such other way as may be agreed.

3.4 Finance

Full Grants

- 3.4.1 The Administering Institution shall exercise financial control of the grant. All expenditure on the project shall be met in the first instance by the administering institution, which shall submit monthly claims for reimbursement to RC. Such claims shall indicate the category of the expenditure under which they fall to be considered as shown in Section 11 of the Application Form.
- 3.4.2 RC shall not be bound to reimburse claims for expenditure in any category in excess of the maximum stated in the spending plan or in excess of any amended maximum which has been agreed in accordance with paragraph 3.13.
- 3.4.3 RC shall pay claims only in respect of expenditure properly incurred during the currency of the grant (as stated in the Application Form), or as has been agreed in accordance with paragraphs 3.13. The Administering Institution shall be bound to supply such additional financial information as may reasonably be required by RC.
- 3.4.4 RC shall pay claims of up to 80% of the approved grant limit and the balance when an acceptable final report is submitted.

Mini-Grants

- 3.4.5 The Administering Institution shall exercise financial control of the grant.
- 3.4.6 90% of the value of the grant may be claimed at the start of the project and the balance when an acceptable final report is submitted.

3.5 Privacy

- 3.5.1 It is the responsibility of the grantholder(s) to ensure that the requirements of any data protection are fully observed. In particular the grantholder(s) shall ensure at all times that any personal data collected in the course of the project shall be securely held and handled and that the anonymity of persons to whom the data refer shall be preserved in any report or publication.
- 3.5.2 Grantholder(s) shall adhere to the Personal Data (Privacy) Ordinance.

3.6 Ethics

- 3.6.1 The written approval of a recognised Research Ethics Committee is required at the time of submission of an application for research support, and in any event, before any award can be made. RC reserves the right to refuse an award on ethical grounds, even if agreement of an ethics committee has been obtained. If the research involves patients who live in more than one area, the written approval of any and all relevant ethics committees concerned must be obtained.

3.7 Reviews

- 3.7.1 An authorised member of RC or a group appointed on its behalf must, reasonable notice having been given, have access to the project to discuss its progress with the grantholder(s) or the staff involved, and to inspect equipment or other materials provided from the grant.
- 3.7.2 The grantholder(s) shall provide interim report on yearly basis and as may be required by RC. Such reports must conform with guidelines which are issued from time to time by RC. Any change of objective must be agreed with RC in accordance with paragraphs 3.13. The timing and frequency of such reports, which shall depend on the nature of the project, shall be notified to the grantholder(s) by RC.
- 3.7.3 If after due assessment, the research is not considered to be making satisfactory progress, RC reserves the right to discontinue the provision of financial support under the terms of the grant.
- 3.7.4 Within 6 months of completion of Full Grant project (3 months for Mini-Grant), the grantholder(s) shall provide a Final Report to RC. The final report must also conform to any guidelines issued by RC.

3.8 Publicity of Financial Support and Objectives

- 3.8.1 RC or the grantholder(s) may publish details of financial support given for the project and of the scientific objectives of the project.

3.9 Publication or Disclosure of Results

- 3.9.1 RC attaches great importance to the publication of the results of the research undertaken with the assistance of the grant and grantholders are required to acknowledge the support given to the work by RFCID/HHSRF in any published or distributed documents.
- 3.9.2 In addition to the presentation of interim, final and dissemination Reports the grantholder(s) must inform RC of any publications of the work containing results, information or technical knowledge connected with the project and shall forward a copy of the work to RC. RC will maintain a database of all published work attributed to funded research.

- 3.9.3 Where new or previously unreported results are to be made public at any meeting where representatives of the specialist or general news media may be present, the data and any text to be used should be sent to RC, together with full information about the meeting.
- 3.9.4 RC will approach former and current grantholders at intervals in order to ensure that all relevant publications have been entered in the database of RC.
- 3.9.5 Where publication of the research results is to be made by poster display or oral presentation to a medical or scientific meeting, abstracts should be sent to the RC no later than the time they are submitted to the organisers of the meeting and additional results and any text used should be submitted as soon as possible, prior to the meeting. When publication is to be achieved by presentation in written text, where delay will occur before the research becomes public, the text should be sent to the RC no later than the time it is submitted to the journal, duly informing the RC of the title of the journal.
- 3.9.6 The RC may, in the interests of the health care and welfare services in Hong Kong, inform any Government departments or statutory bodies of any results of the project.
- 3.9.7 From time to time, grantholder(s) will be required to conduct press conferences to publicise research projects supported by RFCID and HHSRF.

3.10 *Industrial and Intellectual Property Rights*

- 3.10.1 All rights in the results of the project shall jointly belong to the Research Council and the Administering Institution as their absolute property. This does not preclude in any way normal academic and professional use of research data and documents, subject to the requirements in 3.9.

3.11 *Application and Commercial Application of Results*

- 3.11.1 The grantholder(s) shall inform GRB in writing of any discovery, development, application or technical knowledge arising in the course of the project which could have commercial value.
- 3.11.2 Commercial use may not be made of the project results without the prior written consent of RC. The grantholder(s) must notify RC in advance of any proposed discussion or negotiation with any person, company or firm with a view to commercial use or other exploitation of such results.
- 3.11.3 RC reserves the right to be represented in any negotiations held with a view to commercial use or exploitation of any discovery arising from the project.

3.12 *Continuing Subsistence of Conditions*

- 3.12.1 The grant conditions contained in paragraphs 3.5, 3.10, 3.11, above must subsist notwithstanding the termination of the project or the grant period, unless otherwise agreed.

3.13 *Variation of Conditions*

- 3.13.1 No alteration, deletion or addition may be made to any of these conditions or any part of the Application Form without the prior agreement in writing of RC or (if the change is proposed by RC) of the Administering Institution and the grantholder(s). In particular:
- any change of substance in the objectives of the project;
 - any change of grantholder(s);

- any change of the maximum expenditure figure for each element of the grant given in the Application Form;
- any change in the duration of the grant

must be so approved. If RC does not approve a change proposed by the grantholder(s) or the administering institution, RC may, after consultation with the Administering Institution, cancel or renegotiate the arrangements for support of the project.

3.14 *Liability of the Research Council*

- 3.14.1 Notwithstanding the provision of the grant by RC, or the compliance by the Applicants and /or the Administering Institution with the conditions of such grant the Applicant and Administering Institution shall remain solely liable for all costs, liability or damages relating to the research and the publication of such research.
- 3.14.2 Without limiting 3.14.1, the Applicant and Administering Institution shall be solely responsible for claims that the research or any part thereof infringes the intellectual property or other rights of a third party, or is otherwise not the original work of the Applicant.

APPENDIX A**PREPARATION OF APPLICATIONS WITH EPIDEMIOLOGICAL OR STATISTICAL CONTENT**

- 1 Applications are sometimes submitted in which the general objectives are laudable but the research proposals do not meet well-established epidemiological criteria. The following notes highlight areas where there is often a need to take advice on epidemiology, statistics and computing; however they are not a substitute for professional guidance.
- 2 Surprisingly applicants often overlook the fact that many studies require the application of epidemiological and statistical techniques if their objectives are to be achieved. For example, studies of the causation and natural history of disease, the validation of new techniques, the evaluation of the effectiveness of management, and randomised controlled trials of the effects of treatment, advice or other interventions.
- 3 Among the points which may need discussion in the application are the following:-
 - 3.1 **Definitions:** Are the objectives of the study and the terms used to describe these objectives *clearly defined*? Other definitions which are needed are those relating to end-points or outcomes and to the criteria to be used in assessing these. The methods used for diagnostic labelling needs to be rigorous; in particular where diagnostic labels are allocated to individuals by people other than the research workers. There are many instances, other than these examples.
 - 3.2 **Study Design:** The reasons for choosing the study design should be stated clearly. If the objective is to establish a cause and effect relationship rather than simply an association, it is advisable that the study should be designed to permit the analysis of factors such as time relationships, strength of association or specificity and consistency of the association, and in some instances biological plausibility as well as valid, accurate and reliable methods for the assessment of the effect of interventions.
 - 3.3 **The Reference Population:** An epidemiological study should determine the *rate of events*, thus it is necessary to be able to define the population under study. The population it is proposed to study and to which the research results will apply should be clearly stated. In practice this is often difficult as in Hong Kong clinical services have open door policies. Hospitals and out-patient departments whose catchment areas are not exclusive have no readily apparent population denominator and unless efforts are made to determine such a base, reliable rates cannot be estimated. In clinical studies where the aim is to contrast certain individual characteristics rather than to derive group characteristics it may be acceptable to use 2 comparable groups from an undefined total population. Similarly hospital or out-patient department studies may be perfectly satisfactory for detailed evaluation of certain types of methodology. The results of such studies, however, may not be readily extrapolated to the population as a whole. ESGAA will usually attach considerable importance to the sampling aspects of studies.
 - 3.4 **The Sample:** The method of sampling, the reference population and the statistical basis for arriving at the appropriate size of sample should be described. Sample size depend on the magnitude of the difference in the rates of illness or other differences between the study and control groups which the investigators would like to detect. Information should be given about the significance level at which the difference is to be demonstrated: (a) the acceptable risk of failing to demonstrate a real difference; and (b) an estimate of the dispersion of individual values (precision). Rough estimates of prevalence can sometimes be best obtained by pilot studies. The use of too small a sample when

comparing groups frequently leads to inconclusive results (low power). Expert statistical advice should be obtained on the sample size required if the investigator is in doubt about this aspects of the design. Returns in terms of the usefulness of the information sought and the need for a given degree of precision have to be balanced against overall costs; a compromise is sometimes necessary.

- 3.5 **Comparisons and Standardisation:** The aim of many studies is to obtain information which can be compared with the results of other investigations. Moreover, epidemiological studies generally involve larger groups than purely clinical studies and the observations of several investigators may have to be combined. Standardisation of methods is required to ensure that the quality of observations is uniformly high. All techniques, their method of use and the conditions under which they will be applied should be fully described together with the method of quality control.
- 3.6 **Validation of Techniques:** Validity involves the assessment of whether an examination technique is measuring what it purports to measure. The assessment includes consideration of sensitivity, specificity and predictive accuracy. The overall of the value data may be affected by the repeatability of the measurements in the hands of the investigators. If a new technique is being introduced, the design should make provision for testing it against an established reference technique. When new types of investigation are to be undertaken the advice of experts who have mounted similar studies is likely to be invaluable. Because of the difficulties outlined above, previously validated and standardise questionnaires for the measurement of symptomatology, if available, should be used whenever possible. The sub-committee may refer the investigators to such a source of advice if this opportunity has not been taken.
- 4 **Records:** Drafts of record forms should be included as an appendix. They should be marked "Confidential" and identify the investigators and their organisation. Where questionnaires are to be used an outline of their content should be given. It should also be clear whether the questionnaire is for self or interviewer completion and whether the answers are to be precoded. If questions are to be asked about well-researched symptomatology like angina or bronchitis, investigators should use the standardised questions or give their reason for choosing not to do so.
- 5 **Forms for recording the results of physical examination:** Tests and investigations should be included with coding details. The coding options should be wholly inclusive and mutually exclusive. The layout should follow the sequence of the examination procedure.
- 6 **Confidentiality and Consent:** Where applicable, the constraints of data protection procedures of legislation in force must be observed. In the application, the safeguards proposed to preserve the confidentiality of the personal details of patients should be included. Where individual observations have to be related to other records, it should be shown that the patient's permission to consult them will be requested in the questionnaire and signed consent obtained. Where appropriate the patient's permission to communicate the results to another practitioners (such as a GP) obtained in a similar way.
- 7 **Data Processing and Analysis:** Arrangements for data processing and outline plans for the analysis should be given in the protocol with costing. Expert statistical and computing advice is often required and should be sought at the planning stage. Failure to document these aspects fully may result in an application being rejected.

- 8 **Pilot Studies:** It is advisable to mount a pilot study to evaluate the effectiveness and validity of all parts of a questionnaire before starting the main study. Pilot studies also provide a means of assessing the practicability and acceptability of the methods proposed and of familiarising investigators with their use. Such an exercise is often of considerable value in determining realistically the degree of detail which should be selected for the full scale study.

9 **Suggested Basic Reading:**

Warren, M D
AIDE - Memoire for preparing a protocol
British Medical Journal 1978/1195-1196

Rose, G & Barker D J P
Epidemiology for the Uninitiated
British Medical Journal 1979
ISBN 0 7279 0055 2

10. **Definitions:**

10.1 **Rates**

An incidence rate is the frequency of new health problems or other events in a defined group in a specified period of time.

A **point prevalence ratio** is the amount of disease or abnormality present in a given population at a given point in time.

A **period prevalence ratio** comprises the point prevalence ratio plus the annual incidence rate for the number of years over which the study has been conducted.

10.2 **Repeatability**

The repeatability of a technique is the extent of agreement between repeated measurements. It is affected by random variation in the item being assessed and the errors introduced by the observer collecting and processing this information.

10.3 **Validity**

The validity of a technique is the extent to which the method provides true assessment of that which it purports to measure.

APPENDIX B**FINANCIAL ARRANGEMENTS****1. Approval of Grant**

1.1 The research projects must include a budget setting out the maximum amount of grant. Two types of grants are available, Full Grants and Mini-Grants.

1.2 **Mini-Grants:** The grant is provided for projects below and up to \$80,000. It is approved on a lump sum basis.

1.3 **Full Grants:** The grant is provided for programmes or projects with a budget not more than \$800,000. The grant is made on actual basis with a pre-approved cash ceiling. In addition, the cash ceiling should be supported by the following details:

- a. The number and level of staff together with their individual salaries and other benefits.
- b. Major expenditure items (over 10% of the grant ceiling) such as equipment, laboratory facilities, chemical and other research materials.
- c. Professional services provided by outsiders (any amount).
- d. Training expenses (any amount).

Entertainment and overseas visits will not be funded.

2. Payment of Grant**2.1 Mini-Grants**

90% of the value of the Mini-Grant is payable at the start of the project.

2.2 Full Grants

Authorised expenditure, up to the 80% of the grant limit, is made monthly on a reimbursement basis. The remaining 20% is payable on receipt an acceptable final report. The final report must include an accounting for the grant. It is necessary for the grantholder to account for individual expenditure items.

The grantholder must ensure that the expenditure incurred is within the ambit and the scope of the approved budget. All payments must be properly documented and recorded. However, there is no need to furnish supporting documents (e.g. original invoices and official receipts etc.) in reimbursement claims unless the various expenditures exceeds the approved Budget and the cash ceilings mentioned in paragraph 1.3 above. RC reserves the right to audit the accounts upon completion of the project. At the discretion of RC, cash flow may be advanced in case the grantholder encounters any cash flow problem.

APPENDIX C**DIRECT COSTS, INDIRECT COSTS AND OTHER COSTS****1. Direct Costs**

All administering institutions are eligible to receive direct costs for a successful grant application. Grants may cover all of the direct costs attributable to a particular research project or programme, or part of the costs as specified in the grant application.

The following can be claimed as direct costs where they are deemed to be necessary in carrying out the proposed research and can be uniquely identified with a particular research project. These are provided as guidelines for researchers in the use of their approved budgets. These guidelines may be referred to by auditors of research accounts.

1.1. Direct Staff Costs**1.1.1 *Research staff (full & part-time)***

Costs of full and part-time research assistants and other supporting staff will be met in the usual way.

1.1.2 *Other support staff (full & part-time)*

Funds may be requested for the salaries of secretarial, administrative and other staff. Support can be awarded on the same basis as for technical staff. That is, full-time or, in the case of part-time staff, if the aggregated and averaged part-time effort meets or exceeds the 20% threshold, e.g. RC is prepared to reimburse 20% of staff salary for a support staff provided that it is used for 20% of time on the project. When applying for reimbursement, applicants should specify the particular staff to which the costs relate and the percentage of time the staff spent on approved project

1.2 Travel and Subsistence

The cost of local travel relating directly to the work of the research project may be claimed under this heading. Cost of visits to other establishments and overseas visits should **NOT** be included in the application. Limited conference expenses of up to \$10,000 may be included in the full grant application. Approval for release of this grant has to be sought prior to making arrangement to participate in the conference.

1.3 Consumables

Consumables are those items which are required to carry out the research. The following items may also be charged under this heading:

1.3.1 *Reprints and Page Charges*

The costs of purchasing reprints or publishing space from publishing companies in whose journals the supported research will be published, is an additional allowable direct cost, within the maximum allowable funds of the project. Claims for reprints should be justified on the grounds of publishing work arising from the research which is the subject of the application.

Costs for page charges should be avoided if possible. There are many quality scientific journals which do not levy page charges and in the majority of cases researchers should be able to select journals which do not charge. However page charges may be claimed as a legitimate expense in exceptional circumstances, e.g. non-publication in such journals may reduce international

exposure. Full justification of the case for support should be available from the grantholder(s).

1.3.2 Computing

Local departmental computing charges which can be assigned to the research project will be considered as a legitimate direct cost, including stationery supplies and software licences. Central computing facilities will remain the responsibility of the host institutions.

1.3.3 Equipment

Equipment costing less than \$10,000 should be applied for and charged under the consumable heading.

1.3.4 Equipment related items

Maintenance costs can be awarded for the maintenance of any piece of equipment to be used on the project irrespective of whether it was originally purchased from a RFCID/HHSRF grant or not. A proportion of the maintenance fees will be met depending on the percentage of time the equipment will be in use for the project, e.g. RC is prepared to reimburse 50% of maintenance fees for a piece of equipment provided that it is used for 50% of time on the project. When applying for maintenance costs applicants should specify the piece of equipment to which the costs relate and the percentage of time the equipment will be in use on RC project.

1.4 Exceptional Items

- 1.4.1 These should be specified and applied for in projects costing more than \$100,000. The full cost of the following exceptional items may be provided when they exceed the following specific threshold levels:

Telephone/Fax Postal Costs where dedicated to the research project and separately metered. Costs are allowable under each category separately where they exceed \$10,000 per annum.

Specialist Cartography/Photography/Printing where total costs are likely to exceed \$5,000 over the lifetime of the project.

Equipment

- items dedicated to the research project and costing over \$10,000 including computers and other equipment.
- equipment installation e.g. delivery, calibration
- major equipment spares
- software

- 1.4.2 Please note that monies awarded for exceptional items CANNOT be transferred to other headings at a later date.

2. Costs RC will not Meet

Finally, RC will **NOT** as a general rule, meet costs associated with the following:

- 2.1 employment of academic staff
- 2.2 general premises costs including:
 - construction and maintenance of buildings
 - land purchase/lease
 - refurbishment/renovation/adaptation
 - basic services and utilities (including heating, lighting and communications)
 - lease/rent/rates
 - insurance
 - cleaning/security/safety
- 2.3 the cost of unspecified research work
- 2.4 the cost of work already completed, or the writing-up of such work
- 2.5 the cost of literature surveys
- 2.6 remuneration of undergraduates (other than payment for vacation work under the existing award if such earnings are allowed by the host institution)
- 2.7 any costs associated with a research student
- 2.8 the cost of host facilities to which the investigator normally has free access

Design of Private Sector Participation Scheme Estates

14. **MR HOWARD YOUNG** (in Chinese): *Madam President, it is reported that certain designs of some Private Sector Participation Scheme (PSPS) estates occupied in recent years, such as the Broadview Court in Sham Wan of Aberdeen, adversely affect the occupants. For example, refuse storage chambers are only about 2 ft away from the flats of the occupants and the chimneys of the back-up power generators of elevators are facing the windows of flats. In this connection, will the Government inform this Council whether it knows:*

- (a) if the Housing Authority (HA) has set specific requirements for the designs of PSPS estates and requires that the contractors' designs should meet such requirements;*
- (b) the number and types of complaints received by the HA about the designs of PSPS estates in each of the past 10 years; and among them, the number of cases already resolved; and*
- (c) the number of PSPS flats newly completed in each of the past 10 years and, among them, the number of flats returned to the HA by occupants who considered that there were design problems?*

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

Madam President, my reply to the three-part question is as follows:

- (a) In line with private sector residential buildings, developments under the PSPS comply fully with all requirements on building design, appointment of Authorized Persons, construction methods, completion inspections, and so on, as enshrined in the Buildings Ordinance as well as other regulations such as those relating to environmental protection. In addition, the HA also prescribed specific requirements spelling out the planning parameters including

number of flats, their sizes, building services installations, and so on, and technical standards on flat design and building materials. These requirements were set out in the tender documents for PSPS projects.

Tenders for PSPS projects were evaluated by an inter-departmental tender board. The Housing Department was represented in the board to assess compliance of the tenders with stipulated design and technical requirements, the proposed construction programme and the contractor's past performance to assist the tender board in selecting the most suitable tender. Whether building services installations would cause nuisance to future residents was one of the factors which the Housing Department took into account in tender evaluation. Contractors were contractually obliged to comply with all the requirements.

- (b) The Housing Department has no statistics on the number of complaints relating to building design. From time to time we received comments and suggestions from professional bodies, the industry, residents' associations and individual owners on the design of subsidized home ownership flats. Where necessary, improvements would be introduced in response to residents' expectations.
- (c) Under the current arrangements, buyers of Home Ownership Scheme flats including those under the PSPS can sell their flats back to the HA within five years from the date of first assignment. Of the 42 000 PSPS flats sold since 1994, the HA has bought back 2 105 flats. Breakdown by year is shown at Annex. Individual owners sell their PSPS flats back to the HA for various personal, economic or family reasons. We do not request owners to disclose the reasons for selling back their flats. Hence we have no information on the number of flats returned due to building design.

Annex

Number of returned PSPS flats completed from 1994 to 2003¹

(As at end November 2003)

<i>Year of Completion</i>	<i>Number of flats</i>	<i>Number of returned flats</i>
1994	5 570	41
1995	4 460	49
1996	1 350	0
1997	2 340	38
1998	11 674	1 301
1999	3 576	165
2000	5 230	183
2001	7 712	328
Total	41 912	2 105

- 1 The figures do not include the 760 flats in High Prosperity Terrace and 2 470 flats in Hunghom Peninsula completed in 2002, and the 4 100 flats in Grandeur Terrace, 510 flats in Easeful Court and 2 010 flats in Kingsford Terrace completed in 2003. These flats will not be sold as subsidized housing. High Prosperity Terrace, Grandeur Terrace and Easeful Court have been converted to public rental housing. The Government is discussing the disposal arrangements for the 2 470 flats in Hunghom Peninsula with the concerned developer.

Conducting Commercial Activities on Government Land Occupied Without Authorization

15. **MR WONG SING-CHI** (in Chinese) *Madam President, regarding the problem of conducting commercial activities on government land which is occupied without authorization or in breach of land grant conditions, will the Government inform this Council of:*

- (a) *the location, area and years of occupation of individual pieces of government land with the above situation in the past five years, the commercial activities undertaken, as well as the government department(s) responsible for regulating such activities and the details of the follow-up actions taken; whether the authorities have assessed the turnover of such commercial activities and the amount of rent payable; if so, of the assessment results; and*

- (b) *the follow-up actions the authorities have taken against the unauthorized occupation of government land for use as premises for the sale of food or food processing, so as to ensure food hygiene and safety as well as safeguard public health; whether the authorities will consider conducting inter-departmental joint operations to resolve the problem?*

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

Madam President, my reply to the two parts of the question is as follows:

- (a) As regards commercial activities conducted on government land without authorization or in breach of the lease conditions, details of these cases are provided in Annexes A and B respectively. The Lands Department (LD) is responsible for taking land control action against illegal occupation of government land and to ensure compliance of the terms of leased land by the lessees. Depending on the types of activities taken place on the concerned sites, other relevant government departments can also take appropriate action, as and when necessary, in accordance with their departmental policies.

When unauthorized occupation of government land is detected, the LD will normally require the occupier to cease occupation in accordance with the relevant provisions of the Land (Miscellaneous Provisions) Ordinance (Cap. 28). Where appropriate, the LD will regularize the unauthorized occupation by granting short term tenancies (STT) to the occupiers at market rent. If the unauthorized occupation cannot be regularized and has to be ceased, no STT will be offered and rent assessment will not be carried out.

Similarly, if unauthorized change of use of leased land is discovered, the LD will require the lessee to rectify the unauthorized use. Where appropriate, the LD will allow the change of use by issuing a short term waiver (STW) to the lessee at a fee. If the unauthorized use is not allowed and the lessee is required to cease such activity, STW will not be issued and no fee will be assessed.

- (b) Regulation of food business falls under the purview of the Food and Environmental Hygiene Department (FEHD). To safeguard public health, any person who wishes to operate a food business needs to obtain a licence from the FEHD and to comply with the relevant licensing requirements and conditions. Unlicensed operators will be prosecuted regardless of whether the food premises are located on government land or not.

If government land is occupied without authorization for use as premises for the sale of food or food processing, the LD will take land control action and will also refer the matter to the FEHD for appropriate follow-up actions within the latter's authority.

Annex

Cases of Unauthorized Occupation of Government Land for Commercial Uses from January 1999 to December 2003

<i>Item</i>	<i>Location</i>	<i>Area (sq m)</i>	<i>Duration</i>	<i>Usage</i>	<i>Action by the LD/Current position</i>
(1)	Aberdeen Promenade/Public Car Park	5 330	About 20 years	Live fish wholesale market	Regularization by way of a government land licence issued to the Fish Marketing Organization on 1 December 2003.
(2)	Discovery Bay, Lantau	41 200	1982 to present	Golf course	Being regularized by a STT with rental back-dated to 1982.
(3)	Yung Shue Wan, Lamma Island	124	October 2001 to present	Restaurant	Prosecution action is being taken against the occupier.
(4)	Ho Chung, Sai Kung	700	August 2003 to present	Golf driving range	Structures to be surveyed and land control action will be taken as appropriate.
(5)	Po Toi O, Sai Kung	380	November 1995 to present	Two restaurants	Clearance to be carried out by the Housing Department and the LD. The FEHD is to consider appropriate action against the restaurants.
(6)	Lung Kwu Tan, Tuen Mun	210	Mid-2003 to present	Recreational (water sports) purposes	Land control action is being taken against the illegal occupation of government land.
(7)	Near DD 120 Lot 1072R.P., On Ning Road, Yuen Long (Ex-Tai Kiu Tsuen)	200	December 2001 to November 2002	Shops	Demolished in November 2002.

<i>Item</i>	<i>Location</i>	<i>Area (sq m)</i>	<i>Duration</i>	<i>Usage</i>	<i>Action by the LD/Current position</i>
(8)	Near DD122 Lot Nos. 894RP and 1589RP, Wing Ning Tsuen, Yuen Long	250	January 2001 to December 2003	Car park	Cleared in December 2003.
(9)	Near DD116 Lot Nos. 805 and 806, Villa Premiere, Yuen Long	3 200	November 2002 to April 2003	Car park	Cleared in April 2003.
(10)	Near DD118 Lot 1448RP, Ta Shu Ha Road West, Shap Pat Heung, Yuen Long	300	July 2000 to June 2001	Open storage of containers	Cleared in June 2001.
(11)	Near DD114 Lot 21RP, Shek Kong Airfield Road, Pat Heung, Yuen Long	2 500	June 2001 to November 2001	Car park	Cleared in November 2001.
(12)	Near DD108 Lot 119, Ta Shek Wu, Pat Heung, Yuen Long	300	June 2001 to May 2003	Open storage of construction materials	Cleared in May 2003.
(13)	Near DD104 Lot 3213-18, Golf Driving Range, Fairview Park, San Tin, Yuen Long	600	April 2001 to June 2001	Golf driving range	Cleared in June 2001.
(14)	Near DD99 Lot 570RP and 397RP, Chau Tau, San Tin, Yuen Long	300	August 2000 to July 2001	Car park	Cleared in July 2001.
(15)	Near DD96 Lot 733, Pak Shek Au, Chau Tau, San Tin, Yuen Long	6 000	January 1999 to December 2000	Open storage	Cleared in December 2000.
(16)	Near DD96 Lot 709RP, Pak Shek Au, Chau Tau, San Tin, Yuen Long	250	July 1998 to June 2000	Car park	Cleared in June 2000.
(17)	Near Shek Po Tsuen in DD123, Ping Shan, Yuen Long	100	January 2003 to present	Car repairing	To be cleared in 2004.
(18)	Near Ki Tai Garden (Phase I) in DD121, Hung Shui Kiu, Yuen Long	150	October 2003 to present	Car park	To be cleared in 2004.
(19)	Near Luen Yick San Tsuen, Sam Mun Tsai, Tai Po	1 810 (formed on slope)	9 October 2003 to 16 December 2003	Car park	Fenced up and notice boards erected on site in December 2003.

Annex B

Cases of Unauthorized Change of Use of Leased Land from
Non-commercial to Commercial Uses
from January 1999 to December 2003

<i>Item</i>	<i>Location</i>	<i>Area (sq m)</i>	<i>Duration</i>	<i>Usage</i>	<i>Action by the LD/Current position</i>
(1)	Hoi Yu Street, Quarry Bay	2 985.9 (Industrial)	15 June 1999 to 2 June 2000	Fee-paying car park	Advisory and warning letters issued. Misuse rectified.
(2)	King Wah Road, North Point	2 784 (Industrial)	2 January 2003 to present	Fee-paying car park	Advisory letter issued. Waiver application under processing.
(3)	60 Victoria Road, Hong Kong	566.7 (Industrial)	9 November 2000 to 23 August 2001	Fee-paying car park	Advisory letter issued. Misuse rectified.
(4)	J/O Cheung Yip Street and Lam Chak Street, Kowloon Bay	6 541 (Industrial/ Godown)	22 February 2000 to 1 November 2000	Fee-paying car park	Advisory letter issued. Misuse rectified.
(5)	J/O Sheung Yee Road and Wang Tai Road, Kowloon Bay	5 480 (Industrial/ Godown)	7 December 2000 to present	Fee-paying car park	Advisory letter issued. Upon application, waiver granted at a fee.
(6)	15-21 Luk Hop Street, San Po Kong, Kowloon	2 991.38 (Industrial/ Godown)	23 February 2001 to present	Fee-paying car park	Advisory letter issued. Upon application, waiver granted at a fee.
(7)	1 Tai Yau Street, San Po Kong, Kowloon	1 430.71 (Industrial)	24 April 2001 to present	Fee-paying car park and open storage	Advisory letter issued. Upon application, waiver granted at a fee.
(8)	9-11 Sheung Hei Street, San Po Kong, Kowloon	970.84 (Industrial/ Godown)	24 April 2001 to present	Fee-paying car park	Advisory letter issued. Upon application, waiver granted at a fee.
(9)	112 King Fuk Street, San Po Kong, Kowloon	1 676.85 (Industrial/ Godown)	9 July 2001 to 28 March 2002	Fee-paying car park	Advisory letter issued. Misuse rectified.
(10)	66 How Ming Street and 165-167 Wai Yip Street, Kwun Tong, Kowloon	1 769.75 (Industrial)	22 February 2000 to present	Fee-paying car park	Warning letter issued. Waiver application under processing.
(11)	52 Hung To Road, Kwun Tong, Kowloon	1 056.7 (Industrial)	26 October 1999 to present	Fee-paying car park	Warning letter issued. Waiver application is at an advance stage of processing.
(12)	No. 38 Chong Yip Street, Kwun Tong	1 156.64 (Industrial/ Godown)	5 July 1999 to present	Fee-paying car park	Advisory letter issued. Upon application, waiver granted at a fee.
(13)	No. 18 and 18A Hung To Road, Kwun Tong, Kowloon	535 (Industrial)	15 August 2003 to present	Fee-paying car park	Advisory letter issued. Upon application, waiver granted at a fee.
(14)	J/O How Ming Street/ Tsun Yip Street, Kwun Tong, Kowloon	8 913 (Industrial/ Office)	6 August 1999 to present	Fee-paying car park	Upon application, waiver granted at a fee.

<i>Item</i>	<i>Location</i>	<i>Area (sq m)</i>	<i>Duration</i>	<i>Usage</i>	<i>Action by the LD/Current position</i>
(15)	No. 49 King Yip Street, Kwun Tong, Kowloon	929.02 (Industrial)	20 July 1999 to present	Fee-paying car park	Advisory letter issued. Upon application, waiver granted at a fee.
(16)	No. 52 Tsun Yip Street, Kwun Tong, Kowloon	929.03 (Factory for the manufacture of wearing apparel hats and gloves or embroidery)	7 January 2000 to 2 June 2003	Fee-paying car park	Advisory letter issued. Misuse rectified.
(17)	No. 207 Wai Yip Street, Kwun Tong, Kowloon	936 (Industrial)	20 July 1999 to 29 August 2002	Fee-paying car park	Misuse rectified.
(18)	No. 9 Ko Fai Road, Yau Tong	5 946 (Shipbuilding and/or a sawmill and timberyard)	15 November 2001 to present	Fee-paying car park	Warning letter issued.
(19)	Ko Fai Road, Yau Tong	2 133 (Shipbuilding and/or a sawmill and timberyard)	15 November 2001 to present	Storage/ processing of materials for recycling purpose	Warning letter issued. Waiver application is at an advance stage of processing.
(20)	Ko Fai Road, Yau Tong	1 473 (Shipbuilding and/or a sawmill and timberyard)	15 November 2001 to present	Storage of building materials	Warning letter issued. Upon application, waiver granted at a fee.
(21)	Cha Kwo Ling Road, Yau Tong	1 986 (Shipbuilding and/or a sawmill and timberyard)	26 August 2003 to present	Storage of scrap metal and building materials	Warning letter issued.
(22)	Cha Kwo Ling Road, Yau Tong	3 237 (Shipbuilding and/or a sawmill and timberyard)	March 2002 to present	Storage of scrap metal and paper for recycling	Waiver application is at an advance stage of processing.
(23)	No. 8 Cheung Yee Street, Lai Chi Kok, Kowloon	1 418.63 (Industrial/ Godown)	16 June 1998 to 23 May 2002	Fee-paying car park	Warning letter issued. Misuse rectified.
(24)	1131-1137 Canton Road, Kowloon	446.7 (Industrial/ Godown)	2 July 2003 to 9 July 2003	Fee-paying car park	Misuse rectified.
(25)	Nos. 46-48, Anchor Road, Tai Kok Tsui, Kowloon	356.7 (Industrial)	26 August 1998 to 8 November 2002	Fee-paying car park and open storage	Warning letters issued. Misuse was rectified.
(26)	111 King Lam Street, Kowloon	1 676.85 (Industrial/ Godown)	9 July 2001 to present	Fee-paying car park	Warning letter issued. Waiver application is at an advance stage of processing.
(27)	104-106 King Lam Street, Kowloon and 77 Wing Hong Street.	1 877.57 (Industrial)	9 July 2001 to present	Fee-paying car park	Warning letter issued. Upon application, waiver granted at a fee.
(28)	495 Castle Peak Road, Kowloon	640 (Factory)	9 July 2001 to present	Fee-paying car park	Warning letter issued. Upon application, waiver granted at a fee.

<i>Item</i>	<i>Location</i>	<i>Area (sq m)</i>	<i>Duration</i>	<i>Usage</i>	<i>Action by the LD/Current position</i>
(29)	Hok Cheung Street, Hung Hom, Kowloon	1 700 (Pier)	1992 to present	Concrete batching plant	Warning letters issued. Misuse not rectified. The lot was re-entered. The ex- owner applied to the High Court in September 2002 for cancellation of re-entry. Hearing of the case is pending.
(30)	6B-6E Hart Avenue, Tsim Sha Tsui	875 (Residential)	6 December 1999 to present	Fee-paying car park	Upon application, waiver granted at a fee.
(31)	13 Ho Man Tin Street, Ho Man Tin	351 (Residential)	6 December 1999 to 20 April 2000	Fee-paying car park	Warning letters issued. Misuse rectified.
(32)	Nos. 1131-1137 Canton Road, Kowloon	449.1 (Residential)	9 May 2003 to 9 July 2003	Fee-paying car park	Misuse rectified.
(33)	No. 131 Kowloon City Road, To Kwa Wan, Kowloon	1 378.67 (Industrial)	4 May 1998 to 4 November 1999	Fee-paying car park	Warning letter issued. Misuse rectified.
(34)	J/O San Ma Tau Street and To Kwa Wan Road, Kowloon	5 755 (Reclamation and Building)	4 September 1998 to present	Fee-paying car park	Warning letter issued. Upon application, waiver granted at a fee.
(35)	Luk Tei Tong, Mui Wo, Lantau	2 200 (Agricultural)	March 2002 to present	Concrete mixing planting	Lease enforcement action to be considered.
(36)	Ho Chung, Sai Kung	6 600 (Agricultural)	August 2003 to present	Golf driving range	Structures to be surveyed and lease enforcement will be taken as appropriate.
(37)	Tai Po Tsai, Sai Kung	791 (Agricultural)	September 2002 to present	Restaurant and golf driving range	Lease enforcement action being considered. The FEHD has been informed to take appropriate action against the restaurant.
(38)	Lung Mei, Sai Kung	162 (Agricultural)	August 2002 to present	Car repairing	Structures to be surveyed and lease enforcement action will be taken as appropriate.
(39)	Lung Kwu Tan, Tuen Mun	1 854 (Agricultural)	1999 to mid-2003	Golf driving range activities with the erection of structures on site	Misuse rectified.
(40)	Fui Sha Wai, Yuen Long	430 (Agricultural)	10 March 1999 to present	Car repairing	Lease enforcement action to be considered.
(41)	Fui Sha Wai, Yuen Long	114 (Agricultural)	10 March 1999 to present	Car repairing	Lease enforcement action to be considered.
(42)	Yuen Kong Tsuen, Yuen Long	112 (Agricultural)	4 May 1999 to present	Dumping of construction materials	Lease enforcement action to be considered.
(43)	Tong Yan San Tsuen, Yuen Long	28 (Agricultural)	20 May 1999 to present	Car repairing	Lease enforcement action to be considered.
(44)	Shui Pin Wai, Yuen Long	30 (Agricultural)	24 June 1999 to present	Car parking and flea market	Lease enforcement action to be considered.
(45)	Ha Tsuen, Yuen Long	522 (Agricultural)	27 August 1999 to present	Open storage for constructions material	Lease enforcement action to be considered.

<i>Item</i>	<i>Location</i>	<i>Area (sq m)</i>	<i>Duration</i>	<i>Usage</i>	<i>Action by the LD/Current position</i>
(46)	Pak Sha, Yuen Long	336 (Agricultural)	20 September 1999 to present	Furniture storage	Lease enforcement action to be considered.
(47)	Wang Toi Shan, Yuen Long	133 (Agricultural)	6 October 1999 to present	Canteen	Lease enforcement action to be considered.
(48)	Fairview Park, Yuen Long	170 (Agricultural)	14 December 1999 to present	Open storage	Planning application being considered by the Town Planning Board. Lease enforcement action withheld.
(49)	Pok Wai, Yuen Long	232 (Agricultural)	28 December 1999 to present	Timber yard	Waiver application under processing.
(50)	Nam Sha Po, Yuen Long	300 (Agricultural)	28 December 1999 to present	Open storage for container	Lease enforcement action to be considered.
(51)	Tong Yan San Tsuen, Yuen Long	361 (Agricultural)	18 January 2000 to present	Car park	Lease enforcement action to be considered.
(52)	Pat Heung, Yuen Long	15 (Agricultural)	29 February 2000 to present	Open storage	Lease enforcement action to be considered.
(53)	San Tin, Yuen Long	175 (Agricultural)	27 April 2000 to present	Slaughter house	Lease enforcement action to be considered.
(54)	Fairview Park, Yuen Long	374 (Agricultural)	19 May 2000 to present	Restaurant	Lease enforcement action to be considered.
(55)	Hang Mei Tsuen, Yuen Long	73 (Agricultural)	23 June 2000 to present	Car park	Waiver application under processing.
(56)	Ko Po Tsuen, Yuen Long	1 437 (Agricultural)	20 July 2000 to present	Storage of vehicles	Lease enforcement action to be considered.
(57)	Pak Sha, Yuen Long	750 (Agricultural)	21 July 2000 to present	Car repairing	Lease enforcement action to be considered.
(58)	Fairview Park Road South, Yuen Long	3 314 (Agricultural)	3 October 2000 to 31 December 2001	Golf driving range and flea market	Misuse rectified.
(59)	Ha Yau Tin Tsuen, Yuen Long	65 (Agricultural)	9 October 2000 to present	Car park	Lease enforcement action to be considered.
(60)	Sheung Tsuen, Yuen Long	5 398 (Agricultural)	7 November 2000 to present	Studio and drinking bar	Re-entry action in progress.
(61)	Kam Tin, Yuen Long	1 815 (Agricultural)	8 June 2001 to present	Container car park	Lease enforcement action to be considered.
(62)	Tin Lin Tsuen, Yuen Long	177 (Agricultural)	17 August 2001 to present	Car repairing	Lease enforcement action to be considered.
(63)	Lok Ma Chau, Yuen Long	2 175 (Agricultural)	27 August 2001 to present	Car services	Waiver application under processing.
(64)	Au Tau, Yuen Long	220 (Agricultural)	8 November 2001 to present	Workshop	Lease enforcement action to be considered.
(65)	Pat Heung, Yuen Long	299 (Agricultural)	18 June 2002 to 25 July 2002	Storage of marble	Misuse rectified.
(66)	Ha Tsuen, Yuen Long	281 (Agricultural)	27 June 2002 to December 2002	Storage	Misuse rectified.
(67)	Ngau Tam Mei, Yuen Long	472 (Agricultural)	3 July 2002 to present	Car repairing	Waiver application under processing.
(68)	San Tin, Yuen Long	30 (Agricultural)	19 August 2002 to present	Car park	Legal advice for lease enforcement action being sought.
(69)	Pat Heung, Yuen Long	4 105 (Agricultural)	26 November 2002 to present	Studio	Lease enforcement action to be considered.
(70)	Kong Ha Wai, Pat Heung, Yuen Long	2 087 (Agricultural)	9 December 2002 to present	Timber yard	Lease enforcement action to be considered.

<i>Item</i>	<i>Location</i>	<i>Area (sq m)</i>	<i>Duration</i>	<i>Usage</i>	<i>Action by the LD/Current position</i>
(71)	Hung Uk Tsuen, Yuen Long	126 (Agricultural)	10 December 2002 to present	Metal workshop	Lease enforcement action to be considered.
(72)	Shan Ha Road, Yuen Long	340 (Agricultural)	14 December 2002 to present	Waste paper factory	Lease enforcement action to be considered.
(73)	Lau Fau Shan, Yuen Long	6 287 (Agricultural)	31 December 2002 to present	Flea market	Lease enforcement action to be considered.
(74)	Hoi Pui Tsuen, Pat Heung, Yuen Long	5 091 (Agricultural)	4 January 2003 to present	Organic farm	Lease enforcement action to be considered.
(75)	Chung Uk Tsuen, Yuen Long	688 (Agricultural)	10 February 2003 to present	Storage	Lease enforcement action to be considered.
(76)	Fung Kong Tsuen, Yuen Long	1 161 (Agricultural)	10 February 2003 to present	Warehouse	Lease enforcement action to be considered.
(77)	Sheung Tsuen Shek Kong, Yuen Long	1 187 (Agricultural)	28 March 2003 to present	Vehicle dismantling plant	Lease enforcement action to be considered.
(78)	San Tin, Yuen Long	650 (Agricultural)	3 April 2003 to present	Storage	Lease enforcement action to be considered.
(79)	San Tin, Yuen Long	125 (Agricultural)	4 April 2003 to present	Workshop	Lease enforcement action to be considered.
(80)	Hang Tau Tsuen, Yuen Long	85 (Agricultural)	10 April 2003 to present	Storage	Lease enforcement action to be considered.
(81)	Tai Sang Wai, Yuen Long	1 084 (Agricultural)	11 April 2003 to present	Race track for radio-controlled model car	Lease enforcement action to be considered.
(82)	Ko Po Tsuen, Yuen Long	720 (Agricultural)	23 April 2003 to present	Car showroom	Lease enforcement action to be considered.
(83)	Kam Tin Road, Yuen Long	3 300 (Agricultural)	5 May 2003 to present	Car repairing	Lease enforcement action to be considered.
(84)	San Lung Wai, Yuen Long	227 (Agricultural)	8 May 2003 to present	Open storage	Waiver application under processing.
(85)	Pat Heung, Yuen Long	639 (Agricultural)	14 May 2003 to present	Open storage for private cars	Lease enforcement action to be considered.
(86)	Wing Ping Tsuen, Yuen Long	455 (Agricultural)	15 May 2003 to present	Flea market	Lease enforcement action to be considered.
(87)	San Tin, Yuen Long	2 958 (Agricultural)	5 June 2003 to present	Traffic service station	Lease enforcement action to be considered.
(88)	Wang Toi Shan San Tsuen, Yuen Long	124 (Agricultural)	5 June 2003 to present	Vehicle workshop	Lease enforcement action to be considered.
(89)	Sheung Che, Yuen Long	119 (Agricultural)	5 June 2003 to present	Storage of construction material	Lease enforcement action to be considered.
(90)	Kam Tin, Yuen Long	1 639 (Agricultural)	5 June 2003 to present	Storage of construction material	Waiver application under processing.
(91)	Sheung Che, Yuen Long	191 (Agricultural)	5 June 2003 to present	Machinery repair workshop	Lease enforcement action to be considered.
(92)	Ngau Tam Mei, Yuen Long	282 (Agricultural)	6 June 2003 to present	Warehouse	Lease enforcement action to be considered.
(93)	Lam Hau, Yuen Long	87 (Agricultural)	20 June 2003 to present	Storage of construction material	Lease enforcement action to be considered.
(94)	Kwu Tung, Yuen Long	276 (Agricultural)	21 August 2003 to present	Lorry and container trailer park and workshop	Lease enforcement action to be considered.

<i>Item</i>	<i>Location</i>	<i>Area (sq m)</i>	<i>Duration</i>	<i>Usage</i>	<i>Action by the LD/Current position</i>
(95)	Wing Lung Wai, Yuen Long	590 (Agricultural)	25 August 2003 to present	Car park	Lease enforcement action in progress.
(96)	Shek Wu Wai, Yuen Long	644 (Agricultural)	5 September 2003 to present	Lorry and container trailer park and workshop	Lease enforcement action to be considered.
(97)	Sheung Che, Pat Heung, Yuen Long	387 (Agricultural)	25 September 2003 to present	Car park	Lease enforcement action to be considered.
(98)	Pat Heung, Yuen Long	729 (Agricultural)	3 October 2003 to present	Car repairing	Lease enforcement action to be considered.
(99)	Ngau Tam Mei, Yuen Long	138 (Agricultural)	14 October 2003 to present	Container park	Lease enforcement action to be considered.
(100)	Muk Kiu Tau Tsuen, Yuen Long	30 (Agricultural)	21 October 2003 to present	Storage of scrap metal and plastic materials	Lease enforcement action to be considered.
(101)	Shui Pin Wai, Yuen Long	744 (Agricultural)	4 December 2003 to present	Flea market	Demolition action to be taken shortly.

Preventing Spread of Infectious Diseases

16. **MR MICHAEL MAK** (in Chinese): *Madam President, regarding the prevention of the spreading of infectious diseases, will the Government inform this Council:*

- (a) *of the respective numbers of cases of various types of infectious diseases reported over the past three months, and how these figures compare to the relevant figures of the same period in each of the past three years;*
- (b) *whether the Administration has studied why, despite the implementation of measures for preventing the recurrence of Severe Acute Respiratory Syndrome (SARS) and massive outbreaks of other infectious diseases, there are still outbreaks of infectious diseases in the community; if it has, of the results of the study; and*
- (c) *whether the Administration will expedite the establishment of the Centre for Health Protection, enhance its connection with neighbouring areas or nations and those currently affected by an outbreak of infectious disease, and release information to the public on strengthening protection against infectious diseases as soon as there are signs of such an outbreak in Hong Kong?*

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

- (a) During the period September to November 2003, there were a total of 3 500 cases of statutorily notifiable diseases reported to the Department of Health (DH), affecting 4 108 persons. The number was lower than those of the corresponding period of the previous three years by 17% to 44%. Please refer to the Annex for details.
- (b) Infectious diseases are a continuous threat to the health of people causing significant morbidity, mortality and economic loss to the community. In Hong Kong, mortality and morbidity from infectious diseases have been much reduced with the advances and improvements in medical services, economy, education and environment. However, emerging and re-emerging infectious diseases continue to pose threats to public health because of globalization, global warming, population growth, and so on. In particular, increased international movement of people and extensive and interrelated food chains have increased the risk of spreading infectious diseases.

During the SARS epidemic, the Government has considerably enhanced health promotion and education efforts to raise community awareness of personal hygiene and participation in hygienic practices. The DH has issued guidelines to institutions such as elderly homes, child-care centres and schools, alerting them to enhance disease surveillance, to report early suspected infectious diseases outbreak, and to maintain good personal, food and environmental hygiene. The DH has also implemented the influenza vaccination programme in residential homes for elderly and disabled persons. However, as some infectious diseases are particularly prone to spread through close contact in institutionalized settings, cases of infectious diseases may still occur in these institutions. The DH will continue to work closely with the relevant sectors and operators to strengthen infection control actions in these settings.

- (c) We are pressing ahead with the establishment of a Centre for Health Protection (CHP) in Hong Kong. Following research into overseas

experience and consultations with an advisory committee comprising local health care experts and academics, we have formulated an organization structure for the CHP featuring six functional branches. Our interim target is for the CHP to come into operation in mid-2004 to take on two core functions, namely, (i) surveillance and epidemiology and (ii) infection control. We expect the new public health agency to be fully established by 2005. We briefed the Legislative Council Panel on Health Services on the progress of setting up the CHP on 5 January 2004. Meanwhile, the DH's work on infectious disease control has been reorganized to enhance the effectiveness of this function.

The Government has been taking a series of measures to prevent the resurgence of SARS and other infectious diseases. As outlined in the "Checklist of Measures to Combat SARS" released in September 2003, the Government of the Hong Kong Special Administrative Region has put in place a comprehensive strategy to guard against SARS, through preventing a resurgence of the disease and strengthening preparedness; maintaining close and effective surveillance for the disease; and combating it promptly and rigorously, should it re-emerge. The Government has prepared an emergency response plan with a three-level response system. Regular drills have been conducted to test the plan.

We have also enhanced the infectious disease notification mechanism within Hong Kong and with Guangdong Province and Macao. In addition to exchanging information on the statutory notifiable diseases of the three places on a regular basis, agreement was reached for prompt mutual notification of sudden upsurge of any infectious diseases of unknown nature or of public health significance. We shall continue to maintain close relationship and share information with the World Health Organization and other overseas health authorities.

We are also committed to providing timely and accurate information on matters related to SARS and other infectious diseases to the local community to keep up a high degree of alertness (for example, alerts and cases in other places, updated knowledge in SARS and other diseases).

Number of Notifications of Notifiable Infectious Diseases in September, October and November for 2000-03

<i>Disease</i>	<i>2000</i>			<i>2001</i>			<i>2002</i>			<i>2003</i>		
	<i>September</i>	<i>October</i>	<i>November</i>	<i>September</i>	<i>October</i>	<i>November</i>	<i>September</i>	<i>October</i>	<i>November</i>	<i>September</i>	<i>October</i>	<i>November</i>
Cholera	1	2	2	18	1	1				1		
Plague												
Yellow Fever												
Acute Poliomyelitis												
Amoebic Dysentery			2	1			2	1			1	1
Bacillary Dysentery	37	21	22	36	56	31	52	25	23	8	8	17
Chickenpox	331	537	1 062	666	1 205	2 141	411	848	1 414	242	496	866
Dengue Fever	2		1	2	3	2	17	12	4	6	3	1
Diphtheria												
Food Poisoning -	39	78	33	52	41	31	65	50	37	49	42	31
Outbreak												
(Persons affected)	(162)	(233)	(125)	(227)	(126)	(91)	(300)	(194)	(132)	(430)	(165)	(135)
Legionnaires' Disease	1				2						1	
Leprosy	1	3	1	1		2			1		1	
Malaria	5	2		3	7	5	4	6	5	4	2	1
Measles	3	3	1	9	6	5	4	3	2	1	5	4
Meningococcal												
Infections	1	3	2									
Mumps	8	6	2	7		3	9	10	8	17	17	12
Paratyphoid Fever	2	1	1	2	3	1	2	3	5	5	3	4
Rabies (Human)					1							
Relapsing Fever												
Rubella	11	6	13	1	4	2	2	3	2	2	3	5
Scarlet Fever	6	3	3	14	8	10	8	10	12	3	3	1
SARS+	NA	NA	NA	NA	NA	NA	NA	NA	NA			
Tetanus		1	1						1			
Tuberculosis	628	595	593	587	654	560	552	587	500	462	573	515
Typhoid Fever	13	9	3	6	5	3	4	10	5	6	3	
Typhus Fever			2	1		1	4	1	2		4	5
Viral Hepatitis												
-A	33	40	33	36	17	22	23	24	19	18	25	22
-B	17	14	12	19	7	7	14	6	4	6	8	8
-C	13	23	18	16	9	11	7	16	12	8	14	4
-E	1	2	3		1	3	1	1	3		1	1
-Unclassified	2	1		1		1		1		4	2	9
Whooping Cough		2		1	1	1			1			
Total*	1 122	1 312	1 777	1 443	2 014	2 821	1 159	1 593	2 041	824	1 191	1 485

Notes:

(1) *Excluding persons affected in food poisoning cases, that is, figures in the bracket

(2) + Notifiable since 27 March 2003

(3) NA - Not applicable

Programme Validation Service of Hong Kong Council for Academic Accreditation

17. **MR FREDERICK FUNG** (in Chinese): *Madam President, regarding the programme validation service provided by the Hong Kong Council for Academic Accreditation (HKCAA) for private institutions since 2000, will the Government inform this Council of:*

- (a) *the procedure and criteria adopted by the HKCAA for validating programmes offered by institutions and the time normally required to complete the validation;*
- (b) *the number of programmes the validation of which were passed within six months and its percentage in all programmes for which validation were completed; and*
- (c) *the names of the programmes the validation of which were passed within six months and the institutions involved, and whether the time taken for validating these programmes was shorter than that normally required; if so, of the reasons for that?*

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

- (a) Upon the submission of full documentation for a programme validation from an institution, the HKCAA will assemble an independent Panel to examine the documentation, conduct on-site visit and discuss with senior management, staff members and external advisors of the institution. The Panel, comprising suitably qualified local and overseas academics (where appropriate) as well as local industry experts or practitioners, will determine whether the proposed programme of study will be able to meet and be maintained at standards recognized locally and internationally. The principal issues to be considered include programme objectives,

programme structure and content, curriculum and syllabus, teaching and learning, staffing, facilities and support, as well as links with the industry or the profession. At present, an institution is required to have passed an institutional review before it completes a validation to demonstrate that it can provide a suitable academic and institutional environment for implementing the proposed programme.

The time required for completing the validation predominantly depends on whether the institution is capable to meet the validation criteria. Conditional approval will be given to allow the institution time to address any outstanding issues. Since 2000, the HKCAA has carried out 52 programme validations for private or self-financed institutions. On average, the time required for an institution to attain conditional approval status is two months (approximately 60 days) from the date of submission of full documentation. For an institution to complete the validation (that is, fulfillment of all conditions), the average time taken is less than five months (approximately 145 days).

- (b) Out of the 52 programme validation exercises, 38 (or 73 %) attained conditional approval status within 10 weeks from the date of submission of full documentation, whereas 20 (or 38 %) completed the validation within six months from the date of submission of full documentation.
- (c) The names of the programmes the validation of which were passed within six months and the institutions involved are at Annex.

For these 20 programmes, the average time taken to complete the validation is 115 days, which is relatively shorter than that is normally required. As mentioned in part (a), the completion of validation is due to the readiness of the institution concerned to meet all the validation criteria.

Annex

Programmes offered by private or self-financed institutions that
passed programme validation within six months since 2000

<i>Name of Institution</i>	<i>Programme</i>
1. Caritas Bianchi College of Careers	Associate Degree in Business
2. Caritas Bianchi College of Careers	Associate Degree in Hospitality Management
3. Caritas Francis Hsu College	Higher Diploma in Accounting Studies
4. Caritas Francis Hsu College	Associate of Business Administration in Tourism and Marketing Management
5. Hang Seng School of Commerce	Associate in Business Administration
6. Hong Kong Institute of Education (Division of Continuing Professional Education)	Associate of Arts (Music)
7. Hong Kong Institute of Education (Division of Continuing Professional Education)	Associate of Science (Information Technology)
8. Hong Kong Institute of Education (Division of Continuing Professional Education)	Associate of Arts (Art and Design)
9. Hong Kong Institute of Education (Division of Continuing Professional Education)	Pre-Associate Degree Foundation Certificate
10. Hong Kong College of Technology	Higher Diploma in Business (Business and Computing)
11. Hong Kong College of Technology	Higher Diploma in Accounting
12. Hong Kong College of Technology	Higher Diploma in Computer Science
13. Hong Kong College of Technology	Higher Diploma in Business with Additional Major in Tourism
14. Hong Kong College of Technology	Higher Diploma in Business with Majors in Marketing, Finance and China Business
15. Hong Kong Shue Yan College	Bachelor of Arts (Honours) in Chinese Literature and Language
16. Hong Kong Shue Yan College	Bachelor of Business Administration (Hons)
17. Po Leung Kuk Community College	Pre-Associate Degree Programme
18. The Learning Community College	Pre-Associate Degree in General Studies
19. The Learning Community College	Associate Degree in General Studies
20. The Learning Community College	Associate Degree in General Studies (Credit-Based Mode)

Payment of Taxes by Overseas Entertainers Performing in Hong Kong Harbour Fest

18. **MR LEUNG YIU-CHUNG** (in Chinese): *Madam President, the Inland Revenue Ordinance (Cap. 112) provides that sums received in respect of, or which in any way derive directly or indirectly from, the performance in Hong Kong by a non-resident entertainer are chargeable to profits tax, and the tax is chargeable in the name of the payer of the sums (usually the organizer of the performance). In this connection, will the Government inform this Council whether it knows if the organizer of the Hong Kong Harbour Fest had deducted an amount equivalent to the total tax payable when it paid the remuneration to overseas entertainers who performed in the event; if so, of the amount of deduction; if not, how the organizer will secure funds to meet the tax liability?*

FINANCIAL SECRETARY (in Chinese): Madam President, in accordance with Inland Revenue Ordinance (Cap. 112) section 20B, overseas artists are chargeable to tax in respect of sums received that derive from their performance in Hong Kong. It is also provided under section 20A of the Ordinance that non-resident persons can be chargeable to tax directly or in the name of his agent. We understand that Red Canvas, the Special Purpose Vehicle of American Chamber of Commerce in Hong Kong (AmCham) for organizing the Harbour Fest, is in the course of settling the tax for overseas artists performing in Harbour Fest with the Inland Revenue Department. For some artists, performance fees have been withheld by Red Canvas for tax payment. Other artists will pay the tax directly to the Inland Revenue Department. Whilst AmCham is in the process of finalizing the amount of tax payable with the Inland Revenue Department, the total amount of tax payable by all overseas artists is estimated to be in excess of \$9 million.

Bringing Chinese Medicine Expenses and Chinese Medical Practitioners' Fees into Coverage of Employee and Medical Insurances

19. **DR TANG SIU-TONG** (in Chinese): *Madam President, the first batch of over 2 000 listed Chinese medical practitioners (CMPs) were accepted as registered CMPs in November last year. The Hospital Authority is progressing with the plan of setting up 18 Chinese medicine out-patient clinics by 2005, and the Administration is also consulting the relevant parties on the role of registered*

CMPs under the relevant labour legislation. As the Chinese medicine profession has progressively been gaining professional status, will the Government inform this Council whether:

- (a) it will amend the Employees' Compensation Ordinance (ECO) (Cap. 282) to bring Chinese medicine expenses and CMPs' fees into the ambit of "medical expenses" in the Ordinance and hence into the coverage of mandatory employee insurance; if it will, of the legislative timetable; if not, the reasons for that; and*
- (b) it will adopt measures to encourage the insurance sector to include Chinese medicine expenses and CMPs' fees in the coverage of optional medical insurance; if so, of the details of the measures; if not, the reasons for that?*

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Chinese): Madam President,

- (a) With the setting up of the statutory regulatory framework for Chinese medicine and considering that registered CMPs are competent in performing certain medical functions stipulated under relevant labour laws, the Administration considers it appropriate that the relevant legislation should recognize treatment by registered CMPs and be amended accordingly.

The Department of Justice is currently drafting a bill to amend the ECO to recognize the medical functions that can be performed by registered CMPs under the Ordinance. The proposed legislative amendments also include a provision for the reimbursement of medical expenses (including consultation fee and the cost of medicines) to employees who are injured on duty and have incurred such expenses for receiving medical treatment from registered CMPs in respect of the work injury. The Administration has consulted the Panel on Manpower of the Legislative Council on the proposed amendments, and has received its support. We aim to introduce the amendment bill into the Legislative Council in the next Legislative Session.

Under the ECO, all employers are required to take out employees compensation insurance to cover their liabilities under the Ordinance and the common law in respect of their employees. Upon enactment of the amendment ordinance by the Legislative Council and its implementation, the medical expenses paid by employees for receiving medical treatment from registered CMPs in respect of the work injury can be reimbursed through the employees' compensation insurance taken out by their employers.

- (b) At present, the insurance market provides medical insurance policies covering Chinese medicine expenses and consultation fees. The Administration considers that the insurance coverage should continue to be negotiated by the insurer and the insured.

Illegal Excavation of Natural Materials

20. **DR LAW CHI-KWONG** (in Chinese): *Madam President, an environmental group revealed early last month that tonnes of boulders were illegally excavated from the riverbed of the Tung Chung River, of which the Government owns the land title, and the boulders were then sold to a government contractor for construction of an artificial lake, resulting in serious ecological damage to the river. In this regard, will the Government inform this Council:*

- (a) *of the respective dates on which the Civil Engineering Department (CED) and the consultancy firm it hired to supervise the project learnt that the boulders came from the Tung Chung River; given that the construction contract had stipulated that the boulders should come from lawful sources, of the reasons why the CED did not immediately ban such boulders from being transported into the construction site; whether there has been dereliction of duty on the part of the staff of the CED and the consultancy firm; if so, how they will be penalized;*
- (b) *of the respective dates at which other government departments, including the Islands District Office, the Lands Department, the Agriculture, Fisheries and Conservation Department (AFCD) and the Territory Development Department, came to notice the above activities and the follow-up actions taken by these departments;*

given that it was reported that the illegal excavation has been conducted for a long time on the government land without their noticing it, whether it has assessed if there are loopholes in the monitoring system concerned; if the assessment result is in the affirmative, how it will plug these loopholes; if the assessment result is in the negative, of the justifications for that;

- (c) of the number of complaints received in the past three years about illegal excavation of natural materials for works and, among them, the number of cases in which the offenders were prosecuted and convicted;*
- (d) whether it has reviewed if the penalties on acts of eco-vandalism stipulated in the existing legislation in respect of rivers lying respectively on the government and private land have adequate deterrent effects; if it has, of the results; if not, the reasons for that;*
- (e) whether any immediate measures other than legislative means will be put in place to deter acts of eco-vandalism in rivers; if so, of the details of such measures; and*
- (f) whether it will consider giving up the use of natural boulders in the above construction project for the artificial lake or similar government projects; if not, the reasons for that?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Chinese): Madam President,

- (a) Regarding the removal of pebbles and boulders from the Tung Chung Stream (the Stream), the Government has summarized the details of the incident in an information leaflet (see Annex), which has been uploaded to the website of the CED <<http://www.ced.gov.hk>> .

On 18 September 2003, the CED's consultant inspected jointly with the contractor the pebbles stockpiled near Hau Wong Temple at Tung Chung and was advised that the materials belonged to a construction company carrying out "flood protection" works for the

Stream. On 25 September 2003, the CED received from its consultant an application for sourcing stone materials submitted by the contractor, which claimed that the source of the pebbles was a stream on a piece of private land at Tung Chung. On 9 October 2003, the CED, its consultant and the contractor went to the said stream to inspect the stockpile.

Being sceptical about the legality of the source of the materials proposed by the contractor, the CED and its consultant have not approved the use of such materials. However, since the contractor has produced a letter from the Tung Chung Rural Committee (TCRC), claiming that the materials came from the flood protection project for the Stream now underway, the consultant considers that before establishing the "non-legality" of the source, there are difficulties in invoking the terms and conditions of the contract to stop the contractor from transporting such materials to the construction site at its own risk and bearing all consequences and liabilities. The Administration has now set up a working group to review the incident so as to confirm whether the CED, its consultant and the contractor should be held responsible for it. Investigations are still in progress.

- (b) On 29 October 2003, the AFCD received a complaint from the public about the suspected damage to the Stream. The AFCD conducted a site visit the following day and found that illegal excavation and construction of an access road on government land might be involved. The Islands District Lands Office (DLO/Is) and the Islands District Office (DO/Is) were immediately notified in writing. On 31 October 2003, the AFCD conducted another site visit and, on the same day, requested in writing the DLO/Is and other relevant departments to take follow-up action within their respective ambit, including requesting the police to investigate the case so as to confirm whether any government property had been stolen. The AFCD conducted further site visits subsequently and was advised on 5 November 2003 by the DLO/Is that the illegal works in question had already stopped.

On 30 October 2003, the DO/Is learnt from a memorandum issued by the AFCD that excavation works were being carried out at the

Stream. On 3 November 2003, the DO/Is received a letter from the TCRC that sought its support for clearing the Stream for flood protection purpose. The DO/Is immediately referred the request to the relevant departments for follow-up action and continued to liaise and discuss with the DLO/Is about further action to take.

On 30 October 2003, the DLO/Is learnt from a memorandum issued by the AFCD about the excavation works. Upon verification of the land status and land use, the DLO/Is had taken immediate action, including erecting warning signs and stone posts along the affected stream to stop any further illegal excavation. The Lands Department (LD) and the police are investigating the illegal excavation of the Stream to determine whether anyone has contravened the Land (Miscellaneous Provisions) Ordinance (Cap. 28) and their criminal liabilities, if any. Upon completion of the investigation, a report will be submitted to the Department of Justice for legal advice in order to confirm whether there is sufficient evidence to prosecute any person. In addition, the LD has requested the TCRC to carry out reinstatement works.

An enquiry group comprising representatives of the Environment, Transport and Works Bureau and other relevant departments has been set up to oversee the reinstatement of the affected section of the Stream, including examining the reinstatement proposal submitted by the TCRC and monitoring the reinstatement works to be carried out. The target is to have the Stream reinstated before the next rainy season.

Besides regularly inspecting the government land in the Islands District, the DLO/Is also relies on the assistance from other relevant departments and the public to spot and report this kind of irregularities. The LD is conducting a comprehensive review of the general procedures for the regulation of land use and will consider giving this area of work a higher priority in resource allocation.

(Note: The excavation incident at the Stream does not fall within the purview of the Territory Development Department.)

- (c) In the past three years, we have never received any complaint about illegal excavation of natural materials for construction works.
- (d) At present, Hong Kong does not have any ordinance specifically designed for the protection of natural rivers. Since most rivers are on government land, they are therefore within the jurisdiction of the Land (Miscellaneous Provisions) Ordinance (Cap. 28). In general, any person who carries out excavation works without first obtaining an excavation permit from the relevant District Lands Officer shall be guilty of an offence and liable upon conviction to a fine of \$5,000 and six months' imprisonment. Moreover, some natural rivers (on both government and private land) have been included in the protected areas (such as country parks, conservation areas and sites of special scientific interest) and are thus protected by the Country Parks Ordinance, the Town Planning Ordinance and the Environmental Impact Assessment Ordinance. The departments concerned will review the penalties from time to time and will step up inspection and prosecution as appropriate against illegal acts in order to intensify the deterrent effect of the penalties.
- (e) The AFCD will step up inspection on ecologically important sites. Regarding rivers and places of ecological importance such as Tai Ho Stream and Sha Lo Tung, the AFCD has already designated them as sites of special scientific interest in order to better protect them. The AFCD is conducting a baseline study to collect ecological data of Hong Kong and will propose the designation of other rivers of ecological importance as sites of special scientific interest or conservation areas in order to enhance the protection of their ecology.

The Government will step up law enforcement by taking appropriate prosecution action against acts of eco-vandalism in rivers and requiring offenders to carry out environmental restoration works to deter them from committing such acts. The departments concerned will also enhance their publicity and education efforts to boost the public's awareness of the importance of environmental protection.

- (f) Natural pebbles, instead of artificial ones, are used in the construction of the artificial lake so that the lake will look more

natural and will be fully compatible with the surrounding landscape. The by-products generated during planned river training or protection projects could also be reused in this manner.

The CED has instructed its consultant to adopt the following special measures when considering new sources of pebbles proposed by the contractors to ensure the legality of the sources and to prevent any damage to the natural environment:

- (i) confirm the legality of excavation with the local issuing authorities of rock excavation permits and export licences and require the verification of such permits and licences by local notaries public; and
- (ii) confirm the legality of excavation with the relevant government authorities in charge of environmental control, quarrying and forestry to ensure that the requirements laid down by the environmental protection authorities are complied with.

Annex

Pebbles and Boulders from Tung Chung Stream Information Leaflet

The removal of pebbles and boulders from Tung Chung Stream has attracted the attention of the general public. The incident, from our source of information and record, is as follows:

- The construction of the lake edge of the artificial lake for Penny's Bay Development requires about 8,000 tonnes of boulders, cobbles and pebbles. CED's contractor, China State Construction Engineering (Hong Kong) Limited (CSCE) is required to source materials for such works.
- A construction company was engaged by the Tung Chung Rural Committee (TCRC) to carry out the flood protection works in Shek Lau Po Village (石榴埔村) at Tung Chung. Such works were unrelated to the Penny's Bay Development project, and had not been submitted for the approval of the Government.

- This construction company, which was not our contractor, had removed the pebbles and boulders from Tung Chung Stream and stockpiled the materials near Hau Wong Temple (侯王宮) away from the section of the Stream in question.
- Our consultants, Maunsell Consultants Asia Ltd (MCAL), approved CSCE's application of 15 September 2003 to engage Artscapes (Far East) Ltd (Artscapes) as the specialist subcontractor for the construction of the lake edge.
- In September 2003, CSCE/Artscapes approached TCRC's flood protection construction company to inspect the materials at the stockpile to see if the materials were acceptable for use in the Penny's Bay Development project.
- On 18 September 2003, MCAL visited the stockpile near the Hau Wong Temple with CSCE/Artscapes. CSCE/Artscapes claimed that the materials belonged to a construction company working on a stream protection job in the vicinity. The nearby stream was visited. The owner of the construction company claimed that he was authorized to undertake the works by TCRC. MCAL requested CSCE to provide documentary proof.
- On 26 September 2003, Artscapes produced a letter dated 26 June 2003 which bears the name of the Chairman and the seal of TCRC to authorise the construction company to clean up the stream bed, including removal and disposal of pebbles and boulders. MCAL requested CSCE to submit further evidence to support the legality of the source.
- CED, MCAL, representatives of the theme park operator and CSCE jointly visited the Stream for further inspection of the materials on 9 and 17 October 2003. MCAL continued to ask for evidence on the legal status of the source, and cited acceptable documentary proof as one of the approval criteria for the proposed source.
- From 28 October to 4 November 2003, CSCE transported the materials from the stockpile to Penny's Bay at its own risk, bearing contractual and legal consequences, while the land status of the source was to be confirmed and final approval was still pending. On 29 October 2003,

CED approached the District Survey Office/Lands Department (LandsD) for a land status plan to verify the land status.

- Because of the letter from the TCRC, MCAL considered it contractually difficult to stop CSCE from importing the materials. A total of 400 tonnes of materials was delivered from the stockpile to Penny's Bay for the mock-ups. MCAL estimated that the mock-ups required about 320 tonnes of materials.
- On 4 November 2003, we learned from the land status plan of LandsD that the above Stream and some of the adjacent areas are mainly on Government land. On 5 November 2003, MCAL stopped CSCE from importing materials from the stockpile.
- LandsD issued a warning letter to TCRC on 11 November 2003 requiring a proposal for reinstating the Stream. We understand that LandsD and the Police are gathering evidence and considering prosecution in respect of this case.
- MCAL stopped further production of mock-ups using materials from the stockpile and instructed CSCE to return such materials to the supplier. All pebbles and boulders were sent back to the stockpile including the 3 tonnes which had been used for mock-ups.
- In a meeting chaired by LandsD on 10 December 2003, the following reinstatement requirements were conveyed to TCRC:
 - a. The physical setting of the stream should be reinstated to its original conditions as far as possible. Reference could be made from the undisturbed section of the Stream further up to Shek Mun Kap (石門甲).
 - b. The construction wastes for forming the access road on the Stream should be removed but the boulders, cobbles and pebbles which were originally dug out from the stream bed should be retained for the restoration work. The original width, gradient and depth of the Stream should be restored to avoid forming rapids and necks.
 - c. The temporary dams should be demolished.

- d. The removed boulders, cobbles and pebbles should be reinstated to prevent erosion and scouring. Areas adjacent to stream banks which are affected by excavation works should be stabilised by replanting or other feasible means.
 - e. Pools/shallow inlets should be reconstructed at appropriate locations.
 - f. Aquatic plants should be replanted at the stream banks.
 - g. The illegal access along the Stream should be replanted to prevent sedimentation in the restored stream.
 - h. The reinstatement plan should be submitted together with cross-sections showing the stream to be restored. The cross-sections should be suitably positioned to show the different sections of the stream, and with dimensions.
 - i. The reinstatement plan should be submitted together with programme of works within 14 days, i.e. by 24 December 2003.
- Government will step in to reinstate the Stream if TCRC is not able to produce a credible reinstatement plan within the specified period.
 - In the process of sourcing the materials for the Penny's Bay Development project, we followed the established procedures and effectively stopped the Stream from being further damaged in co-operation with other Government departments.

In the whole event, CSCE did not take part in the flood prevention works, nor did it take pebbles and boulders directly from the Stream. MCAL/CED have remained skeptical about the source of the stockpiled materials. Nevertheless, we are reviewing the incident, and will continue to be vigilant about the control on site.



Pebbles and Boulders at stream bed 9.10.2003



Pebbles and Boulders stockpiled at stream bank 9.10.2003

BILLS**First Reading of Bills**

PRESIDENT (in Cantonese): Bill: First Reading.

VOCATIONAL TRAINING COUNCIL (AMENDMENT) BILL 2003

CLERK (in Cantonese): Vocational Training Council (Amendment) Bill 2003.

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

Second Reading of Bills

PRESIDENT (in Cantonese): Bill: Second Reading.

VOCATIONAL TRAINING COUNCIL (AMENDMENT) BILL 2003

SECRETARY FOR EDUCATION AND MANPOWER: Madam President, I move that the Vocational Training Council (Amendment) Bill 2003 be read the Second time.

With rapid economic growth in the Pearl River Delta Region in recent years, an increasing number of Hong Kong firms engaging in cross-border operations and mainland entities will recruit workers from Hong Kong. It is paramount that the Vocational Training Council (VTC) is able to provide our workforce with the relevant training to cater for the demand of these firms and maintain the competitiveness and employment prospects of our workers.

It will also be beneficial to our young people for the VTC to arrange for industrial attachment across the border for its students. This will help our youngsters acquire valuable working experience and enhance their employment opportunities upon graduation.

In order to bring about these benefits to the business sector and community at large, we need to amend the Vocational Training Council Ordinance to empower the VTC to engage in activities outside Hong Kong. This is the main proposal covered in the Vocational Training Council (Amendment) Bill 2003.

The Bill also covers two other minor amendments to the Vocational Training Council Ordinance. The first amendment is to replace the term "disabled person" with "person with a disability". This is to conform with international nomenclature. The second is to provide for any one of the Deputy Chairmen of the VTC to be signatory of accounts when the Chairman is absent from Hong Kong or is unable to act as Chairman.

Madam President, I hope that Members will support the Vocational Training Council (Amendment) Bill 2003.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Vocational Training Council (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 Bills

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

EDUCATION (MISCELLANEOUS AMENDMENTS) BILL 2003

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

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

MS CYD HO (in Cantonese): Madam President, in my capacity as Chairman of the Bills Committee on Education (Miscellaneous Amendments) Bill 2003 (the Bills Committee), I would like to report on the deliberations of the Bills Committee.

The Education (Miscellaneous Amendments) Bill 2003 (the Bill) seeks to amend mainly three items:

- (1) revise the qualifications for registered teachers (RTs);
- (2) raise the qualifications for permitted teachers (PTs) teaching pupils undergoing nursery and kindergarten education, and for PTs teaching in schools providing primary, secondary and post-secondary education; and
- (3) permit schools and post secondary colleges to conduct courses and give instructions on general holidays.

In regard to raising the professional standard of teachers, the Bill proposes that to qualify for a RT status, a person must possess an approved teacher education qualification.

The Bill also proposes to raise the minimum qualification for PTs serving in schools offering primary, secondary and post secondary education to post-secondary level. The minimum qualifications for PTs serving in kindergartens would also be raised to five passes in the Hong Kong Certificate of Education Examination, including both English and Chinese.

While all members support raising the professional standard of teachers, they are of the view that serving PTs can become RTs under the existing arrangements by accumulating a certain number of years of service without receiving formal teacher training. Members, therefore, consider that if the existing arrangements are to be abolished, a grace period should be granted. Members have requested the Administration to specify a deadline for serving PTs to pursue an approved teacher education programme, and to grant them priority in the allocation of places of approved teacher education programmes.

Taking into consideration the time required for enrolment and completion of an approved teacher education programme, the Administration has agreed to

give PTs a period of five years to acquire the necessary qualifications. If a PT who has enrolled in an approved programme is obliged to change schools or subjects taught, the Permanent Secretary for Education and Manpower may grant special permission to the teacher concerned to maintain his/her PT status until he/she has acquired the necessary qualifications to become a RT.

Members also consider it necessary to specify a transitional period in the Bill for serving PTs who would acquire the requisite teaching experience at the end of the 2003-04 school year to apply for registration as RTs under the existing arrangements. In response to members' view, the Administration has agreed to amend clause 20(2) to provide that a person who possesses the prescribed qualification for registration as a teacher immediately before the commencement date may apply for registration within two months from the commencement date. The Administration has also undertaken that the new requirement concerning registration as RTs will not take effect before 1 October 2004.

The Bills Committee also expressed concern for the provision of teacher training courses for serving PTs. Members reckon that the Administration has an obligation to ensure that there will be sufficient training places for serving PTs in primary and secondary schools who wish to complete an approved teacher training programme within the proposed five-year grace period.

The Administration has assured members that the supply of places in in-service teacher education courses is sufficient to meet the demand of serving PTs.

The Education and Manpower Bureau has undertaken to liaise closely with various teacher education institutions to encourage them to give priority to the serving PTs, as well as to offer In-service Course of Training for Teachers (ICTT) in a more flexible mode. Besides, the Education and Manpower Bureau will also write to the heads of schools requesting them to encourage and facilitate untrained PTs to attend in-service Postgraduate Certificate/ Diploma in Education (PGC/DE) programme or ICTT.

Members are also concerned about the level of fees, and have requested the Administration to maintain the fees for ICTT to be offered by the Hong Kong Institute of Education (HKIEd) next academic year at the current level. The Administration has undertaken to hold discussions with the HKIEd regarding the matter.

Section 59 of the Education Ordinance provides for an Appeals Board. At present, there is only one Board hearing all the appeals.

The Administration proposes a more flexible system in regard to the Appeal Boards Panel. Under the proposed arrangement, more than one Appeal Board can be constituted and operate concurrently to handle different appeal cases.

In response to the views of members, the Administration has proposed to add a subclause which provides that where an Appeal Board hears or determines any appeal concerning the registration or the cancellation of the registration of teachers, at least three of its members must be RTs.

As regards the selection of Appeal Board members, members have suggested to adopt a queuing system for members of the Appeal Boards Panel to sit on the Appeal Boards in turn in order to reduce unnecessary speculation about the composition of a particular Appeal Board. The Administration has accepted members' views.

Madam President, the following are my personal views of this Bill. In the course of deliberating on the Bill, we again encountered two situations common in the legislation process.

The first is about the mode of miscellaneous amendments. When the Bill encompasses different policy objectives, the executive authorities have to deal with them flexibly.

This amendment carries three policy objectives which I totally support, and members also totally support. However, in the aspect of implementation, the situation varies. Some can be faster while those controversial issues warrant further discussion so that the pace of implementation will be slower. Therefore, the commencement date has to be amended. Fortunately, the Administration has accepted our views. For example, concerning the proposal of allowing schools to give instruction on general holidays, we all agree to it and there is no opposite view. The sector also earnestly hopes that it can be effective as soon as possible as they can make good use of the resources. This is also beneficial to students. Those who take courses after school or after work can arrange their time more flexibly. Thus, this part can be passed as early as possible.

However, in raising the training requirement of RTs and the transitional arrangement for registration, we held long arguments. This situation happens from time to time on miscellaneous amendments to bills. It is likely to compromise the amendments simply because of one rather controversial amendment. Fortunately, in this case, the executive and the legislature managed to hold discussions openly and sincerely, without holding the other party to ransom with some controversial items. As a result, there can be separate commencement dates to enable the Bill to pass smoothly, benefiting both students and school sponsoring bodies. I very much hope that the Administration can take the same attitude towards the Education Bill under scrutiny, accepting Members' views openly and sincerely, with a view to establishing a desirable system for administrative work in respect of education. Nevertheless, basically, I hope that efforts can be made to avoid placing different policy objectives in a miscellaneous amendments bill in the future, which may end up delaying each other's progress.

The second situation that I have learnt is that, Madam President, we really have difficulty in incorporating all the administrative arrangements for enforcement of policy objectives into the Bill. For example, after raising the qualifications of RTs, if there is any problem concerning application for registration, it will rely on the discretion of the Permanent Secretary for Education and Manpower, while such discretion can in no way be written out clearly. Then what target should we follow in exercising such discretion? It will then have to wait until someone feels aggrieved and lodges an appeal that we can follow up. Similar to the Appeal Board that I just mentioned, the Bill now proposes to adopt an Appeal Boards Panel system. Under the system, there are a number of Appeal Boards, and thus there are different compositions of members to deal with many different cases concurrently. The original intention is, of course, very good as these appeal cases can be dealt with as soon as possible while the aggrieved can also get an answer within a very short period of time. However, this is a new arrangement. We are also worried whether different Appeal Boards with different compositions will hear similar appeals with different criteria or from different angles, thus leading to further appeals.

In this regard, we think that the Legislative Council needs to pay attention and monitor the situation in future. I also appeal to the executive authorities to continue to co-operate with us with an open attitude. They should let the Council conduct monitoring and listen to the appeals of the aggrieved. They should not think that they are free of responsibilities once the Bill has been

passed. They should not think that there is no need to strive for the support of the Legislative Council, and thus adopt a bureaucratic attitude in dealing with these appeals. Otherwise, I believe the Legislative Council, in deliberating the matters concerned, will have more and more reservations and tend to ask for clarification on all the details of the administrative arrangements before passing the laws. I very much hope that the Education and Manpower Bureau, whose record is still fine up till now, can cautiously follow up the Bill together with the Legislative Council. Thank you, Madam President.

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

MR CHEUNG MAN-KWONG (in Cantonese): Madam President, the Government has proposed a number of amendments to the Education Ordinance, including the abolition of the provisions which allow permitted teachers (PTs) to accumulate years of service to become eligible for registration. Since the amendments involve the professional qualifications of teachers and the development of the education profession, I have therefore reflected the concerns on various aspects in the Bills Committee on the Education (Miscellaneous Amendments) Bill 2003 (the Bills Committee), in the hope that the Bill can be resendered sensible, reasonable and practicable.

During the deliberations on the provisions, I emphasized that the spirit of the Education (Miscellaneous Amendments) Bill 2003 (the Bill) should be to enhance the professional standards of teachers, instead of taking this opportunity to get rid of some PTs. Although the Government has assured the Bills Committee that serving teachers would not be affected if they remained in the same school, can the Government guarantee that the schools will not reduce the number of classes, and the teachers will not be deployed to teach in other schools or other classes? In order to pre-empt serving teachers losing their eligibility for registration or even their jobs due to the amendments to the legislation, I insist that the Government has to provide a transitional arrangement to help those teachers pursue further studies. Otherwise, when teachers suddenly lose their chances of becoming registered teachers (RTs) due to the amendments to the legislation, this will certainly give rise to chaos and will definitely be unfair to them. This is an important principle for adherence in furtherance of the amendments.

To achieve the target of encouraging further study and enhancing the standards, the Government has to ensure that there are sources for further study and the arrangements are in order. Since the introduction of the Bill, I have received views from a lot of teachers and colleagues, reflecting on the hurdles encountered by teachers in the pursuit of further study. For example, non-graduate teachers must finish the graduate course before they can take the Diploma or Certificate in Education programme. Or after they have finished the graduate course, they may have to wait for a long period of time before being admitted to the courses related to the subjects that they are teaching. Therefore, the Government has to co-operate fully with various teacher education institutions and schools. This includes providing sufficient places for further study, giving priority to serving teachers in admission, and assisting serving teachers to take education courses as soon as possible by making proper teaching arrangements.

Madam President, a serving teacher may take five years or more to finish a course and obtain a Diploma in Education. The Government proposes that teacher education be given first priority. It sets five years as the transitional period, requiring PTs to receive teacher training first, and organizes anew in-service teacher education courses for non-graduate PTs. These are commendable as they help to a certain extent those teachers who are required to finish the course within a time limit and to be in the position in one step, or in other words, those who are forced to acquire the required qualifications within a short period of time.

At the same time, the Education and Manpower Bureau said that it would effect co-ordination among various teacher education institutions to organize appropriate and self-financing courses. I am very much concerned about this, especially when the University Grants Committee (UGC) intends to slash the subsidy to the Postgraduate Certificate in Laws programme of the University of Hong Kong, and the fees will be substantially increased from \$50,000 to \$80,000 or \$90,000. We have to learn a lesson from that example.

The Government has issued notices on five occasions to remind serving teachers and require teachers to take self-financing training courses on the grounds that the UGC is no longer subsidizing in-service teacher training courses. I reckon the Government has put the cart before the horse regardless of the facts.

Madam President, according to the original legislation, PTs can obtain eligibility for registration through recognized years of service. Therefore, the teachers then absolutely had the right to choose between further study and accumulating years of service. The Government cannot shirk the responsibility to teachers for the small intake of the courses. At present, the Government is prepared to amend the Ordinance to alter the conditions of registration, forcing the teachers to choose training only, otherwise, they will completely lose their chance of registration. This is the crux of the problem in this amendment. Therefore, I strongly demand the Government to provide a "last train" arrangement, encouraging teachers to enhance their professional standards. For example, the course fees should be maintained at the past level. This is also the consensus of members of different parties in the Bills Committee.

However, in the latest paper, the Government has recently responded that the fees for in-service teacher training courses would surge from the original level of \$8,000 a year to \$28,000 a year. From this figure, we can see that the rate of increase is obviously too high. It is obvious that the Government does not respect the unanimous demand of Members, that it does not intend to give one single penny of subsidy. I think that not only is the Government disrespectful of the consensus reached by the Legislative Council back then, but it is also unfair to the teachers who elect to pursue further study. This has to be reviewed and changed.

Madam President, professional autonomy is an important principle. At present, health care professionals, lawyers, social workers and even Chinese medicine practitioners all have their own professional committees to conduct self-regulation in the profession. At the beginning, the Government deleted from the Bill the provision that there must be three RTs as members in the hearing. I found this mind-boggling. Since cases concerning the cancellation of registration involve professional judgement, I therefore insisted that the provision not be deleted, otherwise, this would defeat the spirit of the legislation. The Government finally agreed to restore the provision to ensure that in every hearing, there will be a certain ratio of participation from RTs. In this connection, I must take the trouble to request the Government to once again honour its promise of setting up a council for the teaching profession as soon as possible, handing over the work concerning the professional qualifications of teachers, regulation of professional conduct and continuing education to the profession itself.

Another important part of the Bill is to amend the Ordinance so as to allow schools and post-secondary colleges to conduct courses and give instructions on general holidays. With the increasing demand for further study from society, the lifting of the restriction on disallowing instructions to be given on general holidays will certainly affect those pursuing further study in arranging their time of study. Therefore, I support this belated amendment, and agree with the Government that this part of the provisions together with those on combined registration of day and evening schools should be gazetted first, to tie in with the need of the sector and the public.

Study is like sailing against the current, either you keep forging ahead or you keep falling behind. The education sector supports that teachers should keep on studying in order to enhance the quality of the teaching profession. In fact, in addition to the daily teaching work and extra-curricular activities, teachers also have to cope with various kinds of further study. Together with the overwhelming and disorganized work obliged by the education reform, the burden of teachers is indeed becoming heavier, but very often they also find their efforts fruitless. In the policy address just released, Chief Executive TUNG Chee-hwa finally realized that the education reform would add to the burden of teachers, and even parents do not know what to do.

Knowledge and action should go hand in hand. To support the education reform, I urge that Mr TUNG and his Government to not only pay lip service but assist teachers with actual actions. Take this Bill as an example, I have to specially thank the Union of Heads of Aided Primary Schools of Hong Kong for attending the meetings of the Bills Committee, and for its willingness to co-operate with the Government. It offered assistance in liaising with schools, and assistance to teachers in pursuing in-service training through suitable arrangement of classes. Here, I urge the Education and Manpower Bureau again not to lag three steps behind. It should notify those teachers affected by this legislation as soon as possible to pursue further study, and initiate some complementary work with schools.

Madam President, I so submit.

MR YEUNG YIU-CHUNG (in Cantonese): Madam President, the focus of the Education (Miscellaneous Amendments) Bill 2003 (the Bill) is to amend the

conditions for becoming registered teachers (RTs). To improve teaching quality and to raise the professional standard of teachers in Hong Kong is the consensus of society. Most parents and members of the public expect that school teachers have already received professional training before giving instructions to students. Members of the Advisory Committee on Teacher Education and Qualifications even suggested in early years that a person had to obtain recognized qualification of teacher education before he could register as a RT.

Under the existing establishment, there are basically two types of teachers: one being RTs who have received recognized professional teacher training, and the other being permitted teachers (PTs) who have not received recognized professional teacher training. At present, a PT may upgrade to a RT through two channels: one is by studying; and the other is by accumulating years of service. Graduate PTs can be qualified to become RTs by accumulating three years of service, while non-graduate PTs have to be qualified with 10 years of service. It is obvious that the arrangement of become RTs simply by accumulating years of service without receiving professional training is not in line with the expectation of the community towards professional teachers, neither is it a satisfactory arrangement. Therefore, the Democratic Alliance for Betterment of Hong Kong (DAB) welcomes one of the amendments in the Bill, that is, to abolish the arrangement of qualifying as RTs by accumulating years of service.

However, in changing the rules of the game, the Administration also have to take care of those teachers who originally intended to upgrade themselves with years of service but found the time too late to apply for a course or register. After some discussions, the Administration accepted the arrangement of providing a transitional period. Those teachers who would be qualified to become RTs at the end of the 2003-04 school year may apply for registration within two months from the commencement date. Besides, the Administration has also provided a grace period of five years. Those non-graduate teachers who have not even attained the minimum qualifications of being PTs, for example, holding a higher diploma or associate degree, can still retain their PT qualifications if only they take the teacher training course. The Administration has already undertaken to discuss with the Institute of Education for the provision of sufficient places for teachers to pursue in-service training.

Another amendment concerns the registration of day and evening schools. The original Bill proposed that if there were day and evening schools on the same school premises, separate registration would not be necessary. However, in practice, even if day and evening courses are provided on the same premises, the modes of operation, the sources of funding and even members of the school councils of the two operations can be different. Under the circumstances, it is not reasonable to have combined registration for day and evening schools. Therefore, the Government finally agreed to amend the original Bill to retain separate registration under certain circumstances, and this approach is also consistent with the actual situation.

Besides, to tie in with the policy of lifelong learning, the Administration has amended the provisions in the Education Ordinance and the Post Secondary Colleges Ordinance to the effect that schools and post-secondary colleges can conduct courses and give instructions on general holidays. The DAB welcomes this amendment to the Ordinances as private educational institutions can provide more flexible courses on Sundays, while students can also make use of their spare time to pursue studies.

The Administration has also amended the Appeal Board system. A number of members will be appointed to an Appeal Boards Panel. In case there is an appeal, an Appeal Board consisting of five members will be formed. This arrangement allows a number of hearings to be conducted concurrently. The DAB considers that this arrangement is reasonable and can deal with appeal cases more effectively.

In conclusion, we support this Bill and the amendments to be moved by the Government at the Committee stage. Thank you, Madam President.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): If not, I now call upon the Secretary for Education and Manpower to reply.

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, the Education (Miscellaneous Amendments) Bill 2003 (the Bill) seeks to amend the Education Ordinance (Cap. 279), the Education Regulations (Cap. 279, sub. leg. A) and the Post Secondary Colleges Ordinance (Cap. 320) to allow schools and post-secondary colleges to conduct courses on general holidays, abolish the requirement for separate registration of schools providing both day and evening instructions (except aided and Direct Subsidy Scheme schools), to enable the Regulations to provide for the continuing education and training of teachers and raise the requirements for the qualification of teachers, and provide for the composition of an Appeal Board Panel.

I would like to take this opportunity to thank Ms Cyd HO and members of the Bills Committee for their constructive input and support for the proposals made in the Bill.

The Bills Committee held the view that serving permitted teachers (PTs) might have expectations that they could become RTs under the existing arrangements by accumulating years of service without going through formal teacher training. Members of the Bills Committee considered that a transitional period should be provided to enable serving PTs to pursue an approved teacher education programme. We agree to the inclusion of transitional provisions to allow a five-year grace period beginning from the commencement date of the Amendment Ordinance to enable PTs to acquire the necessary qualification. If a PT who has enrolled in or is attending an approved programme is obliged to change schools or subjects taught during the grace period, the Permanent Secretary for Education and Manpower may grant special permission and issue a permit for that purpose to the teacher concerned. Furthermore, a person who possesses the prescribed qualification for registration as a PT immediately before the commencement date may apply for registration within two months from the commencement date.

The Bills Committee has also expressed concern about the composition of the Appeals Board in hearing or determining an appeal concerning the registration of a teacher or the cancellation of the registration of a teacher. We have therefore proposed to add a new provision to section 62 to provide that where an Appeal Board hears or determines any appeal concerning the registration or the cancellation of the registration of teachers, at least three of its members must be RTs.

Based on the outcome of discussion of the Bills Committee, I will propose 14 Committee stage amendments later, four of which seeking to carefully revise the policy intent in the light of the views and concerns of members of the Bills Committee. The remaining Committee stage amendments are all technical in nature. All the Committee stage amendments are supported by the Bills Committee.

I hope Honourable Members will support the Bill and the Committee stage amendments I am going to propose.

I move that the Bill be read the Second time.

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

(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): Education (Miscellaneous Amendments) Bill 2003.

Council went into Committee.

Committee Stage

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

EDUCATION (MISCELLANEOUS AMENDMENTS) BILL 2003

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

CLERK (in Cantonese): Clauses 8, 9, 10, 12, 13, 15, 16 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 1 to 7, 11, 14 and 17 to 20.

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam Chairman, I move the amendments read out just now and briefly state the reasons for proposing the amendments.

The amendment to clause 1 proposes to specify that the Amendment Ordinance shall come into operation on a day to be appointed by the Secretary for Education and Manpower by notice published in the Gazette, rather than 1 September 2003 as originally proposed in the Bill.

The amendment to clause 2 adds the definition of Direct Subsidy Scheme (DSS) school in section 3 of the Education Ordinance.

The amendment to clause 3 seeks to amend, rather than repeal, section 10(2) for the purpose of reflecting the policy intent of the requirement for separate registration of private evening instruction operated by aided or DDS schools.

The amendment to clause 4 is consequential and it seeks to amend the proposed section 22(1)(ca) to allow schools providing both day and evening instructions to submit a written application for the cancellation of registration for evening instructions.

The amendment to clause 5 seeks to amend section 59(3) to enable the Appeal Board Panel to make standing orders for the purpose of regulating the appeal procedure.

The amendment to clause 7 is made in the light of the Bills Committee's concern about the composition of the Appeal Board. A new provision will be added to the proposed section 62 to require that, where an Appeal Board hears or determines any appeal concerning the registration or the cancellation of the registration of teachers, at least three of its members must be RTs.

To enable a PT who possesses the prescribed qualification for registration immediately before the commencement date to apply for registration, the amendment to clause 20 allows a PT to apply for registration within two months from the commencement date of the Bill as a RT.

The amendments proposed to clauses 6, 11, 14, 17 18 and 19 are technical amendments made with respect to incidental and associated matters.

The Administration and the Bills Committee have concurred that all the abovementioned amendments be made. I hope Members will support and endorse these amendments. Thank you, Madam Chairman.

Proposed amendments

Clause 1 (see Annex)

Clause 2 (see Annex)

Clause 3 (see Annex)

Clause 4 (see Annex)

Clause 5 (see Annex)

Clause 6 (see Annex)

Clause 7 (see Annex)

Clause 11 (see Annex)

Clause 14 (see Annex)

Clause 17 (see Annex)

Clause 18 (see Annex)

Clause 19 (see Annex)

Clause 20 (see Annex)

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

(No Member indicated a wish to speak)

CHAIRMAN (in Cantonese): I now put the question to you and that is: That the amendments moved by the Secretary for Education and Manpower be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Clauses 1 to 7, 11, 14 and 17 to 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 clause 20A Transitional provisions regarding qualifications of permitted teachers.

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam Chairman, I propose the new clause 20A with respect to the transitional provisions regarding qualifications of permitted teachers (PTs). Members of the Bills Committee were concerned that serving PTs might have expectations that they could become RTs after accumulating certain years of service. In this connection, a provision is added immediately after clause 20 to enable the Permanent Secretary to, notwithstanding section 51(1)(c) of the Education Ordinance, issue a permit under section 50 of that Ordinance in respect of a person who was serving as a PT in a school immediately before the commencement date even though the person does not possess the prescribed qualifications for a PT on or after the commencement date, to enable such persons to acquire the necessary qualifications to become RTs.

Under this clause, a serving PT who has enrolled in or is attending a relevant teaching education programme will be issued a permit to retain his qualification as a PT, if he is obliged to change schools or subjects taught.

I now move the addition of clause 20A to the Bill. Thank you, Madam Chairman.

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That new clause 20A be read the Second time.

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 clause 20A.

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam Chairman, I move that new clause 20A be added to the Bill.

Proposed addition

New clause 20A (see Annex)

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That new clause 20A 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 Bills

PRESIDENT (in Cantonese): Bill: Third Reading.

EDUCATION (MISCELLANEOUS AMENDMENTS) BILL 2003

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

Education (Miscellaneous Amendments) 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 Education (Miscellaneous Amendments) 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): Education (Miscellaneous Amendments) Bill 2003.

MOTIONS

PRESIDENT (in Cantonese): Motion. Proposed resolution under the Interpretation and General Clauses Ordinance to amend the Summary Disposal of Complaints (Solicitors) Rules.

PROPOSED RESOLUTION UNDER THE INTERPRETATION AND GENERAL CLAUSES ORDINANCE

SECRETARY FOR JUSTICE: Madam President, I move that the motion under the Interpretation and General Clauses Ordinance, as printed on the Agenda, be passed. The motion amends sections 4(2) and 5(1) of the Summary Disposal of Complaints (Solicitors) Rules (the Rules). The Rules are formulated to provide for the practice and procedure of a new alternative disciplinary system introduced by the Statute Law (Miscellaneous Provisions) Bill 2001 which was passed by the Legislative Council on 10 July 2002.

Under this new disciplinary system, a fixed penalty will be imposed on solicitors who plead guilty to certain disciplinary offences without the necessity of proceeding to a full hearing by the Solicitors Disciplinary Tribunal (the Tribunal).

The Subcommittee of the House Committee has thoroughly examined the Rules and the policies behind them. In the course of scrutinizing the Rules, The Law Society of Hong Kong (the Law Society) has, with the agreement of the Subcommittee, proposed amendments to the Rules in order to address the concerns raised by the Subcommittee. The amendments seek to better reflect the original policy intention of the Law Society rather than to make any changes to it.

Section 4(2) of the Rules provides for the content of a notice to be sent to a solicitor whose conduct is subject to complaint, where the Council decides to submit the matter for disposal under the Rules. The Subcommittee was concerned that section 4(2)(a)(ii) did not provide for the situation where the solicitor concerned does not agree to discuss the matter with the Council representative. The Law Society therefore proposed to add a new section 4(2)(c) to make it clear that if the solicitor does not notify the Council representative of his intention to discuss the matter within the time limit set out in section 4(2)(b), the matter shall be disposed of by the Tribunal.

Section 5(1) of the Rules provides that the Council may revoke its decision to submit the matter for disposal under the Rules within 21 days after the sending of the complaint sheet to the solicitor concerned. The Subcommittee considered that it would be unfair to the solicitor if the Council were to exercise its power to revoke such a decision after the solicitor had indicated his agreement to enter into discussion with the Council representative. An amendment to section 5(1) is proposed to make it clear that the Council of the Law Society could only revoke its decision to submit the matter for disposal under the Rules before the receipt by the Council representative of notification from the solicitor concerned as to whether he wishes to discuss the matter with the Council representative.

I would like to take this opportunity to thank the Honourable Margaret NG, the Chairperson, and other members of the Subcommittee (namely, the Honourable Audrey EU, the Honourable Miriam LAU, the Honourable Albert HO and the Honourable Ambrose LAU) for their support and valuable opinions.

Thank you, Madam President.

The Secretary for Justice moved the following motion:

"That the Summary Disposal of Complaints (Solicitors) Rules, published in the Gazette as Legal Notice No. 251 of 2003 and laid on the table of the Legislative Council on 26 November 2003, be amended -

- (a) in section 4(2) -
 - (i) in paragraph (a)(ii), by repealing "and" at the end;
 - (ii) in paragraph (b), by repealing the full stop at the end and substituting "; and";
 - (iii) by adding -
 - "(c) stating that if the relevant person does not notify the Council representative as required by paragraph (b), the matter shall be disposed of by the Solicitors Disciplinary Tribunal.";
- (b) in section 5(1), by repealing "at any time within 21 days thereafter" and substituting ", at any time within 21 days thereafter but before the receipt by the Council representative of notification from the relevant person as to whether he wishes to discuss the matter with the Council representative, "."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by the Secretary for Justice be passed.

MISS MARGARET NG: Madam President, in my capacity as Chairman of the Subcommittee on Summary Disposal of Complaints (Solicitors) Rules (the Rules), I now report on the main deliberations of the Subcommittee.

The Rules are made by the Council of The Law Society of Hong Kong (the Law Society) under section 73 of the Legal Practitioners Ordinance (LPO) (Cap. 159). The object of the Rules is to provide for the practice and procedure to be followed in connection with the disposal of complaints against solicitors by the Tribunal Convenor of the Solicitors Disciplinary Tribunal (the Tribunal) Panel by way of a fixed penalty, without proceeding to a full hearing of the Tribunal.

According to the Law Society, a breach of an offence specified under the Rules is not automatically disposed of under the summary disposal procedure.

In considering whether an alleged breach is suitable for disposal under the summary procedure, the Council of the Law Society may take into account a number of matters stipulated in the LPO. These matters are:

- (a) whether the alleged breach is deliberate;
- (b) whether the alleged breach has been committed with a dishonest intent;
- (c) the gravity of the alleged breach; and
- (d) any other relevant factors.

A major concern of members of the Subcommittee is whether minor offences which are more appropriate to be disposed of by letters of regret or disapproval would now be dealt with under the summary disposal procedure. Members are of the view that matters for submission to the Tribunal Convenor should be matters which, but for the summary disposal procedure, would have been the subject of a full hearing of the Tribunal. In order to allay members' concern, the Subcommittee has requested the Law Society to confirm the object of the Rules.

I would like to report, for the record of this Council, that the Law Society has confirmed in its letter of 6 January 2004 the following, and I quote:

- "(a) that the objective of introducing the Rules is to provide an alternative procedure to that of a full hearing before a Tribunal that will be more expeditious and more cost effective than a full disciplinary hearing. The Law Society's policy in determining whether a complaint is appropriate for disciplinary proceedings to be brought in accordance with the above Rules will be that the complaint is of sufficient gravity in all the circumstances to warrant a submission to the Tribunal Convenor of the Tribunal Panel.
- (b) that the present practice to dispose of trivial breaches by way of issue of letters of regret or disapproval will continue and that the summary disposal of complaints procedures will not be invoked for such offences."

Members have also sought explanation from the Law Society on the basis for setting the amount of the fixed penalty at \$10,000 and the fixed investigation cost at \$15,000. Members have noted that the Law Society would review the amounts two years after the Rules have come into operation.

In the light of the comments made by members of the Subcommittee, the Law Society has agreed to amend section 4(2) of the Rules relating to the content of the notice sent to a solicitor who is subject to complaint, and section 5(1) of the Rules regarding the circumstances under which the Council may revoke its decision to submit a matter to the Tribunal Convenor. The reasons for introducing the proposed amendments have been explained by the Secretary for Justice when she moved the motion to amend the Rules earlier at this meeting. These amendments have the support of the Subcommittee.

Thank you, Madam President.

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

(No Member indicated a wish to speak)

SECRETARY FOR JUSTICE: Madam President, I have nothing further to add to what I have said.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by the Secretary for Justice be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

MEMBERS' BILLS**Second Reading of Members' Bills****Resumption of Second Reading Debate on Members' Bills**

PRESIDENT (in Cantonese): Members' Bill: Second Reading. We will resume the Second Reading debate on the Ling Liang World-Wide Evangelistic Mission Incorporation (Amendment) Bill 2003.

**LING LIANG WORLD-WIDE EVANGELISTIC MISSION
INCORPORATION (AMENDMENT) BILL 2003****Resumption of debate on Second Reading which was moved on 10 December 2003**

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): I now put the question to you and that is: That the Ling Liang World-Wide Evangelistic Mission Incorporation (Amendment) 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.

(No hands raised)

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

CLERK (in Cantonese): Ling Liang World-Wide Evangelistic Mission Incorporation (Amendment) Bill 2003.

Council went into Committee.

Committee Stage

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

LING LIANG WORLD-WIDE EVANGELISTIC MISSION INCORPORATION (AMENDMENT) BILL 2003

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Ling Liang World-Wide Evangelistic Mission Incorporation (Amendment) Bill 2003.

CLERK (in Cantonese): Clauses 1 to 17.

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 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.

CHAIRMAN (in Cantonese): Council now resumes.

Council then resumed.

Third Reading of Members' Bills

PRESIDENT (in Cantonese): Members' Bill: Third Reading.

**LING LIANG WORLD-WIDE EVANGELISTIC MISSION
INCORPORATION (AMENDMENT) BILL 2003**

MR KENNETH TING (in Cantonese): Madam President, the

Ling Liang World-Wide Evangelistic Mission Incorporation (Amendment) Bill
2003

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

PRESIDENT (in Cantonese): I now propose the question to you and that is: That
the Ling Liang World-Wide Evangelistic Mission Incorporation (Amendment)
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 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.

CLERK (in Cantonese): Ling Liang World-Wide Evangelistic Mission Incorporation (Amendment) Bill 2003.

MEMBERS' MOTIONS

PRESIDENT (in Cantonese): Members' motions. Proposed resolution under the Interpretation and General Clauses Ordinance to extend the period for amending the Particulars Relating to Candidates on Ballot Papers (Legislative Council) Regulation.

PROPOSED RESOLUTION UNDER THE INTERPRETATION AND GENERAL CLAUSES ORDINANCE

MR HUI CHEUNG-CHING (in Cantonese): Madam President, I move that the motion, as printed on the Agenda, be passed. Members of the Subcommittee have agreed that I shall move a motion on extending the scrutiny period of the Particulars Relating to Candidates on Ballot Papers (Legislative Council) Regulation to 4 February 2004, so that the Subcommittee can consider the amendments put forward by the Administration and report to the House Committee on its deliberations.

With these remarks, I urge Members to support the motion.

Mr HUI Cheung-ching moved the following motion:

"That in relation to the Particulars Relating to Candidates on Ballot Papers (Legislative Council) Regulation, published in the Gazette as Legal Notice No. 263 of 2003 and laid on the table of the Legislative Council on 17 December 2003, the period for amending subsidiary legislation referred to in section 34(2) of the Interpretation and General Clauses

Ordinance (Cap. 1) be extended under section 34(4) of that Ordinance to the meeting of 4 February 2004."

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

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

PRESIDENT (in Cantonese): Two motions with no legislative effect. I have accepted the recommendations of the House Committee. As Members are already very familiar with these time limits, I shall make no repetition here. I just wish to remind Members that I am obliged to direct any Member speaking in excess of the specified time to discontinue.

First motion: Supporting the import and export industries.

SUPPORTING THE IMPORT AND EXPORT INDUSTRIES

MR HUI CHEUNG-CHING (in Cantonese): Madam President, I move that the motion as printed on the Agenda be passed. Today, I have been prompted to move this motion on "supporting the import and export industries" mainly by the fact that the import and export industries are an important pillar of the economy of Hong Kong. In the first 11 months of 2003, the total volume of imports and exports amounted to roughly \$3,200 billion, and the export trade even recorded a considerable growth of 11.3% when compared with the corresponding figure for the first 11 months of last year. Why then do I still wish to move a motion on "supporting the import and export industries" when there have been such admirable achievements? As we all know, the total export of Hong Kong is made up of re-export and local export. Over the past few years, re-export has recorded considerable growth, thanks, of course, to the Mainland's rapid economic development following its policy of opening and reform. In contrast, the local export trade has been getting worse year after year, to the extent that it now accounts for less than 10% of the total export of Hong Kong. This explains why there are still no marked improvements to the local employment situation when all of us can see that our export is so very strong. However, the implementation of Mainland/Hong Kong Closer Economic Partnership Arrangement (CEPA) at the beginning of 2004 and also the changes to world textile quotas by Europe and the United States in 2005 may impact on Hong Kong. Therefore, if the Government can grasp the situation to enable the manufacturing industries to make prompt and appropriate preparations, local exports will certainly increase, and there will also be a corresponding increase in the raw materials and machinery needed by the local manufacturing industries. When the economy picks up, more daily necessities and consumer goods will also be imported for domestic consumption. There will then be sound and prosperous development for both the import and export industries, instead of a heavy bias towards re-export.

Let me start with CEPA. CEPA is divided into three parts, namely, trade in goods, trade in services (covering 18 professional services) and trade facilitation. Trade in goods, in common terms, is the import/export trade, and trade in services involves the export of our professional services to the Mainland. As for trade facilitation, it is the job of the Government, so it is not within the scope of our discussions today. I shall start with trade in goods. CEPA, which took effect on 1 January, will naturally bring new hopes to the import and export industries, but we must note that in 2002, the total value of local exports

to the Mainland was very small, just about US\$5.3 billion. Of this, the value of answer exports to the mainland market was only US\$1.6 billion. The rest of the goods were transported back to Hong Kong after processing under out-sourced processing arrangements. Therefore, the total value of consumer exports to the Mainland was very small, with an average of less than HK\$1 billion a month, or less than 10% of the value of local exports. This year, due to the implementation of zero tariff, there should be an increase in exports to the Mainland, but how are we going to increase the export of Hong Kong goods to the Mainland by 10 times or even 100 times? I am of the view that to capitalize on the zero tariff enjoyed by Hong Kong, besides paying attention to existing industries such as clock-and-watch-making, fashion and jewellery, the Government should also explore the possibility of inducing people to set up industries which have seen relatively few activity in Hong Kong, such as the manufacturing of pharmaceuticals, high-class cosmetics, hi-end computer products, vehicle parts, and so on. An example can be cited to illustrate my point. In Guangzhou, there is a certain street where small shops selling vehicle parts are found. Many of these shops may each import \$5 million worth of spare parts monthly from Japan via Hong Kong for sale in the Mainland. This can show the keen demand for vehicle parts in the Mainland. Therefore, it is a good idea for us to identify goods with great sales in the Mainland and then obtain licences from overseas manufacturers for their production in Hong Kong, because this can enable us to capitalize on the zero tariff without worrying about the infringement of intellectual property rights, thus benefiting all the three parties. The Government must of course assist investors in ensuring the supply of technical personnel and ordinary workers, striving for the relaxation of the restrictions faced by mainland private enterprises wishing to establish production plants in Hong Kong, and upgrading the value-adding abilities and reliability of Hong Kong manufacturing industries. Besides, the Government must co-operate closely with the Mainland to ensure that the relevant authorities and customs department of the Mainland will totally accept Hong Kong's requirements on issuing certificates of origin and other relevant documents, lest they may be found unable to meet the requirements of zero tariff at customs clearance.

With CEPA, there will be more business opportunities for local exports to the Mainland, but business cannot always be transacted in cash, and for the time being, not all merchants in the Mainland can obtain letters of credit from the banks. That is why buying on credit must inevitably be accepted. But it is rather risky to extend credit lines in the Mainland. For example, in 2002, the

Hong Kong Export Credit Insurance Corporation (ECIC) received \$28.4 million of premiums from Hong Kong customers extending such credit in the Mainland, but then, it had to pay compensations amounting to \$28.3 million, or 99.7% of the total premiums. In the end, it managed to recover \$12 million only after commissioning the service of mainland collection agencies. Anyway, the presence of the ECIC as a risk-bearer has still provided immense help to the import and export industries of Hong Kong which can thus concentrate solely on their business and leave all credit risks to the ECIC. But it is likely that the industries in general, and small and medium enterprises in particular, still do not have any in-depth understanding of all this. That is why I hope that the Government, while publicizing CEPA, can also do its best to conduct extensive and in-depth publicity on the service of the ECIC. And, the ECIC should not limit itself to the provision of insurance coverage for the credit risks associated with trade in goods. Since CEPA also brings forth huge development prospects for the professional services, the new CEPA working group under the ECIC has started to conduct consultations and studies on the 18 professional services of Hong Kong. The fees recovery risks associated with the export of professional services to the Mainland may also be borne by the ECIC, so that these services can open up a new and huge source of clients there. Since the provision of insurance coverage for fees recovery risks is relatively new, the Government should work with each and every professional body and conduct extensive publicity to see how interaction can be enhanced to achieve the ideal effects.

Besides, in 2005, another major export industry of Hong Kong — the textile industry — will also face a drastic change. As a result of globalization and a resolution of the World Trade Organization, European countries and the United States will change the quota systems applicable to Hong Kong and the Mainland over the past three to four decades. This will produce far-reaching effects on local textile exports and the related industries. According to statistics, during the period from January to December in 2003, textile and garment exports represented roughly 57% of the total local exports. As it was speculated last year, the quota system adjustments in 2005 will see the European Union's cancellation of all quotas for both Hong Kong and the Mainland. The economic take-off of Hong Kong in the late 1970s brought forth an annual wage growth of 10% in subsequent years. By the late 1980s, labour-intensive industries in Hong Kong were no longer profitable, so most industries, such as the electronics, toy and watch-making industries, were all relocated to the Mainland. Many of them are by now quite firmly established there. The textile industry has been the only exception. One reason is that the quotas for the entire Mainland are

even smaller than those of Hong Kong, which is so tiny. And, the services of Hong Kong manufacturers are honestly better than those of their mainland counterparts. Therefore, buyers can all see that Hong Kong products are of higher quality. When they also see that even after the payment of quota fees, Hong Kong goods are still much more competitive than mainland products, they just continue to purchase Hong Kong products. That is why textile, dyeing and garment factories are still found in Hong Kong nowadays.

(THE PRESIDENT'S DEPUTY, MS MIRIAM LAU, took the Chair)

But what will happen when the European Union lifts the quotas for Hong Kong and the Mainland in 2005? It is believed that for reasons of wages and supply of workers, import and export textile factories will all move northward to the Mainland like electronics and toy factories. The only hope lies in whether or not CEPA can help induce some manufacturers to retain their main production processes here to satisfy the requirement on "Made in Hong Kong". Once Hong Kong manufacturers choose to set up their production plants in the Mainland, meaning that if they choose to compete with their mainland counterparts and export their goods to Europe direct, they will have to cut costs in every process of their production. For example, they will have to purchase their essential raw materials in the Mainland, stop carrying out any production processes in Hong Kong and make use of the less expensive transport and port facilities in the Mainland, instead of transporting their goods across the boundary back to Hong Kong for shipment. Should all this happen, will the status of Hong Kong as a shipping centre be undermined? Will the employment situation in various other Hong Kong industries be adversely affected?

Moreover, starting from 2005, the United States will lift its quotas for Hong Kong, but mainland textile exports to it will continue to be subject to quota restrictions for the time being, at least until 2008. For this reason, Hong Kong manufacturers are now exploring the possibility of further expansion in the United States market. As I have mentioned, the quotas for the Mainland are very small, and all the quotas for the entire country are smaller than those of Hong Kong. So, it is really worthwhile for manufacturers to study whether it is possible to avoid quota restrictions by carrying out all or just the principal production processes in Hong Kong between 2005 and 2008, for this can help

them decide whether to make any investments. Even mainland garment manufacturers are thinking actively about setting up plants in Hong Kong for the principal production processes, so that they can export their "Made in Hong Kong" garments to the United States. It is expected that between 2005 and 2008, there will be a huge increase in local garment exports to the United States. There is nonetheless one worry, a worry about whether or not Hong Kong can compete with the Mainland in terms of prices when the latter is no longer subject to any quota restrictions in 2008. Those in the textile and garment industries all think that this is a big headache, one which is complicated by the willingness or otherwise of young people to join the industries. I urge the Government to conduct serious studies, so that manufacturers can set down clear goals, can rest assured that their investment plans will not fall through in 2008, and can ensure that their conscientious efforts of training up young successors will not be wasted.

In the next couple of years, CEPA and textile quotas will lead to very great changes in the import and export industries and the economy of Hong Kong. Madam Deputy, this is an age of rich business opportunities, but also one marked by fierce global competition. I hope that the people of Hong Kong will waste no more time on unnecessary complaints and disputes. Rather, I hope that they can pay more attention to their own enhancement and grasp all available business opportunities in the face of the competition brought about by globalization. I also urge the Government to conduct in-depth studies on these two issues and work out appropriate policies and measures to support the import and export industries — a major pillar of the Hong Kong economy.

With these remarks, Madam Deputy, I urge Members to support the motion.

Mr HUI Cheung-ching moved the following motion: (Translation)

"That this Council urges the Government to expeditiously study how Hong Kong's import and export industries will be affected by the implementation of the Mainland/Hong Kong Closer Economic Partnership Arrangement and the changes to be introduced by European countries and the United States in 2005 to the export quota system for major textile products from Hong Kong and the Mainland, and to formulate corresponding measures."

DEPUTY PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr HUI Cheung-ching be passed.

MR CHAN KAM-LAM (in Cantonese): Madam Deputy, the motion today calls for supporting the import and export industries. In fact, the boom or bust of the import and export industries is closely related to the development of the local manufacturing industries. If the Government is to assist the import and export industries, it must boost the development of industries in Hong Kong. For many years, the public has been criticizing the Government for its insufficient support for the industries. And every time the Government will put forward excuses like "big market and small government" and "positive non-intervention". The Government thinks that after the conclusion of CEPA and securing the zero tariff agreement, its mission is complete. The zero tariff agreement under CEPA has certainly brought a ray of hope to our manufacturing industries which start to dream of a revival by leveraging on the Mainland as their hinterland. Unfortunately, during the two-week period since the implementation of the zero tariff arrangement at the beginning of this month to the present, that is, up to last Saturday, the Trade and Industry Department has only received a total of 62 applications for Certificate of Origin and 65 applications for Certificate of Hong Kong Service Supplier. The response has not been as enthusiastic as anticipated. Facts show that zero tariff alone cannot bring about a revival of the local manufacturing industries. The future development of our industries, and even that our import and export industries, will still need matching efforts and other support from the Government.

It is the expectation of the Government that the jewellery and high fashion are industries which can be developed in Hong Kong under CEPA. However, as at last week, not a single jewellery manufacturer has applied for Certificate of Origin. The textile manufacturers association said that the amount of import duty waived could not offset the high costs of processing in Hong Kong. It is therefore expected that the implementation of CEPA will not benefit many manufacturers direct. The Democratic Alliance for Betterment of Hong Kong (DAB) has for many years advocated the opening up of the border areas to set up a processing zone with the aim of reducing the operation costs and increasing job opportunities. Even the Government admits that there is still a difference of five to 10 times in the costs of production between Hong Kong and the Mainland. In the consultation document released earlier entitled Hong Kong 2030: Planning Vision and Strategy, mention is made for the first time on a study of the land use

at the border areas. Of course, we welcome such an idea, but on the other hand, we are also very much concerned that the study will take a very long time to complete before any conclusion can be reached. For the study on the building of Container Terminal 10 has been under discussion for a number of years. It is learned that the Government has reached a conclusion on the building of Container Terminal 10 at last and the details will be released later. But it is unfortunate to see that the container terminal in Kwai Chung has lost its dominant position as the throughput of the container terminals in Shenzhen could have surpassed it. It is never our wish to see the border processing zone relegated into a replica of Container Terminal 10. On top of that, there are time limits to the business opportunities offered by CEPA. We therefore urge the Government of the Hong Kong Special Administrative Region (SAR) to seize the opportunities and complete the study at the soonest, finalize the proposals and launch the works.

At the end of last year when we had a motion debate on the backbone industries, the Government mentioned that the Trade Development Council (TDC) would set up business centres in Beijing, Shanghai, Guangzhou and Hong Kong at the beginning of this year on a trial basis to assist mainland manufacturers in finding suitable Hong Kong companies as partners. These centres will also enhance the publicity of CEPA in Hong Kong and the Mainland. The TDC website will be used to disseminate the latest information. From these it can be seen that the Government has made a lot of efforts in strengthening trade information and contacts between Hong Kong and the Mainland. As regards the assistance given to Hong Kong businessmen who run into disputes and difficulties on the Mainland, it looks as if work has not at all been satisfactory. Recently, there are reports that as the importers do not understand CEPA so well, the Certificates of Origin for imported goods fail to meet the CEPA requirements and hence the manufacturers cannot enjoy zero tariff. This shows that more work should be done by the Trade and Industry Department in providing the industries with information on mainland laws, regulations and the latest measures. At the same time, we also think that the Government should review the effectiveness and operation of the support websites and the enquiry hotlines.

Next I would like to talk about the logistics industry which is closely related to the import and export industries. In many policy addresses in the past, the Government has affirmed the vital role of the logistics industry and regarded it as one of the four pillar industries of Hong Kong. And it also avowed to

develop Hong Kong into a logistics hub in Asia. Unfortunately, the prevailing high handling fees have served to undermine the competitiveness of the container terminals here. So the problem only remains. Progress in the streamlining of the goods clearance arrangements and the electronic operation of the logistics industry is not satisfactory. Last month, in a debate on improving the competitiveness of the container terminals, Members presented many views on the topic. I would like to point out that as we feel concerned about the crisis faced by the Hong Kong container industry and the logistics industry and as we are making recommendations through various channels, should the SAR Government insist on non-intervention and adopt an indecisive attitude? The Chief Executive always says that he is not slow and indecisive, then are the officials being slow and indecisive? I hope the officials can reflect on this.

CEPA is not a preferential treatment which Hong Kong enjoys exclusively. Macao and other major cities on the Mainland are all working hard to seize the business opportunities offered by CEPA. To facilitate the implementation of CEPA, Zhuhai plans to install an automatic passenger inspection system at its Gongbei crossing and a one-stop electronic inspection and clearance system in the passenger and goods vehicle lanes, so as to expedite goods and passenger clearance. For Macao, as it is worried that in 2005, when the textile quotas worldwide will be abolished and so manufacturers may relocate their production lines northward, it has made a head start to develop a cross-boundary industrial zone along the borders between Macao and Zhuhai. Macao is also trying to forge cross-border co-operations with the Mainland and set up an export processing zone for garments. We wish to urge the SAR Government to change its slow way of doing things and act in a positive and aggressive manner in order to help various trades and industries to grab the business opportunities presented by CEPA and meet the challenges of tomorrow.

Madam Deputy, I so submit.

MR KENNETH TING (in Cantonese): Madam Deputy, the export trade has all along been a major source of foreign exchange earnings for Hong Kong. Despite a slight decline in their export value in recent years, textiles and clothing products still rank first among exports of locally manufactured goods. In 2002, for example, the total export value of textiles and clothing products was \$72.6 billion, accounting for 55.5% of the total export value of Hong Kong products. This shows that the textiles and clothing industry has an interdependent

relationship with Hong Kong's export industry. To maintain a vibrant export industry, we absolutely cannot overlook the future of the textiles and clothing industry.

After the signing of the Mainland/Hong Kong Closer Economic Partnership Arrangement (CEPA) between Hong Kong and the Mainland last year, many textiles and clothing products manufactured in Hong Kong can benefit from the zero tariff arrangement starting from January this year and can therefore expand their development in the mainland market. To the industry, this is certainly a good thing. But countries all over the world (including the United States) will abolish the export quotas for textiles and clothing products from Hong Kong and China next year. What business opportunities will this bring to Hong Kong or will this bring crises or opportunities? This, I believe, will depend on how we grasp the opportunities before us now.

Take CEPA as an example. To the local textiles industry and even the export industry, it will certainly bring new opportunities for development. Yet, there are still many implementation details that warrant further improvement. Regarding the application for zero tariff and the certificate of origin, the existing application formalities and procedures are still very cumbersome, and many large enterprises do not quite understand the details. The Liberal Party hopes that the authorities can hold further discussions with the relevant mainland authorities to simplify the formalities.

Moreover, I know that some clothing exporters have plans to export clothings to the Mainland by setting up distribution or retail businesses in the Mainland. But under CEPA, an applicant should have an average annual sales value of not less than HK\$234 million in the preceding three years with assets amounting to HK\$78 million in order to be approved for establishing distribution operations in the Mainland. In the case of retail service, the sales value cannot be less than HK\$780 million and so, the threshold is very high. As a result, it is difficult for many small and medium enterprises in the export industry, including textiles and clothing manufacturers, to meet the requirements. The Liberal Party urges the authorities to put forward to the relevant mainland authorities a request of lowering the threshold in the forthcoming discussions on the contents of CEPA in phase two, in order to generally benefit the import and export industries in Hong Kong.

Many countries in the world (including the United States) will abolish the export quotas for products from Hong Kong next year. This can in fact be

taken as an opportunity, because the export quota is a form of trade restriction in itself. With the elimination of this restriction on export, we can actually export an unlimited quantity of locally manufactured goods to overseas markets, which will be an advantage of Hong Kong.

On the contrary, the Mainland does not have such an advantage. It is because in November last year, the United States reinstated the quota system on three types of textiles products exported from China on the ground of anti-dumping. It is likely that this restriction will be extended, because it is still possible for a quota to be reimposed on the Mainland by members of the World Trade Organization by means of anti-surge or anti-dumping laws in two phases before 2008 and 2013. So, it is possible that the United States would again impose a quota on the Mainland for reasons of a huge trade deficit.

However, there is no such restriction on Hong Kong. If a quota is restored on products from China, manufacturers can set up their production base in Hong Kong to continue exporting clothing and textiles products of Hong Kong origin. Indeed, many manufacturers have told us that they would set up a second production line in Hong Kong to ensure that their business would not be affected.

Certainly, we must at the same time enhance the competitiveness of the products and develop high value-added products. Only in this way can we boost the strength of the textiles and export industries. But for a long time, the high costs in Hong Kong have been affecting the competitiveness of our exports. The situation must be improved, and I cannot but ask myself: Do we have adequate matching facilities and skilled workers and personnel? How do these problems resulting from the hollowing-out of industries be solved? This is why I already urged the authorities many years ago to expeditiously set up a border industrial zone.

I believe the setting up of a border industrial zone can provide sufficient matching facilities for exporters, pool together the labour force and skilled workers in the two places, and capitalize on the advantages of Hong Kong such as the rule of law, financial services and also our professionals as well as entrepreneurs, with a view to attracting manufacturers to return to Hong Kong and foreign capital to flow into Hong Kong. Meanwhile, products manufactured in the industrial zone can carry the quality brand name of "Made in Hong Kong" for exports to European countries and the United States as well as

to the Mainland, thereby promoting economic growth in Hong Kong and creating employment opportunities for the people. This border industrial zone can also provide room for the development of other high value-added industries, and this can upgrade Hong Kong's economic structure and speed up successful transformation of the economy.

Madam Deputy, we must facilitate the development of the business environment. The Liberal Party is pleased to see that the Financial *(the timer sounded at this point)*

Thank you, Madam Deputy. I so submit.

DR TANG SIU-TONG (in Cantonese): Madam Deputy, over the years the import and export industries in Hong Kong have created enormous job opportunities and wealth. The decline or prosperity of these industries would affect the status of Hong Kong as a logistics centre and international shipping centre, the development of the manufacturing, logistics and container transportation industries, and the livelihood of the workers. It is therefore a vital issue to be considered in ensuring that these industries can sustain their growth in face of new opportunities and challenges.

In fact, apart from the continual fall in export figures over the past few years as mentioned by Mr HUI Cheung-ching, there are also potential worries about the re-export trade which spurs growth in the import and export industries. As land transport costs and handling fees of our container terminals are high, plus other factors like transport links and the time taken in customs clearance and transport, our container terminals are facing an increasing threat from the Shenzhen port in terms of competitiveness and as a result of the lack of any edge in the source of goods.

Some Hong Kong manufacturers who engage in fashion production in the Pearl River Delta Region and who have been using our container terminals for exports to Europe have said that their overseas buyers are asking them to use the Yantian port in Shenzhen for direct export to Europe in order to reduce the costs. Other exports of goods processed or produced by the other Hong Kong or overseas manufacturers on the Mainland may gradually shift to the Shenzhen port due to cost considerations and transport convenience. Therefore, the inconvenience and costs involved in cross-boundary transport should not be dismissed as insignificant.

In the first place, if goods processed on the Mainland can be exported direct from the container ports there, only mainland goods vehicles will be required. However, if the goods are exported from Hong Kong, then goods vehicles which travel across the boundary must be hired, so the transport expenses will increase many times. A report by an international consultant firm, McKenzie, points out that the hauling charge for a standard container from a mainland factory to the container terminal in Shenzhen Yantian or Shekou is \$1,170 and \$858 respectively, but the charge for a container to Hong Kong is as high as \$2,886. On top of that is the wage of the transport workers. For containers not requiring cross-boundary transport, only mainland transport workers are required and their wages, when compared to those of their Hong Kong counterparts, are much cheaper.

In 2003, the container throughput in the Shenzhen port grew nearly 40% as compared to that in 2002 and it became the fourth largest port in the world. Though its throughput is only 53% of that of Hong Kong, it has the advantage of low costs. With four new berths coming on stream this year, people in the industry predict that the container throughput in Shenzhen may surpass that of Hong Kong five years ahead of the expected time. In that case, our container transport industry and re-export trade will be dealt a severe blow and we must do something to advert this unfavourable position in terms of costs. The Hong Kong Progressive Alliance has been urging the Government to effect co-location of clearance, a "logistics expressway" and electronic customs declaration in order to streamline clearance formalities, speed up customs clearance and reduce the total costs incurred for mainland goods using Hong Kong container terminals. At the end of last year, the mainland and Hong Kong customs reached a consensus on the mutual recognition of labels for inspected tobacco and liquor and other inspection information. This kind of measures designed to facilitate cargo flows should be affirmed. I urge the Government to speed up the application of this kind of customs control and inspection measures on all other kinds of goods, for this will help make Hong Kong a more competitive port for re-exports.

On the other hand, the Government should make full use of the Mainland/Hong Kong Closer Economic Partnership Arrangement (CEPA) and help the 18 services sectors and professional services enter the Mainland to develop their business and practise. Such assistance should include further striving to reduce the entry threshold for Hong Kong professional services into the mainland market, recognition of professional qualifications with examination

requirements waived, and so on. As Hong Kong is a city dominated by service industries, increasing the export of goods and services will be immensely beneficial to the growth of our economy. Moreover, in his policy address delivered last Wednesday, the Chief Executive talked about developing education and health care industries to serve people in the Mainland and elsewhere in Asia. In my opinion, these two sectors are new export services with great potentials and they can give full play to our leading edge. The idea should be explored and developed.

Hong Kong is an international city where the East and West meet. The academic staff in the universities and post-secondary institutions is highly qualified. The contents and applications of the curricula are reflective of an international perspective. Many academic departments of these institutions enjoy great fame in Asia and worldwide. So Hong Kong has the conditions to develop into an international centre of education and become an exporter of educational services. The key to this is the Government lifting the restrictions imposed on our tertiary institutions with respect to the places available to overseas students and determining a level of tuition fees for overseas students. The health care services in Hong Kong have also reached high international standards. Some private medical institutions have already provided health care, medical check-up and treatment for the affluent from the Mainland. The Government may help in the promotion and publicity. As for the "export" of medical services from the public sector, it would be viable in theory. But the most important principle is that the quality of public sector medical services available to local residents and their access to such services should not be affected by the operation of these export businesses.

In my opinion, irrespective of the export of goods or services, the Government should first look into the possible opportunities and challenges so that effective and practicable measures can be devised.

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

MR SIN CHUNG-KAI (in Cantonese): Madam Deputy, according to the 2004 policy address, various facilities will be provided on Lantau to assist the logistics industry, including a Value-Added Logistics Park in Tai Ho, and Container Terminal No. 10 which may be constructed on the north-western part of the island. Besides, priority will also be accorded to the construction of the Hong Kong-Zhuhai-Macao Bridge.

The continuous development of the local logistics industry and producer services can help maintain the competitiveness of the local import and export industries. The Democratic Party demands the Government to complete its planning studies on the construction of Container Terminal No. 10 as soon as possible, so as to raise the efficiency of our container port and strive for lower terminal charges.

The construction of more container terminals will be conducive to enhancing the competitiveness of the local cargo transportation and logistics industries and consolidating our leading status as a logistics centre. In the development of the future Container Terminal No. 10, the Government should introduce more service providers, with a view to enhancing competition and promoting healthy development.

With the construction of the Hong Kong-Zhuhai-Macao Bridge, the flows of goods and people between Hong Kong and China will multiply. And, the efficacy of cross-boundary infrastructure and transport networks is bound to directly affect the development of the Pearl River Delta (PRD), particularly that part of it to the west of the Pearl River.

Rail networks are far more cost-effective than single-trailer container lorries, and they can be connected to the future rail transport system in the western part of the Mainland. The Guangzhou-Zhuhai railway will inaugurate in 2008, but so far no planning has been drawn up for any Hong Kong-Zhuhai-Macao railway system which can be connected to the Guangzhou-Zhuhai railway. The construction of the Shenzhen-Hong Kong Western Corridor is underway, but it may not necessarily be able to relieve the increasing transport pressure in the future. The Democratic Party proposes that the Hong Kong-Zhuhai-Macao Bridge project should include the construction of passenger and cargo railways to ease the long-standing freight transport pressure faced by Hong Kong.

Besides, the inadequacy of streaming and ancillary facilities at Lok Ma Chau, Sha Tau Kok and Man Kam To has created a traffic bottleneck, with passenger vehicles and lorries competing for road space. For this reason, the authorities should enhance the efficiency of the boundary crossings by improving the road networks and clearance procedures at Lok Ma Chau, Man Kam To and Sha Tau Kok and expediting the implementation of express customs clearance and electronic customs verification, so as to ease the pressure at the boundary crossings. In the long run, the Government may also improve the road networks connecting Chap Lap Kok to the airports in Macao and Zhuhai.

As Hong Kong seeks continuously to develop its cross-boundary transport facilities, the Government should, at appropriate times, bring in more transparency and inform the industries concerned of any future plans for developing cross-boundary transport facilities, so as to keep them posted of the progress. In fact, some academic institutions that are following the development of cross-boundary facilities and road networks in China, Guangdong or the Pearl River Delta are facing difficulties in obtaining information. The Government should bring this up in the Guangdong-Hong Kong liaison group, with a view to assisting local academics in obtaining data on Hong Kong-China or Hong Kong-Guangdong cross-boundary vehicular traffic. From the group of advisers to The Hong Kong Polytechnic University's transport consultation studies project, I have learnt that even the academic circles find it difficult to obtain from the Mainland any information on cross-boundary transport planning and projects. It is hoped that the Government can offer assistance in this respect to make it easier for academic institutions to obtain such information, and also to facilitate its own studies in turn.

The latest technologies available as a result of software development will help the logistics industry. Global Positioning System (GPS) is being developed in many countries. But despite their close connection, there has so far been no such development in Hong Kong and the Mainland. Another technology relevant to the import and export industries is Radio Frequency Identification (RFID), and the Government should follow its development. The reason is that RFID is regarded as an ultimate replacement of the bar code technology. RFID can reduce production costs and enhance retail efficiency. When it comes to the import and export industries, it is also hoped that the Government can keep watch on whether RFID will directly and totally replace the bar code technology.

It is expected that with reduced operating costs and transaction time following the implementation of CEPA, Hong Kong and mainland enterprises will adopt electronic delivery of services. Therefore, there should probably be a wider application of information technology in the import and export industries. I understand that the Government is also conducting a study on Digital Trade Transport Network (DTTN). But I hope the Government can also note that the University of Hong Kong is conducting a study on establishing in Hong Kong a software infrastructure based on XML, an internationally accepted computer language for electronic business. The XML study is actually financed by two grants from the Government's Information Technology Fund. The first grant amounts to some \$9 million, and the second grant is about \$19 million. XML

and DTTN are closely related because, to put it simply, data transactions must require data and standards. The Government has allocated a sum of money to the University of Hong Kong for a study on the XML standard. XML may be useful in setting down the standards in the future. But the Government has on the other hand commissioned Tradelink to take charge of DTTN. So, the Government must explore how best the work of these two organizations can be co-ordinated. If not, after first spending \$9 million, then \$19 million, or in total \$25 million, the Government may have to put all the research findings in the museum while finding itself having no money for DTTN. Madam Deputy, you are also aware that Tradelink is requested to set up the Logistics Development Board without any funding support whatsoever. But on the other hand, \$25 million has been allocated to the study on the XML standard, which may be of immense help to DTTN. I hope that the Government can put all these pieces together. In the course of developing the import and export industries, we must consider the development of an electronic platform. I so submit.

MR AMBROSE LAU (in Cantonese): Madam Deputy, in this year's policy address, the Chief Executive says: "Looking ahead, our most pressing task is to implement the various arrangements under CEPA in time." The motion moved by Mr HUI Cheung-ching today is really about the "most pressing task" of the Government. The Hong Kong Progressive Alliance (HKPA) hopes that the Government will adopt effective measures to turn CEPA into a huge impetus to the import and export industries of Hong Kong and to promptly devise strategies to address the abolition of export quotas for textiles worldwide in 2005.

Madam Deputy, the import and export industries are one of the pillars of our economy. In 2002, the total value of import and export commodities traded was HK\$317.99 billion, of which the imports in CIF value was HK\$161.94 and the exports in FOB value was HK\$156.05 billion. The import and export trade and the related logistics industry, plus the professional services and various production support services, account for more than one third of the GDP of Hong Kong and create a large number of jobs. The implementation of CEPA would help us open up the mainland market, strengthen our position as a platform of international trade, attract foreign investors to develop high value-added manufacturing industries and lure Hong Kong manufacturers to return here to set up factories, hence bringing in new opportunities to our import and export industries.

The HKPA thinks that the Government should expeditiously assess the impact of implementing CEPA on the import and export industries in Hong Kong and formulate policies in the following four areas to support the import and export industries:

First, efforts must be made to tie in with the zero tariff preferential treatment in order to revitalize our manufacturing industries and expand the mainland and overseas markets of Hong Kong products. At present, though most of our manufacturing activities have relocated to the Mainland, there are still a significant number of operators of small and medium enterprises who insist on remaining in Hong Kong because the territory has edges in design, quality assurance, brand name and reputation. Hong Kong ranks as one of the largest exporters of textiles and clothing, watches and clocks, toys, calculators, and so on. In 2002, our export volume ranked 11th among all the exporters of the world and we were the third in Asia. In addition, according to statistics in 2002, we are the largest exporter of toys, and we rank the second in clocks and watches, garments and textile. Products with the "Made in Hong Kong" label do have substantial attraction in the mainland, European and American markets. Their prices are higher than products made in mainland China. It can be seen that Hong Kong products still carry great competitiveness. Within the framework of CEPA, the Government should devise concessionary policies on land, tax and labour services in order to revive our manufacturing industries and bring in a new momentum for our import and export industries.

Second, the Government should improve the existing patent laws and intellectual property laws in order to protect our brand names. The Government should also forge close co-operation with the mainland authorities and enforcement agencies to crack down on counterfeits made on the Mainland purporting to be Hong Kong products. Such efforts would be tremendously vital to the protection of Hong Kong brand names and supporting our import and export industries. If the mainland market is flooded with counterfeit Hong Kong brand names, that would be disastrous to our import and export industries.

Third, the handling fees of our container terminals are higher than those charged by the Yantian port in Shenzhen by US\$100 per standard container. Exorbitant terminal charges have already affected the development of our logistics industry and the import and export industries. In the past, 60% of the goods produced in southern China by Hong Kong manufacturers were exported through the Kwai Chung container terminals. During the first 10 months last

year, negative growth was registered in the container throughput of the Kwai Chung container terminals while the throughput in Yantian, Shenzhen rose by 30%. An increase of more than 40% was registered during October to November last year. Such a reversed trend has seriously affected the import and export industries of Hong Kong. The HKPA is of the view that the Government should enhance competition among the container terminals so that the shipment costs can be reduced. This will be beneficial to the development of the import and export industries.

Fourth, the textiles and garment industry has always been an important pillar in the Hong Kong manufacturing industries. According to figures compiled by the Hong Kong Trade Development Council, as at end 2002, there were 3 584 textiles and clothing companies in Hong Kong, and 45 374 import and export companies engaged in trade related to the textiles and clothing industry. The number of people engaged in trading and manufacturing activities in the industry was more than 140 000. But when textile export quotas are abolished in 2005 worldwide, and in the absence of protection under the quota system, the survival of the Hong Kong textile industry will be difficult. Companies will be forced to close down or move out of Hong Kong. As many as 100 000 persons could be out of work. The HKPA thinks that the Government should prepare for the rainy day and build the proposed border processing zone as soon as possible. For such a zone can make use of the inexpensive labour in the Mainland and the skilled labour of Hong Kong to reduce the costs of production and to make the exports of our textile and garment industry stay competitive.

Madam Deputy, I so submit.

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

(No Member indicated a wish to speak)

SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY (in Cantonese): Madam Deputy, first of all, I wish to thank Mr HUI Cheung-ching for proposing and speaking on this motion today. The other five Members who have spoken in the debate have also expressed very clearly their views on this

motion of "Supporting the import and export industries". We will carefully consider these valuable opinions in detail.

The Mainland/Hong Kong Closer Economic Partnership Arrangement (CEPA) has come into force since 1 January this year, and the quota restriction for textile exports will be formally lifted on 1 January next year. We will keep a close watch on how the impact of these two measures on the local import and export industries. The business sector in Hong Kong is known for its acumen, flexibility and resourcefulness. I believe the import and export industries will make appropriate arrangements in the light of the market changes and seize the opportunities offered by these measures to rise to the new challenges.

The formal implementation of CEPA on 1 January this year has opened a new page for the economic relations between Hong Kong and the Mainland. CEPA will enhance co-operation between Hong Kong and the Mainland in trade and investment, and at the same time provide unprecedented market access opportunities for Hong Kong products and the local service industry in the Mainland. We believe CEPA will not only reinforce the traditional industries and inject impetus for the development of emerging industries, but also facilitate economic restructuring and create employment opportunities.

(THE PRESIDENT resumed the Chair)

In respect of trade in goods, starting from 1 January this year, a total of 374 Hong Kong-made products can enjoy zero tariff when they are exported to the Mainland. As Members may note, the number of these tariff-free products is 374, not 273 that we said last year. This is due to the latest adjustments to the mainland tariff codes, and there has been no change in product types. These products include household electrical appliances and electronics products, toys, plastic products, paper articles, textiles and clothing, chemical products, pharmaceutical products, clocks and watches, jewellery, and so on. Together with the Mainland's liberalization commitments to the World Trade Organization (WTO), about 90% of goods of Hong Kong origin exported to the Mainland have already enjoyed tariff exemption in value terms since 1 January. For the rest of the products, including products that have not yet been manufactured in Hong Kong, manufacturers can apply to the Trade and Industry Department (TID) for inclusion into the list of goods enjoying tariff-free access to the Mainland so long

as they meet the CEPA rules of origin. We are very pleased to see that Hong Kong manufacturers have actively availed themselves of the zero tariff preference. Since the formal implementation of CEPA, a total of 48 CEPA Certificates of Origin have been issued, involving goods at a total value of HK\$31 million.

The zero tariff preference has rendered Hong Kong products more competitive in pricing *vis-a-vis* overseas products when exported to the Mainland. Given that Hong Kong brand names have all long been well-received and trusted by consumers in the Mainland, we believe the tariff-free treatment will induce the manufacturing of brand-name products in Hong Kong. Besides, given the cost consideration and other factors, it is believed that some manufacturing industries will develop high value-added products in Hong Kong through new technology and innovation. The zero tariff preference will attract manufacturing processes with high value-addedness or substantial intellectual property input to be relocated to Hong Kong, thus promoting the restructuring and diversification of industries in Hong Kong towards high value-addedness and high technology. This will not only benefit exports of high-value Hong Kong-made products, but also enhance the overall competitiveness of Hong Kong products, which will in turn be conducive to boosting our exports to markets worldwide.

On the other hand, the lowered cost of Hong Kong products exported to the Mainland will benefit mainland consumers, particularly consumers in the middle-to-high-class market who want quality, design and brand names. Meanwhile, when the cost of accessories of quality products is also lowered, this can strengthen industrial activities in the Mainland and upgrade the quality of products and the competitiveness of their exports, thus indirectly benefiting importers and exporters who are agents of mainland products.

Mr CHAN Kam-lam mentioned earlier that there had not been many applications for the CEPA Certificate of Origin so far. I wish to point out that as at 12 January, the TID and the five approved certification organizations have received a total of 64 applications, 48 of which have already been approved. As I said earlier, the export value involved amounts to HK\$31 million. Given that there is no quota or a time limit for the zero tariff preference under CEPA, there is no urgency for manufacturers to obtain tariff-free access within a specified time, and as it takes time to plan and set up sales networks in the Mainland, we believe that after the zero tariff arrangement under CEPA has been implemented

for some time, we will be gradually seeing greater benefits of this preferential treatment for Hong Kong manufacturers and hence a corresponding increase in the number of applications for the CEPA Certificate of Origin.

In respect of trade in services, the import and export industries will also benefit from the liberalization of distribution services in the Mainland. From 1 January this year, under CEPA, Hong Kong enterprises can engage in import and export business in the Mainland as a proprietorship, equity joint venture or contractual joint venture basis. Moreover, the requirements in respect of the annual average trade value with the Mainland and registered capital have been significantly reduced under CEPA, and this will be conducive to the development of the mainland market by the import and export industries. I must emphasize that this preferential treatment has gone far beyond the Mainland's WTO commitments. In other words, among the many foreign businesses, only Hong Kong businesses can enjoy these concessions in the foreseeable future. Therefore, compared with other WTO members, industries in Hong Kong have been given a head start in competition and enjoying a "first-mover" advantage in seizing the opportunities.

Meanwhile, CEPA has also provided a new platform for Hong Kong's business sector and foreign investors to develop the mainland market. Objective and transparent criteria have been laid down under CEPA on how a company can qualify as a "Hong Kong service supplier". Regardless of the origin of its capital, a service supplier incorporated or established under the laws of the Hong Kong Special Administrative Region (SAR) and which has substantive business operations here can enjoy the preferential treatment provided by CEPA. In addition to setting up companies in Hong Kong, overseas companies and investors can choose to co-operate with business partners in Hong Kong through various channels and means to expand into the mainland market, and they may also do so by acquiring or merging with a Hong Kong service supplier. These business and investment activities will inject new impetus into and provide enormous opportunities for Hong Kong's service sector, including the import and export industries.

The first and foremost task of the SAR Government now is to do its utmost to ensure the smooth and effective implementation of CEPA and to facilitate the transformation of CEPA into economic benefits. To enable the industrial and business sector to better understand the contents of CEPA and therefore better grasp the opportunities arising from CEPA, the Government has, after the

signing of CEPA, organized or participated in many briefings, seminars and luncheon meetings to introduce in detail the contents of CEPA to Members of the Legislative Council, chambers of commerce, industrial and business organizations and members of various trades in the industrial, trade and service sectors, and also Consulate-Generals and business commissioners from foreign countries on these various occasions.

The TID has also set up a designated CEPA Branch to provide one-stop certification services for "Hong Kong service suppliers" applications. This dedicated CEPA Branch will also handle enquiries from the public and the trade, and co-ordinate the release of practical information on the application for preferential treatments under CEPA in the Mainland by Hong Kong service suppliers.

Moreover, the Commerce, Industry and Technology Bureau, the TID, Office of the SAR Government in Beijing, Guangdong Economic and Trade Office (GDETO) and the Hong Kong Trade Development Council (TDC) will, at the governmental and enterprise level, continue to actively collect information on the latest mainland trade and economic laws and regulations, as well as business and commercial news. Information will be disseminated to Hong Kong businesses through the Internet, GDETO Newsletters, the TID's Commercial Information Circulars, as well as the TDC's website, research reports and newsletters. The information will help Hong Kong traders fully grasp the latest policy and commercial developments in the Mainland in formulating their business strategies. At the same time, liaison and exchanges between businesses and trade organizations in Hong Kong and relevant mainland authorities will also be encouraged, and through large-scale promotion activities, exchange forums and visits, Hong Kong businessmen can establish links with mainland officials responsible for economic and trade matters as well as mainland enterprises and hence enhance their understanding of relevant policies and regulations and develop business co-operation opportunities.

In view of the implementation of CEPA, the Hong Kong Export Credit Insurance Corporation (ECIC) will continue to provide suitable services for exporters in accordance with their needs, in order to assist them to grasp the business opportunities brought about by CEPA. The ECIC will also step up publicity in various forms of media and will further foster communication with the relevant trade associations. On the other hand, the ECIC has also worked

with the TDC and the other relevant organizations to promote its services in the hope to benefit more exporters.

In addition, the CEPA Panel set up by the ECIC Advisory Board will provide professional opinions to the ECIC, so that the ECIC can promptly respond to the needs of exporters and grasp the opportunities brought about by CEPA.

The SAR Government will continue to actively consult the industries to listen to their views on the implementation of CEPA and the relevant support measures. The Government understands that the purpose of CEPA is to provide a platform for access of the local industries to the mainland market. Therefore, we will endeavour to ensure that the relevant arrangements meet the needs of the industries.

The import and export industries involve a wide spectrum of trades and domains, and Members have also put forward opinions earlier in the debate on the logistics industry, infrastructure network, cross-boundary transport, and so on. We will refer these views to the relevant government departments for reference and follow-up.

In the meantime, we will press ahead with various initiatives to improve the business environment, protect intellectual property rights, promote investment and support local enterprises, with the objective of sustaining the competitiveness of Hong Kong enterprises and enabling them to bring into full play the opportunities provided by CEPA in their development of the mainland market.

I appreciate that Members and the public are concerned about the problem of unemployment in Hong Kong. The Government attaches great importance to this problem and appreciates that the people hope that CEPA can bring about business opportunities and hence give a boost to the employment market, thereby helping to resolve the unemployment problem. The implementation of CEPA will have a very positive effect on the Hong Kong economy, and we can be sure about this point.

CEPA has created a very favourable environment for the business sector both in respect of trade in goods and trade in services, enabling the business community to develop and expand their operation in Hong Kong and in the

Mainland. Zero tariff can induce the manufacturing of brand-name products in Hong Kong and the relocation of high value-added manufacturing processes or those with substantial intellectual property content to Hong Kong. Since the signing of CEPA, the Hong Kong Science Park and the Industrial Estates have received enquiries about setting up factories in Hong Kong, many of which from local and overseas investors of high value-added industries. Recently, some manufacturers have been planning to move their plants or production lines from the Mainland to Hong Kong and to recruit employees in Hong Kong. In respect of the service industry, foreign-funded or local-owned companies in Hong Kong also need to hire additional staff for the management and operation of businesses in Hong Kong and in the Mainland in view of an estimated growth in trade activities. All these will help improve the employment situation of Hong Kong.

Furthermore, with the facilitation provided by CEPA, the number of mainland visitors coming to Hong Kong under the Individual Visit Scheme has increased drastically. This surge in the arrival of visitors has apparently stimulated the Hong Kong economy and boosted employment in tourism and the relevant industries, including the catering and retail industries.

Certainly, the economic benefits that CEPA can eventually bring to Hong Kong depends on whether or how businesses from Hong Kong and elsewhere in the world can leverage on the CEPA benefits to gain greater access to the mainland market. This will determine the scale of CEPA-induced business activities and direct and indirect spin-offs for Hong Kong. At the present stage, it is relatively difficult to quantify the effects on the Hong Kong economy. The Government will carry out a quantitative assessment on the economic impacts of CEPA, including the employment implication, after it has been implemented for some time. We consider that a meaningful quantitative assessment should be done nine to 12 months following the implementation of CEPA. The Government will work according to this timetable in conducting the assessment and has already started the related lead preparations.

Madam President, next, I would like to express my views on the abolition of the textiles export quota on 1 January 2005.

The textiles and clothing industry has all along been the largest source of income for the local manufacturing and export industries. In 2002, the total export value of local textiles and clothing products was as high as HK\$72.7 billion, accounting for 56% of the total export value of local products. If the

value of re-exports is also factored in, the total export value of the industry even reached a high of HK\$271.8 billion, which is equivalent to 22% of the Gross Domestic Product.

At present, about 45 000 people are employed in textiles and clothing production and in related jobs, accounting for 26% of the workforce in the manufacturing industry; and there are about 111 000 people engaging in textiles and clothing trade and exports, accounting for 22% of import and export trade. This shows that the textiles and clothing industry and its related trade activities are integral to the Hong Kong economy.

The removal of the quota restriction in 2005 will present new challenges for the textiles and clothing industry. According to the WTO Agreement on Textiles and Clothing, all quota restrictions imposed by WTO members for textiles and clothing imports will be completely lifted on 1 January 2005. Therefore, textiles and clothing products exported from Hong Kong to the United States, the European Union and Canada will not be subject to any quota restriction by then. According to 2002 figures, the total value of exports involved is close to HK\$43 billion.

The abolition of the quota system marks a milestone in the liberalization of international trade in textiles and clothing. While trade liberalization can broaden the scope for trade and facilitate market development by Hong Kong businesses, this will at the same time lead to free competition between Hong Kong and places where the cost of production is lower in textiles and clothing exports. I believe competition in the textiles and clothing market will be intensified by then.

Likewise, the abolition of the quota system will also affect the employment situation in Hong Kong to a certain extent. In respect of the manufacturing industry, as such major markets as the European countries and the United States may continue to impose restriction on exports from the Mainland after 2004, manufactures may not, for risk spreading considerations, necessarily swarm to move their production to places where costs are lower. So, in order to diversify their business, they may choose to engage in strategic investment and production in different places. Over the years, Hong Kong has been a major manufacturer and exporter of quality textiles and clothing goods. Coupled with an effective OPA network in the neighbouring Pearl River Delta Region, Hong Kong still has the unique advantages to remain as an important production zone. With regard to software, we have skilled workers, professional knowledge, universal

education, enterprising spirit with flexibility and highly efficient operations; as for hardware, we have advanced ports, comprehensive and efficient transport networks, and so on. All these clearly show that Hong Kong is still a competitive player in the textiles and clothing market. Nevertheless, we must realize that the advantages of Hong Kong do not lie in low-cost, labour-intensive industries. Rather, we should aim at further upgrading quality and operating efficiency, developing design, and promoting brand names and other high value-added industries in our future development. In this connection, the Government will continue to heavily invest on human resources and step up training of local talents to cope with the economic development.

Despite fierce competition in major markets, our local exports no longer entirely rely on restrained markets. Over the years, the industry has gradually developed other markets. In 2002, for example, 65.5% of Hong Kong's total textiles and clothing exports were exports to the three restrained markets, whereas the remaining 34.5% were exports to non-restrained markets which have also been growing steadily over the last decade. This shows that the industry has begun to develop their business into the world market, an important step taken to equip the market for future competition after the quota restriction is lifted in 2005. In the meantime, CEPA has injected fresh impetus for the local textiles and clothing production and trade and also the relevant service sectors and has brought about new opportunities.

Given that the external economic and business factors are complicated and changing rapidly, the specific impact of the abolition of the quota system in 2005 on the local textiles and clothing exports remains to be further observed and assessed. I believe in the latter part of the year, the situation will become clearer. Hong Kong has all along practised free trade and market economy, and the industries here have long been known for their flexibility and market acumen. We, therefore, believe the industries will know better than the Government as to how they should adapt to the new environment and to readjust their production and market strategies according to their own advantages, with a view to enhancing their competitiveness.

Thank you, Madam President.

PRESIDENT (in Cantonese): Mr HUI Cheung-ching, you may now reply and you have three minutes 10 seconds.

MR HUI CHEUNG-CHING (in Cantonese): Madam President, I would like to thank the Secretary for Commerce, Industry and Technology for delivering a speech on the motion so that Members can know about some of the operations of the SAR Government. I would also like to thank the five Honourable colleagues of this Council who have expressed a lot of valuable opinions.

I have proposed this motion today because of the fact that Hong Kong as a small economy does not have any natural resources and the major source of our income is some core industries such as tourism, financial services, industries and import and export. All these pillars are subject to external influences. CEPA, for example, is a preferential treatment which Hong Kong enjoys as part of our country and it is hoped that the people of Hong Kong may benefit from it. However, quotas for textile exports to Europe and America are beyond the control of the SAR Government. I hope that the experts in the Government can exert their utmost in fighting for the people of Hong Kong the same kind of treatment enjoyed by other countries.

I agree with the Chief Executive's decision to build Container Terminal 10 as announced in the policy address last week. For as the import, export and re-export industries are important pillars of Hong Kong economy, such a productive investment should be made in order that our competitiveness can be consolidated and enhanced. The Government should take a step further to oversee the freight charges of the container terminals and the airport with a view to enabling a downward adjustment. This will prevent excessive handling fees causing an adverse impact on the sources of goods for import, export and re-export.

Madam President, with the opening up and reforms on the Mainland, as well as globalization of the world economy, there have been dramatic changes in the economic conditions in Hong Kong and all over the world in recent years. Business opportunities abound. Information is abundant and diverse. The import and export sector which I represent hopes that the Government will make an in-depth study into my motion so that the sector can know where to position itself.

Thank you, Madam President.

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

(Members raised their hands)

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

(No hands raised)

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

PRESIDENT (in Cantonese): Second motion: Better health care financing policy.

BETTER HEALTH CARE FINANCING POLICY

MR MICHAEL MAK (in Cantonese): Madam President, I move that the motion, as printed on the Agenda, be passed.

The SARS outbreak exposed all the problems in the health care system of Hong Kong. If the Government does not formulate a better health care financing policy, it may not be able to balance the interests of taxpayers, health care service providers and patients, and eventually it will only lead to a "all-lose" situation for the three parties. I have moved the motion of "Better health care financing policy" today with the purpose of pooling collective wisdom and urging the Government to squarely address the issue, to work out a better health care financing plan by extensively drawing overseas experience and to consult the public, so as to expeditiously formulate a long-term new policy that is workable.

Ever since the '80s of the last century, the Government has released several health care reports and consultative documents. In 1985, a report on the provision of medical services by hospitals, commonly known as "The Scott Report", recommended establishing an independent hospital management system. In 1990, the Working Party on Primary Health Care submitted a report entitled "Health for All The Way Forward", which advocated the vigorous promotion of primary health care. In 1993, a consultative document on the promotion of health, commonly known as "the Rainbow Document", also mentioned some charging and insurance proposals. In 1999, the Harvard Team presented an analysis report entitled "Improving Hong Kong's Health Care System: Why and For Whom?" (the Harvard Report), which criticized the Hong Kong health care system of being fragmented and compartmentalized, and recommended proper co-ordination and integration of the different services. And then we have the "Lifelong Investment in Health — Consultative Document on Health Care Reform" in 2000, that is, the document I am holding, which proposed the Health Protection Account (HPA) Scheme. Unfortunately, all such suggestions and proposals were eventually shelved and abandoned.

The public health care resources of Hong Kong are mainly financed by allocations of funds from the Government. In 2002-03, the total recurrent public expenditure on health was \$32.46 billion, accounting for 15% of the total public expenditure. The health expenditure of the territory account for 4.9% of Hong Kong's Gross Domestic Product (GDP), which is lower than the corresponding percentages of other developed countries. For example, the percentage of Australia was 8.3% and Canada 9.1%.

Unfortunately, though Hong Kong has a lower health expenditure as a share of GDP, there are many crises behind the beautiful picture to our eyes. This is because the health care system in Hong Kong has all along stressed on treatment, to the neglect of the significance of primary health care, and a good health care financing policy is absent. All these are the causes which lead to the present problems of imbalance between the public and private sector health care systems, the soaring health care costs, the mismatch of resources, and so on. As a result, our health care system is full of problems. It is just like the balloons I am holding, very vulnerable, and will burst at just one pinch.

In the following part of my speech, I would like to highlight several major problems.

First, the fast growing and ageing population. The population of Hong Kong is increasing continually. The Census and Statistics Department forecast that the population of Hong Kong would increase from 6.7 million in 2001 to 7.5 million in 2011. People aged 65 or above would increase from 480 000 in 1991 to 900 000 in 2011. It is anticipated that the rising and ageing population will bring tremendous pressure to bear on our public health care system. In fact, as we all know, the demand of the elderly people for health care services is very great. As such, if the Government still does not do anything in preparation of the situation, the quality of our health care system will only drop.

Second, there are the problems of a rising demand for public health care services and the imbalance between the public and private sector health care services. According to the statistics presented in the Annual Report of the Hospital Authority (HA) in 2001-02, between 1997-98 and 2001-02, the number of attendances at specialist clinic of public hospitals has increased by 19%, whereas attendances at accident and emergency (A&E) departments (including follow-ups there) have also increased by 16%. The imbalance between the utilization rates of public and private sector health care services has reached a ratio of 94:6. If we do not identify solutions to address this imbalance problem, it might eventually bring about the disastrous consequence of pushing the public health care system to its limits, making it burst in the end.

Third, there is an acute shortage of medical and health care personnel. The numbers of nurses and doctors per 1 000 people are 6.4 persons and 1.6 persons respectively. In the United States and Canada, the corresponding figures are over nine persons and 2.3 persons. The severe shortage of doctors and nurses has led to excessive working pressure on them, bringing them to the brims of exhaustion, or burnout, as it is called. If the Government does not address this problem properly, the medical and nursing staff may not be able to stand the pressure of work and resign eventually. Or they may lose their job satisfaction, or some medical incidents may occur.

Fourth, the problem of low staff morale. I had conducted a questionnaire survey in mid-2002, to which the respondents included medical and nursing staff serving in both public and private sector medical organizations. The findings revealed that, for the staff working in public and private sector health care services respectively, over 65% and 55% of them felt that their morale was low. The medical services of Hong Kong have enjoyed excellent reputation in the

world, as fully evidenced in the battle against SARS. Such an achievement can be attributed indeed to the dedication and professionalism of our health care workers. We should never underestimate the gravity and consequences of the problem of low morale among them.

The alarm bell of our health care services has been rung, loud and clear. The present health care financing policy cannot ensure the provision of quality health care services to the people in the long term. In fact, the health care financing policy should not focus on the use of funds alone. I suggest that the Government should take the following measures:

1. Making the people better understand the concept of health care costs. The people in fact do not understand the concept of health care costs, and that explains why they cannot make the best use of health care resources, such as the A&E services and medications. The Government should launch educational initiatives and assist the people in choosing the most suitable health care services. The people should be properly educated to foster correct concepts about seeking proper treatment and the costs of health care services, thereby ensuring that such services can be utilized in the optimal way.

2. Repositioning and integration of public health care services. The Financial Secretary has repeatedly stressed that we should maintain the determination to eliminate our fiscal deficit, and he also said that we should cut our resources. Yet the HA has been overspending for two consecutive years. Under such a situation when we have a shortage of resources and that the interests of patients should not be affected, the authority concerned, that is, the HA, should reposition itself and ensure that the health care services should be properly integrated.

3. Encouraging people with the means to take out suitable medical insurance. The success of Hong Kong is attributable to an accommodating community. Doing our own part for the general well-being of society is not just our responsibility, but it would promote social harmony and the development of society. Therefore, people with the means should not mind paying for a suitable health care insurance policy. It will facilitate the fulfillment of our social responsibility, and we shall also be able to get tailor-made health care services.

4. Providing approved training for health care personnel by private hospitals. In fact, in the light of the experience of overseas countries such as the United States, many of the outstanding members of the medical and nursing staff are trained by private sector health care systems. If private sector health care systems could put in more resources in this aspect, more people will be attracted to using their services. I hope private hospitals or private medical organizations can have a far-sighted vision and will be willing to inject more resources into the provision of approved training for their health care workers.

5. Improving the quality of services of private sector medical organizations (especially in enhancing the transparency of the fees charged). The private sector services have constantly come under public criticism, in particular, their fees and charges are substantially higher than those of their counterparts in the public sector. In fact, many people who can afford the service will turn to the public sector because they cannot estimate how much they may have to pay. They mainly worry that the charges may exceed their own budget. Therefore, I hope the private sector systems should enhance the transparency of the fees charged, thus providing sufficient information to the people to enable them to choose services suitable to them.

In fact, private organizations could provide a lot of services for the people. Many private clinics are still heavily booked and full of waiting patients. This fully illustrates that, if the services are good, the people are willing to pay for "tailored made" services.

6. Strengthen participation at the community level and vigorously promote primary health care services. For example, in recent years, the numbers of cases of heart diseases and excessive obesity have been rising. This shows that primary health care services are in fact very important. We hope the Government can strive ahead and spare no effort in doing work in this respect, such as improving the air quality, advocating a healthy way of life for the people, prohibiting smoking, and so on.

I hope to urge the Government to establish an inter-departmental co-ordination group to co-ordinate the work, especially in bringing together the District Councils, social service groups and health care workers from all walks of life in the promotion of primary health care services.

As a common saying goes, "Health is wealth." The building up of a healthy city actually requires the full participation of everyone in the community. Unfortunately, before the Government released the health care reform consultation document in 2000, it had absolutely not consulted the stakeholders. Therefore, I urge the Government, if the motion is passed, to consult different parties before it formulates the new health care financing policy, and not to repeat the same mistake as it did on the last occasion.

I beg to move, and hope that more Members can speak on and support my motion. Thank you, Madam President.

Mr Michael MAK moved the following motion: (Translation)

"That, as the existing health care financing policy fails to enable the public to receive sustained good-quality health care services, this Council urges the Government to work out a better health care financing plan in the light of overseas experience and to consult the public, so as to expeditiously formulate a long-term new policy that is workable."

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

MR BERNARD CHAN: Madam President, I cannot remember how many times this topic has been raised in this Council.

I have stated before that the current system of funding health care cannot continue. Hospital costs are rising. Our population is ageing. Expectations of health care quality are rising. But we already have a significant budget deficit, so, spending more and more government money is not a long-term option.

I recently read that the British National Health Service is sending patients for treatment to Spain. I do not know if our policy makers have considered outsourcing hospital treatment to other places in the region, but it might make their budgets go further for a while.

Ultimately, however, we will have no option but to require a larger proportion of our people to shoulder a bigger share of their health care costs.

There are various ways for this to be done. The insurance industry has offered suggestions in the past. It would not be too difficult to devise a system which gives people of working age a degree of private coverage to supplement public provision.

Private-sector involvement would definitely help reduce the pressure on the Government's finances. But it would also allow market forces to play a bigger role in the provision of health care. It would encourage efficiency among health care providers and greater choice for consumers.

When the time finally comes, the insurance industry will be ready to play an active role in reforming our health care finances in ways which will benefit the whole community.

Thank you, Madam President.

MR JASPER TSANG (in Cantonese): Madam President, I noted from the speech delivered by Mr Michael MAK in moving his motion that a substantial part of his speech had gone beyond health care financing. He was right in mentioning the reform of the entire health care services. Health care financing is essentially an important issue. However, when considering the desirability of reforming the health care system, is health care financing the most fundamental issue, or should it even be made our prime concern? I am quite sceptical about this.

There are, after all, just a few ways of health care financing, namely government subsidy, insurance, or different forms of saving by users or the public. Of course, many countries have adopted a combined system — with the burden shouldered partly by the Government and partly by medical insurance, and possibly savings. However, it can do nothing to "generate revenue". It only explains the source of money.

As pointed out by Mr Michael MAK, the public health care cost has, over the years, been primarily borne by general revenue. Apparently finding it

difficult to absorb the cost with the rising medical cost, the Government has failed to provide the public with sustained health care services. It is therefore necessary to find a solution. The Harvard Report has actually made a number of recommendations, and to address health care financing by insurance is just one of the various options proposed. There are other recommendations which merit our reference too.

However, there appeared to be, it was actually the case, considerable resistance in the community to the setting up of a central health care insurance system. We can see that there are abuses in other regions where a medical insurance system is being practiced. One of such examples is Taiwan. After the implementation of an insurance system, the health care cost of the entire community has on the contrary gone out of control, with figures climbing even more drastically. In the end, we can see the so-called premiums and insurance excess keep going up. Such a financing option is therefore not sustainable.

Another possible consequence is like the case in the United States, where health care providers cannot provide patients with adequate services because of the need to control cost, and a number of disputes concerning medical ethics and even the interest of patients have arisen as a result. Owing to the occurrence of similar problems, this recommendation has apparently disappeared into obscurity. Public acceptance of the recommendation is low too.

The so-called Health Protection Account (HPA) scheme, proposed by the Government subsequently, is fundamentally a savings scheme. However, it was pointed out by a large number of people at that time that this savings method would not offer much practical help to low-income earners and the chronically ill, because their long-term savings would still not be sufficient to meet their health care expenses. At the end, they would be forced to return to the public health care sector. The assistance thus rendered is essentially far from substantial.

Having said that, however, the quality of our existing public health care services is not bad indeed. Given that our health care expenditure accounts for only 6% or so of our Gross Domestic Product, a number of indexes, namely the general health condition of the public (such as the lengthening of our lifespan), the ratio between the number of hospital beds and the size of the population, the number of health care workers, and so on, are not bad compared to other advanced regions. Overall, our existing health care system is quite efficient.

Of course, such factors as an ageing population, a growing number of the chronically ill, and rising health care costs will definitely lead to pressure, and this is what we must review. However, should we also ask ourselves a question. For instance, we used to dine in a luxurious hotel. However, it has become increasingly expensive to do so and, at the same time, we find ourselves short of money. Of course, we can ask ourselves how we can generate more money or whether there are new ways to make money. At the same time, we can also ask whether we should instead find a suitable restaurant, depending on the amount of cash we have in our pockets, for a suitable meal.

Now I can think in the other way round by asking ourselves whether we should look at the matter the other way round — What standard should our public health care services achieve in the light of our current financing ability? It has been pointed out by many that, since the establishment of the Hospital Authority, the development of our public health care services has become quality-oriented. As a result, many people who otherwise are capable of affording private health care services have now switched to public health care services. At the same time, we have often heard of a loss of balance, so to speak, between public and private sector health care services.

There is a growing demand and pressure for public health care services. The improvement in the standard of service has led to a growing demand, and naturally constantly rising expenses. In our opinion, it is imperative for the Government to reach a consensus with the public on the standard of public health care services. In addition, the Government should obtain the public's support for attaining a certain standard before exploring ways of financing. For instance, the amount of health care resources previously injected by the Government in public hygiene and primary health care is far smaller than that injected in in-patient service, with the former accounting for only one tenth or so of the latter. After the battle against SARS, for instance, we have started to realize the importance of public hygiene and primary health care and health maintenance, where we can evidently see examples of irrationality and imbalance.

As such, Madam President, we see that the Government has the responsibility to meet health care expenses to safeguard the lives and health of the public. At present, the priority task for the Government is to reach a consensus with the public with respect to the long-term direction of health care development, and to give public health care services a new positioning.

MR HOWARD YOUNG (in Cantonese): Madam President, presently, the people rely too much on public health care services. The public hospitals and clinics of the Hospital Authority (HA) are now responsible for taking care of 95% of the patients in the territory. With the ageing of the local population and the ever increasing number of new immigrants, I believe the demand for health care services will only rise, instead of going down, in future. In the long run, it will become very difficult for the public purse to shoulder this burden. In the meantime, Hong Kong lacks a health care financing system with full participation of the people to meet the ever increasing health care costs. Therefore, in order not to further increase the financial burden of the Government, nor sacrificing the present high quality of health care services, we share the view that the Government should expeditiously identify a health care financing scheme that is workable.

All along, the Liberal Party supports the kind of saving concepts whereby the individuals should be responsible for their own health care expenditure in the future. This is because, once the people know that they have to shoulder their own health care expenditure, they will be relatively more prudent in using health care services. As such, we may prevent the abuse of services. In the long term, we can also reduce the burden on public health care organizations and keep the health care expenditure of the Government at a reasonable level, thereby avoiding causing excessive pressure on public expenditure in other aspects.

However, we have reservations about the types of mandatory medical savings schemes as proposed in the Harvard Report or the Health Protection Account (HPA) Scheme, especially when both employers and employees have to make contributions to the Mandatory Provident Fund (MPF) schemes now. The addition of a mandatory medical contribution may constitute a tremendous burden to them, which would be especially heavy at a time of economic downturn now.

Therefore, the Liberal Party thinks that the Government should actively study and draw reference from the experience of overseas countries to formulate a variety of medical insurance or savings schemes which could offer options to the people who may choose according to their actual needs and financial capabilities. Or just as always advocated by the Liberal Party, the Government may, in conjunction with the insurance industry, and private and public sector health care organizations, introduce measures such as contributory medical

schemes for voluntary contributions by the people, thereby offering more types of medical schemes to the people.

However, to make the implementation voluntary contribution schemes successful, the Government cannot just sit back and do some "empty talking", hoping that the people can be persuaded into taking out insurance policies and reducing their reliance on the Government, for there is basically no incentive to attract the people into taking out medical insurance voluntarily or switching to private medical services.

Madam President, in order to resolve this incentive problem, we think that the Government must introduce reforms in two aspects, namely, the medical fees charged and the overall health care system.

Firstly, the charging system of the local public health care system is excessively simple — the hospital charges are standardized and very much inexpensive, regardless of the seriousness and urgency of the cases. That explains why most people will patronize the public health care services, regardless of the illness they are suffering.

In fact, since government hospitals started implementing the charging system for accident and emergency (A&E) services, the total number of patients seeking treatment has dropped 10%. Among these patients, the number of non-acute patients has dropped 35%. Since fee adjustments were introduced in public hospitals in last April, the utilization rate of hospital beds has dropped more than 20%, and the overall number of patients seeking treatment at specialist clinics has also dropped 25%. These figures illustrate that there is indeed room for downward adjustment in the utilization rate of public health care services. Many people in fact can afford switching to private sector health care services. The key lies in a review of the charging system by the Government.

Apart from reforming the charging system, we think that the health care financing policy would not be successful unless it is complemented by a comprehensive reform of the health care system as a whole. First of all, we must educate the people that the era of free lunch is over and that we cannot expect the Government to continue providing free or exceedingly inexpensive health care services. We must tell the people this fact.

After reaching a consensus with the people, the next step the Government should take is to discuss the demarcation of roles to be played by the public and private sector health care systems. Through this, we should be able to link up the public and private sector health care systems more effectively, thereby providing more diversified options that cater to the specific needs of the people, and in the light of this new situation, medical resources can then be redistributed.

In other words, we must first let the people realize that the public health care services are not a panacea. Instead, there should be a division of labour between the public and private sector health care services, so as to provide medical services at different levels. Only in this way can we provide the incentive to induce the people to take out medical insurance policies or switch to private sector health care services.

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

MR NG LEUNG-SING (in Cantonese): Madam President, the problem with the financing policy of Hong Kong's medical system is similar to the problem of public commitment resulted from continued injection of public resources into the quality and quantity of public housing. This has generated considerable public concern and discussion, and this, of course, is also a very controversial issue. The Harvard Team's report published as early as in 1999 already proposed the introduction of a Health Security Plan of a social security nature in phases as well as the implementation of a MEDISAGE scheme. But since views were diverse in the community, these proposals have actually disappeared without a trace. Subsequently, in the consultation document on health care reform published by the Government, the Government had to settle for the second best by proposing a revamp of the existing fees structure in the public sector to patch things up here and there. Then, the Government introduced a series of adjustments to the fees of public hospitals, including fees for services at the Accident and Emergency Department, in-patient services and specialist out-patient services. Certainly, the Government has also proposed in the consultation document Health Protection Accounts which are a form of medical savings in nature. However, the Government considers this as a long-term financing reform. Under this scheme, which still remains at the stage of preliminary research, the savings in these accounts can only be a very limited subsidy for the medical costs.

The outbreak of Severe Acute Respiratory Syndrome (SARS) has highlighted certain merits and weaknesses of Hong Kong's public medical system. However, I believe members of the public are more concerned about how the quality and efficiency of medical services can be maintained. In the meantime, the overall economy of Hong Kong has undergone painful adjustments and members of the public do hope for more breathing space for them to take a respite. So, it is understandable that the people are all the more sensitive to any increase in the expenses borne by them. That said, we must realize that the quality and efficiency of medical services in the public sector fundamentally hinge on a financing system encompassing sustainability and long-term development. Despite adjustments in medical fees, the provision of public medical services is still heavily subsidized by public funds at 96%. Given the continued ageing of the population in Hong Kong, the demands for medical services will increase rather than decrease. So, whether the existing financial model can be maintained in the long run and, even if it can be maintained, whether the quality can be guaranteed are questions that warrant serious consideration by all sectors of the community.

I think since health is an important personal asset, each and every member of the community must have the awareness of investing for their personal health and must take actions to make such investment. The Government should, in the context of policy, consider ways to more effectively encourage the public to take out medical insurance in the private market. In the long term, I agree that the Government must study ways to implement a medical savings system. While the Health Protection Accounts are unlikely to become a major source of funding for public medical services, they are still consistent with the concept and principle of personal commitment and can therefore share some of the pressure on public expenditure in this area. This is undoubtedly a correct direction. Nevertheless, in the latest policy agenda of the Government, there is no mention of any study on such a scheme. I hope this does not mean that the scheme has already disappeared into obscurity. I also hope that the Government can regularly provide this Council with information on the relevant work progress or further adjustments.

Given that there will be no fundamental changes in the basic pattern of the sources of funding in the foreseeable future, I think the Government must consider the feasibility of further reforming the existing medical fees structure in the public sector and the grading of service providers. In this connection, I had met with the Secretary earlier to discuss with him the grading of hospitals.

While ensuring that everyone can access necessary primary medical services, studies can also be conducted on the grading of public hospitals and other types of subvented hospitals of a charity nature according to their service quality, based on which different fee levels can be set. The public can then choose from these fees levels and receive services of different quality accordingly. This can even be applied to nursing care services which can also provide users with choices of fee levels. This can ultimately reduce public subsidies for medical costs to a certain extent, and it naturally follows that a reasonable and scientific financing structure can be devised.

Madam President, I so submit.

DR LO WING-LOK (in Cantonese): Madam President, I took great comfort in listening to the speeches delivered by several colleagues earlier. Before assuming office as a Member of this Council, I gave my voters and the public an undertaking and, as a result, I was given a mission to change the thinking of health care decision-makers. It is hoped that, with the changes in thinking, the health care policy of Hong Kong can become more reasonable and compatible with the needs of society. To date, I am still not fully convinced whether the health care decision-makers have changed their thinking. However, from the speeches delivered by colleagues in this Council, I am convinced that they have gained a more in-depth understanding of our health care policy. Such terms as "financing" and "positioning", for instance, have been repeatedly heard over the years.

Actually, positioning and financing are a crucial issue in the review of Hong Kong's health care policy. Over the past several years, I was very honoured to have several opportunities to debate vigorously with Dr YEOH Eng-kiong on issues related to this area and have benefited enormously from the debates.

Why is a positioning of public sector health care necessary? It is obvious that both public resources and public money are limited. Even the richest government in the world may not be capable of meeting all the demands of its citizens for health care services. In this connection, a positioning of public sector health care is essential. Let me cite a piece of tablecloth covering a table as an example to illustrate my point. Given that the size of the tablecloth and the table is fixed, a certain part of the table will become exposed should the tablecloth be pulled to a particular side. Thus we may not be able to cover

everything we wish to indefinitely. The tablecloth, if forcibly stretched to eight different directions at the same time, might even tear apart. This example can also be expounded to illustrate that the health care system is in danger of collapsing.

SARS has apparently challenged us in this way indeed. During the outbreak of SARS, we could see that the initial response of the health care system was far from satisfactory. It was because our public health care resources had for some time been thinned in order to honour pledges made in various districts and promote services considered to be essential by various strata of the community. However, we seemed to have forgotten all about infectious diseases, or pestilences. The resources in our system, should they continue to be thinned indefinitely, will not be able to cope with such a tall challenge. Despite our constant singing of praises on our public health care system, it is nevertheless our ultimate hope that this system can act as the last refuge for the people.

When SARS first broke out, we really worried that this goal could not be realized. Towards the end of the outbreak, we could see that the wards in public hospitals (mostly general wards) had become so crowded that they became a hotbed for SARS to spread. This probably explains why Hong Kong was unable to halt SARS immediately. Such an unsatisfactory situation has also mirrored the fact that the tablecloth was in danger of tearing apart. It is fortunate that both the table and the tablecloth have remained intact so far. Therefore, I am very grateful to Mr Michael MAK for bringing up such a meaningful topic for discussion at this moment. We in the profession are particularly concerned. As such, public health care positioning is definitely needed.

It is right for the Government to state its foremost mission in the third paragraph of the policy address delivered by the Chief Executive by referring to SARS and public hygiene. However, my fellow co-workers from the medical profession have asked this question: Will it work when SARS seems to be the only consideration when the system is mentioned? I believe this is not going to last forever. Over the years, we have found the pendulum swinging towards other specialist treatments. Little consideration has been given to public hygiene and infectious diseases. If we can make use of this opportunity brought about by SARS and spend more time, probably one or two years, considering how the system can be fixed, we may be able to give public health care a clearer positioning.

SARS has also made us aware that we cannot neglect the private health care sector, which has contributed enormously to primary health care. Full co-operation between the public sector and private sector is warranted. Apart from playing a crucial role in making up for the deficiency of government hospitals, private hospitals can act like a lifeboat when the public hospital system is in danger of being paralysed. Every component is therefore crucial.

For this reason, I very much share Mr Jasper TSANG's point that positioning should come before financing. This is because a businessman have to find out what business he is going to do before talking about money. How can he talk about financing when he has not got any idea as to what business he is going to do?

Should the Government insist on giving an undertaking that every member of the public will be provided with all sorts of health care service, financing will never be adequate, and the Government is going to face a bottomless pit. As such, the priority task for the Government is to, if it is to respite in the way as mentioned by Mr TUNG, sit down and think what role the public health care system should play. The Government should also guide the public in considering the matter. Our limited health care resources, approximately \$30 billion annually, will surely be inadequate. What we need is double that amount. How can half this sum of money be generated? Obviously, the public will have to bear the burden. As the method of payment, as well as how the payment is to be spared fairly, is going to involve a tedious and crucial discussion, and it is now time for us to start, rather than postponing, the discussion indefinitely. Thank you, Madam President.

MISS CHAN YUEN-HAN (in Cantonese): Madam President, as some Honourable colleagues have said, public health care financing is an issue that has been brought up many times during this Session and in the last term of the Council. The Government has put forth many proposals and the Health Services Panel of this Council has also presented many views on the issue. I recall way back in the previous term of the Council, we knew that there would be further developments in respect of this issue. Earlier on, Mr Jasper TSANG mentioned the example of Taiwan in the adoption of an insurance system. Another typical example is that of the United States.

Whenever the subject of health care financing is mentioned, I would cite my personal example. When I visited the United States some time ago, I had a

car accident. Before that, the Government of the United States had taken out an insurance policy for me and the coverage was substantial. I also took out an insurance policy. I was so seriously injured in the accident that I could not walk. I had to be sent to hospital in an ambulance. However, they only took five X-rays of me and I was discharged from the hospital. I was not even given any medicine. Then I returned to Hong Kong and consulted a doctor. I asked the doctor why that had happened. I found out that in the United States, if a hospital spends a long time treating a patient, then the insurance companies may not underwrite any policies for the hospital in future. This shows that there is a cancer in the American health care insurance system, for such abnormalities do happen. In other words, the strong reactions in the community to the health care insurance system or other systems recommended in the report by the Harvard panel of experts is precisely because these systems do not work.

Hong Kong has a problem of an ageing population. Ten years ago, the ratio of people receiving public and private sector medical services was 8:2, that is, the proportion of those who received public sector medical services took up 80% of the total while those who received private sector medical services took up 20% of the total. But the situation has now changed to 94% receiving public sector medical services, while those who receive private sector medical services take up only 0.6% (sic). After the establishment of the Hospital Authority, the public sector managed to provide a one-stop service and it is very popular with the public. As population in Hong Kong ages, what then should be done? To adopt a medical insurance system, there are examples of failure. Or to introduce a full public sector health service then the situation could be like that in Canada where the system is fraught with loopholes. I recall in a residents' meeting, some people cautioned that the Canadian system should never be adopted in Hong Kong, for in Canada, as all medical services were public, the patients would have to wait for their turn to get treatment and they had to wait indefinitely. So even if some patients can survive if they can get prompt treatment, they may eventually lose their life waiting for their turn. These two systems are adopted throughout the world, but the system in Hong Kong is the best.

Now the situation in Hong Kong is like this. We now have a situation after more than a decade of reform in public sector medical services. How are we going to deal with it? I agree with Dr LO Wing-lok, who said earlier that this should be brought up for discussion. Members did discuss that during the last term and views were presented as to how that should be addressed. I can recall

that Dr LEONG Che-hung was the Chairman of the Panel at that time. We did discuss the problem. About problems like these, I think that we could arrive at some conclusions. However and unfortunately, the Government has not addressed these problems during the past few years. Certainly, one cannot blame the Government for it because of SARS and other issues that have cropped up. But I think the Government would have to address it anyway and it should not do anything which gives the public the impression now, namely a sudden announcement that there would be new arrangements for the casualty wards, some specialist departments would charge fees or increase their fees, and so on. From what I see now, I sense the Government is trying to gradually abandon its commitment to the provision of public medical services.

The Government of course says that the public should not be worried, because the poor will not be required to pay hospital charges. But that is not the consensus in society. The original dual system is the best. The present situation is caused by the fact that in recent years the public medical system has improved and that some renowned doctors now practise in public hospitals, so many people would like to have their operations performed there. Given this situation, the Government should address it squarely and start formal discussions on it.

The Hong Kong Federation of Trade Unions has always been thinking about something which has also been raised in the question asked by Dr LO Wing-lok earlier during the question time. It is about the matter of a few administrative directors in Britain who receive some special bonus as a matter of course every year. We should examine if such a practice should be allowed to go on. Now that resources are tight and the front-line medical workers have questioned whether such a system should exist at all. It is unfortunate that I could not have my turn to ask a question today and that is why I wish to make use of this opportunity to raise the question here. That is the case. Moreover, the Government has talked about the promotion of community health care and other related work, but I think that services in these aspects are not adequate. Hong Kong is a very advanced city and there is a high degree of transparency in all that we do. But what I see is that though we would hope that warnings can be issued before the outbreak of some diseases and through the community network we build, not enough work has been done presently.

Therefore, I think that when we discuss medical resources, we naturally come to the existing administrative framework of the Hospital Authority. I do

not wish to see a scenario to be created by the Government and that is: now the trend is to have public medical services taking the lead, and if this dominance is further enhanced, then we will face a more difficult situation. For I am worried that by then the Government will stress that it has to impose fee hikes and to adopt a medical insurance system, and so on. I do not want to see that happen. Therefore, I hope that the Government will let health care workers concentrate their efforts on that — of course, provided that the Government properly handles the recent suspected SARS cases first. Today I have a boiling hot feeling and it is like we are facing some great and daunting tasks. The question now is the Government must devise some plans and it must give a reply on that later. For example, it must respond to the long-standing proposal on a primary health care system. A sound primary health care system can reduce the chances of patients having to be hospitalized. I think the Government must devise a system. The proposal made by the Government has been around for a long time and some work has been done, only that it has been not much and not sufficient.

Furthermore, the overall structure of the Hospital Authority, that is, the problem mentioned this afternoon, also warrants some thinking by the Government. If people work as a team, you could say that the chief executive officer or the supervisor is very important, but the front-line workers are equally important indeed. Can these not be considered? When we talk about the present conditions, I hope the Government can really come forth and reopen discussions on health care financing in the community. However, we must admit that given only a few months left in this term, Members may not be able to do anything about it. Government officials are likewise busy, for there are SARS cases recently. I would suggest that the Government should start work right when the next term commences. Madam President, I do not want to see it start working in the second session. It must start working in the first session. *(the buzzer sounds)*..... Sorry. Thank you. I support the motion.

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

(No Member indicated a wish to speak)

SECRETARY FOR HEALTH, WELFARE AND FOOD: Madam President, first of all, I would like to thank the Honourable Michael MAK for moving a

motion on this very important subject of health care financing. I have listened carefully to the Members who have spoken this afternoon. Although there is a high degree of convergence in views on the importance of a sustainable health care system to the continuous provision of health care services to our community, there is certainly no convergence on the financing options.

It has long been the Government's policy that no one will be denied adequate medical services due to a lack of means. Over the years, the public and private sectors have served different but complementary roles, and together have provided comprehensive health care of a high standard to the Hong Kong community. The health indices achieved by our health care system are enviable. In 2002, the life expectancy at birth was 79 for men and 85 for women. The infant mortality rate reached as low as 2.4 per thousand live births in the same year, almost the best in the world.

While our existing health care system has served us well for many years, it has to evolve to meet the challenges. At present, our public health care services are heavily subsidized by general revenue. Fee income accounts for 4% of the Hospital Authority (HA)'s recurrent operating budget. The share of the public sector in the overall supply of services has been large. Over 90% of hospital services rendered to local residents are provided by the HA. In this current financial year, the public sector health care recurrent allocation amounts to \$31.9 billion, or 14.3% of the total recurrent public expenditure.

We expect the health care cost to continue to grow for several reasons. First, our population is ageing. At present, 11.7% of our population are at 65 or above, and we expect this figure will increase to 18.7% in 20 years' time. Older citizens have a greater cumulative risk of chronic illness and disability, requiring more intensive medical and rehabilitative services. Second, new technologies tend to be financially expensive, and need to be managed to ensure that they are appropriately applied and effectively used. Third, people tend to ask for more and better health care services as the community gets more affluent. The ever-increasing community aspirations will put further pressure on the total cost. Of course, this is not unique to Hong Kong.

In fact, there has been a decade-long deep debate on Hong Kong's health care financing policy. The first important milestone, as the Honourable Michael MAK indicated, dated back to more than a decade ago when the

document "Towards Better Health", or more commonly known as the "Rainbow Document", was published by the Government in 1993. This consultation document highlighted the need for reforming our health care financing system. A total of five options were identified, including a percentage subsidy approach, target group approach, co-ordinated voluntary insurance, compulsory insurance, as well as prioritization of treatment. As none of these options or a combination of them could attract an emerging consensus in the community, the *status quo* was preserved at the end of the consultation exercise.

In 1997, the Government commissioned the School of Public Health of Harvard University to conduct a study on the then health care system and to recommend necessary changes. The final report of the study was published in April 1999, in which the consultants pointed out that the long-term financial sustainability of Hong Kong's health care system was highly questionable. As a possible solution, the consultants proposed a Health Security Plan which would require a mandatory contribution of 1.5% to 2% of the salaries from the working population. This proposal was however not well received at all by the local community. In fact, it was rejected almost outright. Opponents pointed out that while the concept of risk-pooling was appealing, it would involve inter-generation subsidization; and given the ageing population and the declining percentage of young people in our society in the future, such an approach would put undue funding pressure on future generations.

In December 2000, taking into consideration the response to the Harvard Report, we proposed in the "Health Care Reform Consultation Document" the pursuit of three strategic directions to address the issue. These three directions are namely, (i) containment of costs and enhancement of productivity; (ii) a revamp of the public fees structure; and (iii) initiating studies to assess the feasibility of establishing Health Protection Accounts (HPA) in Hong Kong. The consultation document — I would like to remind Members — gave rise to intensive public interests. At the close of the former consultation period, over 700 return submissions were received from all sectors of the community. We have also attended a total of 152 briefing sessions with different stakeholders. We noted from the public response that there was an undisputed consensus on the need for reform, and many of our reform proposals in fact received wide support from the public. Let me state that we are proceeding in pursuit of these strategic directions, and would like to brief Members on the progress we have made on these fronts.

First, in achieving high cost-effectiveness of health care services, we always believe that the first place to look for better use of resources is from within the organization. Reducing costs and enhancing productivity can yield significant savings for redeployment, and this effort must be a continuous one.

With an ageing population and increasing demand for long-term care of the chronically ill, a better and more cost-effective way of providing health care services is to strengthen the community mode of health care delivery, particularly to the elderly. This will reduce the need for more expensive in-patient services as well as prevent or delay chronic conditions, and is thus a win-win strategy for both service providers and recipients. In this connection, the HA has implemented a number of new initiatives over the years. A notable example is the enhancement of medical care in residential care homes for the elderly through the Visiting Medical Officer programme, under which medical professionals from the private sector provide regular on-site medical consultation to the residents to supplement the support provided by geriatricians and community nurses from the public system. For psychiatric patients, the HA has also improved community-oriented care by strengthening the education of general practitioners and health care professionals in the community on elderly depression and suicide.

On the organizational and administrative fronts, the HA has also achieved higher cost-effectiveness by integrating and networking services among hospitals and hospital clusters, administrative downsizing at headquarters and hospital levels, rationalizing and re-engineering work processes, as well as centralizing procurement functions. We will continue to work with the HA to identify other means to improve productivity and efficiency in the fulfillment of its corporate plans and objectives.

Enhancing public-private collaborations is another important means to avoid unnecessary duplication of services and to even out capacity utilization across the system, thereby optimizing the use of limited health care resources. We have implemented a number of initiatives in recent years, such as developing referral protocols on various diseases/illnesses in consultation with the Hong Kong Medical Association, implementing a pilot scheme in the New Territories East hospital cluster to refer ante-natal patients to private doctors under a shared-care programme, and so on. We will continue to explore areas where resource-sharing arrangements between the public and private health sectors can be gainfully pursued.

Second, regarding the revamping of fees and charges, we agree with Members that given the finite resources, public funds should be channelled to assist lower income groups and to services which carry major financial risks to patients. A full-scale review of our public fees structure was conducted in 2001 with a view to targeting government subsidies at areas with the greatest needs. The review also examined how the relative priorities of services provided may be reflected in the subsidy level and how inappropriate use and misuse of services can be minimized. We have in fact reported back the results of the studies to Members, and how we would be proceeding in the days ahead.

Following completion of the review, we introduced in November 2001 a new fee for the Accident & Emergency (A&E) services. Last April, we have further adjusted the fee level of some other public health care services. The revised fee structure has been effective in influencing public behaviour in the desired direction. Twelve months after implementation of the new A&E charges, the utilization rate of our A&E services has decreased. Compared to October 2002, the total number of semi-urgent and non-urgent cases in October 2003 has decreased by around 29 000 attendances, reflecting a reduction in inappropriate use of A&E services.

It should be noted that the revamped fee structure has not affected the affordability of public health care services to the community. Recipients of Comprehensive Social Security Assistance (CSSA) continue to enjoy waivers of their medical expense. To assist vulnerable groups in the community who are non-CSSA recipients, we have introduced an enhanced medical fee waiver system since April 2003 to provide protection from undue financial burden. Moreover, the maximum validity period of waiver certificates has been increased from six to 12 months.

The impact of the revised fees on service utilization will be evaluated on an ongoing basis. Such evaluations will shed light on further fee restructuring which may be needed to ensure that public subsidies are channelled to various services in the most appropriate manner.

The third element of our overall comprehensive review of the financing system is the HPA. I shall now proceed to talk about studies on the HPA. To strengthen the long-term financial sustainability of our health care system, we have floated in the earlier consultation document the idea of introducing HPA in Hong Kong. Simply put, HPA schemes require individuals to set aside a

proportion of their wages during working years to meet the increase in expenditure on health care after retirement. In fact, the substantial health care spending during old age would be spread over a longer time span, and the financial burden on the account-holders' offsprings or relatives would be lessened.

To examine in greater depth the merits of HPA schemes, we have formed a study group involving medical doctors, epidemiologists, actuaries, economists, statisticians and social scientists from the local universities, the HA and the Department of Health. In addition, overseas academics from renowned universities have contributed to the process as external advisers. The group has conducted a number of interrelated studies covering health care services utilization, saving behaviour of the general public, public attitudes and preferences on HPA schemes, as well as relevant actuarial and econometric modelling research. The findings of these studies are being reviewed by the overseas advisers. We intend to discuss with the Panel on Health Services of this Council later in the year on how we shall be proceeding with the longer-term financing proposals in the light of these studies.

In developing the different proposals in the last decade, we have in fact studied and drawn reference to overseas experience in identifying a suitable health care financing model for Hong Kong. The study group has also, in the course of its work, researched into the health care financing models of major economies worldwide. I would like to take this opportunity to mention some of the generalizations which could be drawn.

The first salient finding is that most health care systems feature a mix of funding sources ranging from general taxation, social health insurance, out-of-pocket payments, private health insurance to medical saving accounts. Apparently, there is no one-size-fits-all formula as to what combination of these sources would best suit a particular economy or country. In actuality, the optimal mix would depend on the unique circumstances and challenges faced by an economy such as the tax regime, demographic features, patient behaviour and preferences, and so on.

Another point of interest is that there is considerable diversity across economies in terms of the predominant funding source. In the case of Europe, general taxation is the primary source of funding in a number of countries including the United Kingdom, Denmark, Sweden, Italy and Spain, while social

health insurance contributions are the principal source in Germany, France and the Netherlands. The health care systems in Australia and New Zealand are substantially funded by income taxes. As regards the Asian economies, social health care insurance schemes are adopted in Japan, Korea and Taiwan. The Mainland and Vietnam have mostly relied on taxation to finance their health care systems, whilst medical saving accounts contribute significantly to funding the health care system in Singapore.

In closing, I wish to assure Members that the Administration is as concerned as the Legislative Council about the longer-term financial sustainability of our health care system. Building on the achievements made in respect of productivity enhancement and the restructured fees, we are conducting a number of studies which will enlighten on the new financing model which could be contemplated for Hong Kong. It is our intention to continue dialogue with the public on the way forward, after thoroughly reviewing the study findings.

As rightly pointed out by some health care financing experts, the public acceptability and political deliverability of any reform option are as important as its worthiness in the sustainability dimension. From what I heard today in the Legislative Council, there does not seem to be any consensus on the options which we should be proceeding with. Given the complexity of this subject and the far-reaching implications a new financing arrangement may have on our community and the economy, we will certainly consult the Legislative Council, the major stakeholders and the general public thoroughly before making any further proposals.

Thank you, Madam President.

PRESIDENT (in Cantonese): Mr Michael MAK, you may reply now. You still have three minutes two seconds.

MR MICHAEL MAK (in Cantonese): Madam President, given the small number of Members who have spoken today, even the Secretary remarked in the end that it occurred to him that this Council had not reach a consensus on any particular suggestion. I find this most unfortunate. I wonder if the approach of the Lunar New Year has anything to do with Members' view of money.

However, I would like to tell Members, including Mr Jasper TSANG (he is not in this Chamber at the moment), health care financing is not about money only. He seems to think that it is just about money. There is indeed a very complicated issue. I think he should know no better than I do. Someone has related this question to a number of relevant issues by saying that appropriate support measures are essential to good health care financing. Many people, not only the Honourable Member, know how to make a remark like this. However, can all the problems be resolved merely by setting up an insurance system? Definitely not. This is because the system is plagued with numerous problems, one of which being "moral risk". I decided not to support the setting up of the HPAs initially because a high degree of moral risk was involved. It is difficult for us to estimate whether we will live until the age of 65. Right? Therefore, such a moral risk does exist as early as the age of 24 because people at the age of 24 do not have to make contributions until they are 40.

I have to say that health care financing is not so simple. Nevertheless, I very much appreciate the point raised by Dr LO Wing-lok, that more discussions are warranted in this Council. I was not here in this Council in the previous term, and I have no idea how many discussions had been held then. Nevertheless, I gathered from the information about this Council that there were discussions about this matter.

It seems what has been frequently mentioned by me during this term, including the numerous questions raised by me, was largely targeted at the Secretary. Right? As far as I can recall it, it was the Secretary who responded to my fourth, fifth and sixth motions. The Secretary has made some in-depth efforts this time around because he has apparently made an effort to study the wording of my motion. For instance, he has at least studied the health care financing options available to other countries.

I do not hope to see only six Members speak, like what happened today, when this question is presented to the Legislative Council Panel on Health Services for further discussion, for I will feel very lonely, even though we all wish to leave earlier. It appears we have decided to bring up the matter for discussion again in around May or June. I hope Members will speak enthusiastically because this question is no small issue. It is extremely complex and its implications can be far-reaching. Neither should we think money is the only concern, nor should we think the matter can be easily resolved by money. It is not only money that matters. In my opinion, it involves education, for

instance, how the Hong Kong Medical Association, to which Dr LO Wing-lok belongs, can provide assistance and how the quality of private medical practitioners can be assured, and so on. Thank you, Madam President.

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

(Members raised their hands)

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

(No hands raised)

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

NEXT MEETING

PRESIDENT (in Cantonese): This is the last meeting for this lunar year. I now adjourn the Council until 2.30 pm on Wednesday, 4 February 2004. Honourable Members, let us meet again in the Year of the Monkey.

Adjourned accordingly at twenty-five minutes past Seven o'clock.

Annex**EDUCATION (MISCELLANEOUS AMENDMENTS) BILL 2003****COMMITTEE STAGE**Amendments to be moved by the Secretary for Education and Manpower

<u>Clause</u>	<u>Amendment Proposed</u>
1	<p>By deleting subclauses (2) and (3) and substituting -</p> <p>"(2) This Ordinance shall come into operation on a day to be appointed by the Secretary for Education and Manpower by notice published in the Gazette."</p>
2	<p>(a) By deleting "'." at the end.</p> <p>(b) By adding -</p> <p>"DSS school" (直資學校) means a school which has joined the Direct Subsidy Scheme administered by the Permanent Secretary under which the school receives subsidy directly from the Government on such terms and conditions as specified by the Government from time to time;".</p>
3	<p>By deleting "repealed" and substituting "amended by repealing "a school" and substituting "an aided school or a DSS school"</p>
4	<p>(a) In paragraph (a), by deleting the proposed section 22(1)(ca) and substituting -</p> <p>"(ca) upon the written application of the supervisor, if the registration or provisional registration of</p>

ClauseAmendment Proposed

the school, not being an aided school or a DSS school, was effected -

(i) before the commencement of section 3 of the Education (Miscellaneous Amendments) Ordinance 2003 (of 2003); and

(ii) under section 10(2) in respect of evening instruction;".

(b) By deleting paragraph (b).

5 In the proposed section 59(3), by deleting everything after "procedure" and substituting "and the procedure for appeals and make standing orders for those purposes.".

6 By deleting the clause and substituting -

"6. Right of appeal to Appeal Board

Section 61(1) is amended -

(a) by repealing "the Appeals" where it first appears and substituting "an Appeal";

(b) by repealing "Appeals Board" where it secondly appears and substituting "Appeal Boards Panel".

7 (a) In paragraph (a)(ii), in the proposed section 62(1)(aa), by deleting "subsection (1A) to hear the appeal" and substituting "subsections (1A) and (1AA) to hear and determine the appeal".

ClauseAmendment Proposed

- (b) In paragraph (b), by adding after the proposed section 62(1A) -

"(1AA) Where an Appeal Board hears or determines any appeal concerning the registration of a teacher or the cancellation of the registration of a teacher, at least 3 of its members must be registered teachers.".

- 11 (a) By deleting paragraph (a) and substituting -

"(a) in paragraph (a)(i) and (ii), by repealing "the Appeals" and substituting "an Appeal";".

- (b) By deleting paragraph (b) and substituting -

"(b) in paragraph (b), by repealing "the Appeals" wherever it appears and substituting "an Appeal".".

- 14 (a) In subclause (1) -

- (i) in paragraph (a), by deleting everything after "Panel" and substituting "for a period equal to the term of his office that would have remained had this Ordinance not been enacted, or until he ceases to be so for any reason before expiry of the period;";

- (ii) by deleting paragraph (b) and substituting -

"(b) the person who was the Chairman of the former Appeals Board immediately before the commencement date is deemed to be the Chairman of the Appeal Boards Panel for a period equal

ClauseAmendment Proposed

to the term of his office that would have remained had this Ordinance not been enacted, or until he ceases to be so for any reason before expiry of the period;

- (c) an Appeal Board which consists of members and the Chairman referred to in paragraphs (a) and (b) or includes the Chairman or any such member is deemed to be a properly constituted Appeal Board for the purposes of the Amended Ordinance."

- (b) In subclause (3) -

(i) by deleting "經修訂" and substituting "本";

(ii) by deleting everything after "member" and substituting "or the Chairman of the former Appeals Board serving for the period as provided in subsection (1)(a) or (b), as the case may be."

- (c) In subclause (5), in the definition of "commencement date", by deleting "under section 1(3)" and substituting "for the commencement of section 5 of this Ordinance under section 1(2)".

17 By deleting everything after "repealing" and substituting "'the Appeals" and substituting "an Appeal".

18 In paragraph (a)(i), by adding "of" before "either".

19 By deleting "APPEAL BOARDS PANEL" and substituting "APPEAL BOARD".

ClauseAmendment Proposed

20 (a) In subclause (1), by deleting "1 September 2003" and substituting "the commencement date".

(b) By deleting subclause (2) and substituting -

"(2) A person who possesses the prescribed qualifications for registration as a teacher immediately before the commencement date may apply for registration within 2 months from the commencement date and the application is to be disposed of as if this Ordinance had not been enacted.

(3) This section is in addition to and not in derogation from section 23 of the Interpretation and General Clauses Ordinance (Cap. 1).

(4) In this section and section 20A, "commencement date" (生效日期) means the date appointed by the Secretary for Education and Manpower for the commencement of section 18 of this Ordinance under section 1(2) of this Ordinance."

New By adding immediately after clause 20 -

**"20A. Transitional provisions
regarding qualifications
of permitted teachers**

(1) Notwithstanding section 51(1)(c) of the Education Ordinance (Cap. 279), the Permanent Secretary may issue a permit under section 50 of that Ordinance in respect of a person who was serving as a permitted teacher in a school immediately before the commencement date even though the person does not possess the prescribed

ClauseAmendment Proposed

qualifications for a permitted teacher on or after the commencement date.

(2) Subsection (1) applies where -

- (a) an application to employ the person as a permitted teacher in a school is made under section 49 of the Education Ordinance (Cap. 279) within 5 years from the commencement date; and
- (b) at the time of making the application the person has been enrolled in or is attending a training course approved by the Permanent Secretary for the purpose."

Appendix I**WRITTEN ANSWER****Written answer by the Secretary for Home Affairs to Mr CHAN Kam-lam's supplementary question to Question 1**

In 2002-03, the Leisure and Cultural Services Department organized a total of 21 035 recreation and sports training courses. The total expenditure on the pay for part-time recreation and sports instructors employed for these courses amounted to \$57.9 million.

Appendix II**WRITTEN ANSWER****Written answer by the Secretary for Security to Mr Andrew WONG's supplementary question to Question 4**

The Director of Immigration has the discretionary power to approve applications for foreign domestic helpers to perform driving duties. The Immigration Department (ImmD) considers each application on its own merits. Generally speaking, the employer of the helper must justify the need for the helper to perform driving duties incidental to and arising from domestic duties (namely household chores, cooking, looking after aged persons in the household, baby-sitting and child-minding) and meet other relevant requirements (such as the helper is living in the employer's place of residence and he/she possess a valid Hong Kong driving licence, and that the vehicle must be registered under the name to the employer or his/her spouse) for the application to be approved.

The ImmD does not have a specific definition for aged persons for the purpose of processing applications for foreign domestic helpers to undertake driving duties. In processing an application based on the grounds of looking after aged persons in the household, the employer is required to provide specific details, such as the age of the elderly persons to be taken care of, whether they are physically disabled, whether they are of poor health and need to visit clinic often, together with relevant proof so that the ImmD can assess the employer's actual need. The age of the persons to be taken care of is only one of the factors which the ImmD will take into account in processing these applications.

CORRIGENDUM

Page 2554, fourth paragraph, should be amended as follows:

PRESIDENT (in Cantonese): I think the Secretary has already done his best to answer the question.