

# **OFFICIAL RECORD OF PROCEEDINGS**

**Wednesday, 3 March 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 CYD HO SAU-LAN

THE HONOURABLE ALBERT HO CHUN-YAN

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

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

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

THE HONOURABLE MARGARET NG

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

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 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.

THE HONOURABLE WONG YUNG-KAN

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 MIRIAM LAU KIN-YEE, 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

DR THE HONOURABLE LAW CHI-KWONG, 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 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.

### **MEMBERS ABSENT:**

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

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

THE HONOURABLE NG LEUNG-SING, J.P.

THE HONOURABLE JAMES TO KUN-SUN

THE HONOURABLE CHAN KAM-LAM, J.P.

DR THE HONOURABLE PHILIP WONG YU-HONG, G.B.S.

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

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

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

THE HONOURABLE TIMOTHY FOK TSUN-TING, S.B.S., J.P.

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

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

## **PUBLIC OFFICERS ATTENDING:**

THE HONOURABLE MICHAEL SUEN MING-YEUNG, G.B.S., J.P.

THE CHIEF SECRETARY FOR ADMINISTRATION AND  
SECRETARY FOR HOUSING, PLANNING AND LANDS

THE HONOURABLE HENRY TANG YING-YEN, G.B.S., J.P.

THE FINANCIAL SECRETARY

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

THE SECRETARY FOR JUSTICE

DR THE HONOURABLE YEOH ENG-KIONG, J.P.

SECRETARY FOR HEALTH, WELFARE AND FOOD

DR THE HONOURABLE SARAH LIAO SAU-TUNG, J.P.

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

THE HONOURABLE FREDERICK MA SI-HANG, J.P.

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY

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

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

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

MR RAY CHAN YUM-MOU, ASSISTANT SECRETARY GENERAL

**TABLING OF PAPERS**

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

Subsidiary Legislation/Instruments	<i>L.N. No.</i>
Merchant Shipping (Local Vessels) (Certification and Licensing) Regulation.....	27/2004
Merchant Shipping (Local Vessels) (Typhoon Shelters) Regulation .....	28/2004
Rectification of Errors Order 2004.....	29/2004
Tax Reserve Certificates (Rate of Interest) (No. 2) Notice 2004.....	30/2004

**Other Papers**

- No. 66 — The Government Minute in response to the Report No. 40A of the Public Accounts Committee dated November 2003
- No. 67 — The Lord Wilson Heritage Trust Annual Report 2002-2003

**ADDRESSES**

**PRESIDENT** (in Cantonese): Address. The Chief Secretary for Administration will address this Council on The Government Minute in response to the Report No. 40A of the Public Accounts Committee dated November 2003.

**The Government Minute in response to the Report No. 40A of the Public Accounts Committee dated November 2003**

**CHIEF SECRETARY FOR ADMINISTRATION:** Madam President, laid on the table today is the Government Minute responding to the Report No. 40A of

the Public Accounts Committee (PAC). The Minute sets out the measures which the Administration, the University Grants Committee (UGC) and the institutions have taken or are taking on the conclusions and recommendations contained in the Report No. 40A.

The PAC Report covers a wide range of issues concerning the UGC-funded institutions. The Administration is grateful to the PAC for the time and effort spent on examining these.

The Honourable Emily LAU, Deputy Chairman of the PAC, spoke on 19 November last year when tabling the PAC's Report. I would like to respond to some of her comments.

The PAC has made valuable observations and recommendations on the governance structure of the UGC-funded institutions. We welcome the constructive advice and will pursue it vigorously. Indeed, as Members may recall, the Government had accepted in 2002 the UGC's recommendation that the universities should review their governance and management structures to ensure that they are appropriate for modern days, drawing on international principles and good practices. The PAC's advice is thus entirely in line with the Government's decision following the Higher Education Review.

The UGC-funded institutions have generally responded very positively to the PAC's recommendations on institutional governance. Following the release of Audit Report No. 40 and in line with the recommendation of the Higher Education Review, all institutions have undertaken reviews, some even on a regular basis, on their governance structures.

Our higher education sector is faced with keen competition in the region and globally. It is thus important for the governance structures of the UGC-funded institutions to be "fit for the purpose", and appropriate to their different roles and unique endeavours. The governance structures should also be capable of enabling the institutions to be strategic in institutional development, responsive to changes, and effectively geared up for further advancement in academic endeavours and other pursuits, so that our higher education sector can stay competitive in the region.

The institutions' reviews cover a wide range of issues, including those identified in the PAC Report relating to the size and composition of councils,

appointment of council members, attendance of external members at council meetings, setting up of audit committees and regular reviews of governance structure. The reviews are at different stages. For those completed, the outcome is generally positive.

By way of illustration, the PAC has recommended that external members should constitute a majority at council meetings. Some institutions have responded by reducing the number of internal members, thereby increasing the ratio of external to internal members. Some institutions are considering whether a quorum of their council meetings should only be formed when external members are in the majority.

The PAC has suggested publishing the attendance records of external members. Most institutions have agreed to do so. A few are either disclosing such records upon request, or are considering other ways to promote attendance and participation of external members.

The PAC has further recommended that three of the institutions should set up an audit committee to strengthen their internal audit function and corporate governance structure. Two of these have decided to do so. The third is studying the proposal.

The PAC has recommended, among other things, that the UGC-funded institutions should pay due regard to the international pay levels for university academic staff and changes in local pay trend in the comprehensive review of their pay structure. On this, Members will recall that the Finance Committee of the Legislative Council has just approved the deregulation of university salaries as from 1 July 2003. Institutions are now free to decide their own remuneration system and, with this flexibility, are better placed to compete in the recruitment of personnel at the global level, and bring their staff salaries in line with the prevailing market rates.

All institutions have undertaken or are undertaking a review of their remuneration structures, making reference to international and local pay levels. While some of these reviews are still in progress, the general approach adopted is to develop salary structures which can better reflect the local market conditions and which include a merit-based element, for instance, in awarding annual salary increments.



Since the bulk of the salary payments to university staff come from public funds, there is a clear responsibility for disclosure to enhance transparency and accountability. In late 2003, the UGC issued disclosure guidelines requiring institutions to disclose the number of higher paid staff, irrespective of the funding sources.

Institutions have been requested to undertake reviews to enhance as far as possible, transparency and accountability in the application of funds obtained from non-public sources. Where appropriate, disclosure standards similar to those in respect of public funds should be adopted.

Madam President, we take the PAC's recommendations very seriously. As shown in the Government Minute, the Administration, the UGC and the institutions are taking follow-up actions in response to the various recommendations of the PAC. We will continue to monitor the progress of actions taken, and make regular reports to the Legislative Council. Thank you.

## ORAL ANSWERS TO QUESTIONS

**PRESIDENT** (in Cantonese): Questions. First question.

### Triad Infiltration in Schools

1. **MR FREDERICK FUNG** (in Cantonese): *Madam President, regarding the problem of triad infiltration in schools, will the Government inform this Council of:*

- (a) *the number of primary and secondary school students arrested by the police for suspected involvement in triad activities in each of the past three years, and the percentage of such cases in the total number of primary and secondary school students arrested, and provide a tabulation of the figures by police districts;*
- (b) *the respective numbers of police officers currently assigned to be School Liaison Officers (SLOs) for secondary and primary schools, and the average number of schools under the charge of each SLO, and provide a tabulation of the figures by police districts; and*

- (c) *the measures other than the School Liaison Programme to curb triad infiltration in schools?*

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

- (a) The figures on primary and secondary school students arrested, and those suspected of involvement in triad activities in the three years from September 2000 to August 2003, are listed at Annex 1.
- (b) The number of SLOs for primary and secondary schools for each district, and the average number of schools that each officer is in charge of, are listed at Annex 2.
- (c) Police information indicates that illegal activities in schools are mostly incidents of bullying peers, such as battery or extortion, provoked by common quarrels. Currently there is no evidence of triad societies carrying out organized infiltration activities in schools to recruit students as members. Nonetheless, the Government will not be complacent, and will prevent triad infiltration in schools from various angles.

In respect of prevention, government departments have been co-operating closely with schools, parents and non-government organizations (NGOs) on activities, such as promotion or education programmes, to prevent triad infiltration in schools.

The police SLOs of primary and secondary schools maintain regular contact with the Anti-triad Sections of respective police districts to co-ordinate liaison efforts and activities with schools, and organize lectures and seminars on triad problems for teachers and students, in order to prevent students from being influenced by illegal elements.

Besides, the police undertake anti-crime operations frequently by patrolling places near schools and those that children and youth frequent, such as amusement game centres, Internet cafes and shopping arcades, to deter commission of crimes and curb potential triad activities.

The Education and Manpower Bureau has formulated a number of measures to prevent triad influence on students in primary and secondary schools. These include providing schools with guidelines on dealing with triad issues in the School Administration Guide, development of a set of teaching material on Triad Problem in School to encourage schools to assist students to stay away from triads. The Bureau also organizes seminars for school principals and teachers, at which representatives of the police and the Social Welfare Department (SWD) will share with the participants how to deal with and prevent triad infiltration. The Bureau also collaborates with the police in conducting the Smart Teen Challenge Project. The project aims to improve students' self-discipline and resilience, and promote their law-abiding behaviour through rigorous discipline and physical training.

Both the SWD and NGOs provide support services for secondary schools to enhance their resilience against undesirable influences. These include the implementation of the "one school social worker for each secondary school" policy, the enhancement of outreaching services for youth-at-risk, and the establishment of Integrated Children and Youth Services Centres. Furthermore, from the 2001-02 school year, the Understanding the Adolescent Project (UAP) was implemented, with the aim of building up the resilience of youths in meeting life's challenges.

In respect of law enforcement, on receiving complaints alleging that students are involved in triad activities, the Anti-triad Sections of the relevant police district would take follow-up actions immediately.

Apart from prosecution in serious cases, the police caution students involved in minor cases under the Police Superintendents' Discretion Scheme (PSDS). This will provide an opportunity for young persons to rehabilitate without being prosecuted.

In respect of facilitating rehabilitation, where the offenders are cautioned under the PSDS, referrals will be made as appropriate to the Education and Manpower Bureau, the SWD and agencies under the Community Support Service Scheme for follow-up.

Where the offenders are prosecuted and convicted, the Correctional Services Department and the SWD will provide, in accordance with the sentence, rehabilitation services, aftercare services and probation services, and so on, to help these offenders to turn over a new leaf.

## Annex 1

The number of primary and secondary school students arrested,  
and those suspected of involvement in triad activities

*September 2000 to August 2001*

<i>Region</i>	<i>Primary school students</i>			<i>Secondary school students</i>		
	<i>Number arrested</i>	<i>Suspected involvement in triad activities</i>		<i>Number arrested</i>	<i>Suspected involvement in triad activities</i>	
		<i>Number</i>	<i>%</i>		<i>Number</i>	<i>%</i>
Hong Kong Island	97	6	6.2%	635	89	14.0%
Kowloon East	74	1	1.4%	409	65	15.9%
Kowloon West	168	2	1.2%	673	44	6.5%
New Territories North	239	7	2.9%	1 539	86	5.6%
New Territories South	122	3	2.5%	795	38	4.8%
Marine	1	0	0	13	0	0
Total	701	19	2.7%	4 064	322	7.9%

*September 2001 to August 2002*

<i>Region</i>	<i>Primary school students</i>			<i>Secondary school students</i>		
	<i>Number arrested</i>	<i>Suspected involvement in triad activities</i>		<i>Number arrested</i>	<i>Suspected involvement in triad activities</i>	
		<i>Number</i>	<i>%</i>		<i>Number</i>	<i>%</i>
Hong Kong Island	125	1	0.8%	566	66	11.7%
Kowloon East	135	1	0.7%	474	41	8.6%
Kowloon West	76	1	1.3%	518	47	9.1%
New Territories North	381	2	0.5%	1 524	129	8.5%
New Territories South	117	4	3.4%	574	76	13.2%
Marine	5	0	0	28	4	14.3%
Total	839	9	1.1%	3 684	363	9.9%

*September 2002 to August 2003*

<i>Region</i>	<i>Primary school students</i>			<i>Secondary school students</i>		
	<i>Number arrested</i>	<i>Suspected involvement in triad activities</i>		<i>Number arrested</i>	<i>Suspected involvement in triad activities</i>	
		<i>Number</i>	<i>%</i>		<i>Number</i>	<i>%</i>
Hong Kong Island	90	1	1.1%	665	68	10.2%
Kowloon East	141	1	0.7%	725	70	9.7%
Kowloon West	99	0	0	496	53	10.7%
New Territories North	314	1	0.3%	1 539	123	8.0%
New Territories South	218	3	1.4%	894	81	9.1%
Marine	5	0	0	18	0	0
Total	867	6	0.7%	4 337	395	9.1%

## Annex 2

Number of SLOs for primary and secondary schools,  
and the average number of schools per officer

<i>Region</i>	<i>No. of primary schools</i>	<i>No. of SLOs</i>	<i>Average no. of primary schools per officer</i>	<i>No. of secondary schools</i>	<i>No. of Secondary SLOs</i>	<i>Average no. of secondary schools per officer</i>
Hong Kong Island	153	6	25.5	99	7	14.1
Kowloon East	118	3	39.3	92	5	18.4
Kowloon West	150	5	30	107	7	15.3
New Territories North	118	5*	23.6	121	7	17.3
New Territories South	202	7*	28.9	166	7	23.7
Marine	10	0	0	3	0	0
Total	751	26	28.9	588	33	17.8

\* One of the officers serves as SLO for both primary and secondary schools, and is counted under the primary school figures above.

**MR FREDERICK FUNG** (in Cantonese): *Madam President, from the figures provided in the Annexes, we can see two conditions which are quite obvious.*

*First, there has been a progressive annual increase in the number of primary school students arrested within these three years, while the number related to triad societies has been decreasing progressively. Second, the number of secondary school students arrested is stable, at around 4 000, but the number involved in triad activities is increasing progressively. In other words, the problem of triad related activities is serious in secondary schools. May I ask the Secretary if these figures indicate that the police can do nothing to bring down the figures with regard to its handling of triad problems in secondary schools? Is the continual increase in these figures an indication of the police's inability to handle the problem?*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, having regard to the triennial figures which we provide, the percentage of the number of secondary school students arrested and that of the number involved in triad activities stood at 7.9% between September 2000 and August 2001; it actually rose to 9.8% between September 2001 and August 2002, but dropped again to 9.1% between September 2002 and August 2003. I think the figures are rather stable — increasing in one year and decreasing in another. Just as I have said in the main reply, at present, we do not think there is any evidence pointing out that triad societies have infiltrated in schools in an organized manner. Having said that, the figures for these few years have remained between 8% and 9%.

**MR WONG SING-CHI** (in Cantonese): *Madam President, the Annexes provided by the Government indicate that over the years, there has in fact not been any big difference in the percentages for several regions, particularly recently. This is especially so for New Territories North, New Territories South and several other regions, whereby the difference is only one to two percentage points. However, the number of SLOs for secondary schools in New Territories North is clearly smaller. On average, each SLO is responsible for 23.7 secondary schools, while for those in the other regions, they are only responsible for 14, or 17 to 18 secondary schools. I would like to know why we have such a situation? Is it because New Territories North does not have enough manpower to handle the work of SLOs for secondary schools?*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, since the situation of schools in each region differs, the number of students, demand for

services and the way in which the police co-operates with various organizations in handling youth problems is not entirely identical. Thus, in its deployment of regional liaison officers, the police does not have a rigid unified ratio for schools, requiring it to be the same for each region. We will handle the matter suitably and with flexibility, mainly for the purpose of tying in with resources and handling the matter more appropriately.

**MR YEUNG YIU-CHUNG** (in Cantonese): *Madam President, may I ask what does the work of SLOs cover and what is the nature of their work? Would they take part in policy discussions and work done in schools to prevent the infiltration of triad societies?*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, there are two levels for our SLO programme — at the primary schools and at the secondary schools. At present, each police district has one to three SLOs for secondary schools, and one to two other SLOs, that is, officers responsible for liaison work in primary schools. Right now, there are 33 SLOs for secondary schools and 26 SLOs territory-wide. They will, in response to the various needs of the secondary school students and the primary school students, employ suitable means to pass on anti-crime messages to all school students, so as to enable them to understand the cause and effect of committing crimes, thereby enhancing their civic responsibility, morals, disciplinary standard, and also strengthening the communication between the students and the police. Here, I would also like to emphasize that it is definitely the work for educators to oversee and educate students. The liaison officers of the police are there only to co-ordinate the work of the teachers and the school-based social workers and provide some assistance.

**MR CHEUNG MAN-KWONG** (in Cantonese): *Madam President, every time when the Government responds to the question of whether there are triad societies in schools, the answer it likes most to give — and this time is no exception — is there is no evidence to show that triad societies have infiltrated in schools in an organized manner. Nevertheless, figures provided in Annex 1 indicate that among the secondary school students arrested, the absolute figures for triad members are getting bigger and bigger, increasing from 322 persons in the previous year to 395 persons. According to figures provided by the Government, triad societies are in fact present in schools. Even if they have not*

*infiltrated in an organized manner, there is a possibility of their spreading. Are these words of the Government underestimating the influence of triad societies in schools? Is the Government over optimistic? Or is it being complacent?*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, these figures refer to the so-called "suspected triad cases", "suspected involvement in triad activities". They are an overall figure, including some youth gangs claiming themselves to be triad members. Just now in my main reply, I have pointed out that at the moment, the police actually has no evidence to prove that triad societies have infiltrated in schools in an organized manner, recruiting students to become triad members. Nonetheless, everybody knows that a lot of young people claim themselves to be "triad members", perhaps because they want to "show off" or for some other reasons. When a few of them gather together, they will claim themselves to be members of some triad societies. This is a different story from the real "well-organized triad gangs" referred to by the police.

**MR CHEUNG MAN-KWONG** (in Cantonese): *Madam President, these figures already show that there has been an increase in the number of people suspected of involvement in triad activities. I asked the Secretary if there is an underestimation of the influence of triad societies, and whether the Government is being over optimistic and complacent. Could the Secretary reply to these questions?*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, I have expressed in the main reply that although at the moment, there is no evidence to prove that triad societies have infiltrated in schools in an organized manner to recruit members, we cannot simply be complacent. The police has been monitoring the present situation. Therefore, our liaison officers will continue to co-operate with the school teachers and school-based social workers, and provide assistance in this respect.

**MR WONG YUNG-KAN** (in Cantonese): *Madam President, we can see from the Annex provided by the Government that the number arrested in New Territories North is particularly large, with the situation for these three years*



*remaining more or less the same, and the number defined as triad members by the Government is also the largest. However, the number of liaison officers is small. Has this anything to do with the deployment of liaison officers, that is, the number of liaison officers being small, therefore leading to an increase in the number of students getting involved in triad activities? What can be done to resolve this?*

**SECRETARY FOR SECURITY** (in Cantonese): The number of students suspected of being triad members is the greatest in New Territories North, but New Territories North also has the most secondary schools. Just as I said earlier, there are no signs for the time being that triad societies have infiltrated in schools in an organized manner, and the police has also taken appropriate measures to prevent students from coming under the influence of undesirable elements. We will consider the actual situation of different regions when deploying resources to maintain law and order. Moreover, we are also frequently reviewing the deployment of various resources. We feel that under the present circumstances, the resources we have deployed are sufficient.

**MR HOWARD YOUNG** (in Cantonese): *Madam President, Annex 1 of the main reply indicates that be it the number arrested or the number suspected of involvement in triad activities, in most of the years, New Territories North "tops the list". Judging from an objective angle, the Secretary said earlier that this is because that region has more secondary schools, but is the actual ratio proportional to the total number of secondary school students? May I ask the Secretary if a comparison has been made between the number arrested in each region and the number of secondary school students of that region? Is the ratio more or less the same for each region, or is the figure particularly high for a certain region, therefore it should warrant special attention from the police?*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, I do not have any information on the number of students, but I would like Mr YOUNG to have a look at Annex 2. New Territories North has 166 secondary schools while Kowloon West has only 99. Thus, among these few regions, New Territories North has the most secondary schools. From this it can be inferred that the number in New Territories North should be the greatest.

**MR HOWARD YOUNG** (in Cantonese): *I just want to queue up for another supplementary question.*

**PRESIDENT** (in Cantonese): Fine. This Council has spent over 17 minutes on this question. Now the last supplementary question.

**MS CYD HO** (in Cantonese): *Madam President, what the Annex shows are the figures for suspected involvement in triad activities, this may not tell us what the actual situation is like. May I ask the Secretary with sufficient evidence, how many students are confirmed to have been involved in triad activities?*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, I do not have any information in this respect.

**MS CYD HO** (in Cantonese): *Madam President, of course I would hope that the Secretary can provide the information in written form.*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, I will. (Appendix I)

**PRESIDENT** (in Cantonese): Second question.

### **Special Finance Scheme for Small and Medium Enterprises**

2. **DR DAVID LI**: *Madam President, with respect to the Special Finance Scheme for Small and Medium Enterprises (SMEs), which has, since April 2000, ceased offering guarantees for loans made out by lending institutions, will the Government inform this Council of:*

- (a) *the total number of claims made by lending institutions for defaulted guaranteed loans, and the number of them settled so far;*

- (b) *the average time taken for processing such claims; and*
- (c) *the respective numbers of claims which have been outstanding for 12 months or less, over 12 months but less than 24 months, and 24 months or over?*

**SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY:**

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

- (a) As of the end of February 2004, a total of 1 718 claims, amounting to \$435 million, have been made by participating lending institutions under the Special Finance Scheme for SMEs. About one half of this total, or 856 claims, amounting to \$333 million, have already been settled.
- (b) The average processing time for cases which were submitted with complete information and supporting documents is 28 days. For cases which were not submitted with complete information and supporting documents, the average processing time is 323 days.
- (c) There are in total 572 outstanding claims, of which 353 have been outstanding for 12 to 24 months, and the remaining 219 have been outstanding for more than 24 months.

**DR DAVID LI:** *Madam President, with less than half of all claims settled after such a long time, there is clearly a serious bottleneck. Resolving these claims is costly to both the Government and the banks concerned, and a great deal of money is involved. What is the Administration doing to relieve the bottleneck and stop the bill from climbing further?*

**SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY:**

Madam President, we too are quite concerned about the large number of claims left outstanding. But since this concerns public money, we have to be prudent in checking so as to make sure that these claims are indeed in default and that the banks have acted with prudence and have exercised due care in granting the loans. We have been in constant correspondence with the lending institutions concerned.

We will continue to send them written reminders, asking them to provide us with the necessary supporting documents so that we can process the claims.

**MR ANDREW WONG** (in Cantonese): *Madam President, I am a bit shocked by parts (b) and (c) of the Secretary's main reply. As in part (b), he said that for cases not submitted with complete information and supporting documents, the average processing time was 323 days. The figures he mentions later are even greater. But the problem is that all these so-called lending institutions are banks and finance companies, I find it hard to believe that they would have submitted the claims to the Government without supplying adequate information and supporting documents. Would it be possible that delay in the processing of these claims is resulted from the lack of professional expertise on the part of the government departments?*

**SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY** (in Cantonese): Madam President, this is definitely not the case. If there are cases where we find our expertise inadequate, we will consult the Department of Justice and the Hong Kong Monetary Authority.

**MR HUI CHEUNG-CHING** (in Cantonese): *Madam President, in part (b) of the main reply, the Secretary said that for cases that were not submitted with complete information and supporting documents, the average processing time was 323 days. However, since April 2000, the Government has ceased offering a guarantee for loans granted by these lending institutions. It is now more than three years and close to four years since then. May I ask the Government whether it has set a deadline for settling these outstanding cases to avoid excessive delay?*

**SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY** (in Cantonese): Madam President, we have not set such a deadline calling for an immediate halt to the processing of these claims. However, negotiations with the lending institutions are still underway with respect to many of these cases, and we have requested them to provide the necessary information so that we can complete the process.

**MR SIN CHUNG-KAI** (in Cantonese): *Madam President, I wonder whether the Government has planned to deploy additional staff to clear the backlog of the some 500 outstanding cases which have been held up for such a long time?*

**SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY** (in Cantonese): Madam President, the delay is not a question of manpower, but rather that the required information is not furnished to us. Once the required information is received, these claims can certainly be processed within a month.

**DR TANG SIU-TONG** (in Cantonese): *Madam President, one third of the cases would require more than two years to settle. If the delay is not attributed to the shortage of manpower or lack of experience, what then is the actual cause for the delay?*

**SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY** (in Cantonese): Madam President, as I have said in my reply to a supplementary question earlier, the Government has to ensure that claims are really in default and we have to be prudent in checking to make sure that due care has been exercised in granting the loan. Since this concerns public money, so we have to be extremely cautious. However, if the lending bank can provide us with the adequate supporting documents, it should have met our requirement; and we pledge that the process can be completed within one month.

**MR FRED LI** (in Cantonese): *In part (b) of the main reply, the Government says that in processing such claims, for cases where complete information has been provided at the time of submission, the average processing time would be 28 days, but for cases without complete information, the average processing time would be close to a year, or 323 days. However, according to another part of the main reply, the Government says that among the 572 outstanding claims, the processing time for more than half of the claims would be one to two years, and that one third of these even require more than two years. Is it because that no documents have ever been provided in those cases? For cases not submitted with complete information, the average processing time is 323 days, then why are there cases where the time required may far exceed 323 days? What has actually happened in these cases? Is it because those cases are even worse than*

*those cases not submitted with complete information, so a much longer time is required for processing?*

**SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY** (in Cantonese): Madam President, part (b) of the main reply refers to completed cases, while part (c) of the main reply mentioned in Mr Fred LI's question refers to outstanding cases, therefore, the figures must be different.

**MR FRED LI** (in Cantonese): *Regardless of whether the cases are completed or not, they have to be processed in accordance with the information required. In part (b) of the main reply, it is stated that the time required is 323 days, but in part (c), the time required for processing the outstanding claims is much longer. Madam President, my question is why can there be such a great difference?*

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

**SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY** (in Cantonese): Madam President, for the completed cases, since we have to wait for the required documents, thus it has taken such a long time to process. As for cases mentioned in part (c), since the required documents have not yet been received, so the time required for those cases may even be longer than the time which has been given.

**DR RAYMOND HO**: *Madam President, I recall that this Special Finance Scheme for SMEs was established some years ago by the Government to assist SMEs, with the intention of guaranteeing a total amount of up to \$2.5 billion. But in view of the number of cases left outstanding and the relatively long period of time that these claims remain unsettled, will the Government consider reviewing or revising the terms of the Scheme so that it can continue with the Scheme to assist SMEs?*

**SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY**: Madam President, in fact, we have ceased operating this Scheme, and it has been

re-designed into the new SME Loan Guarantee Scheme. So, we are continuing to provide SMEs with the necessary assistance under a different scheme.

**MS EMILY LAU** (in Cantonese): *Madam President, in part (c) of the main reply, the Secretary said that there were still some 500 outstanding cases, some might require 12 to 24 months for processing, while some might even take longer. The Secretary also mentioned that if complete information was provided, those cases might be completed within a month. Is the Secretary telling us that those banks have not supplied the information required within 12 to 24 months or even after 24 months? Or is that after you have asked them and they have provided the information you required, but then, you require for some other information, and so they have to provide it again? How does the procedure operate? Besides, may I ask the Secretary, have you ever received any complaints from banks about the delay in processing?*

**SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY** (in Cantonese): As for the second part of the above question, we do not have the relevant figures. We do not take complaints. As for the 572 outstanding cases, 50 of them are being processed, while the relevant information for 522 cases is still pending.

**MS EMILY LAU** (in Cantonese): *Madam President, I asked the Secretary how many complaints he had received, but he said that no complaints would be taken. If no one has complained, the Secretary may just say so. But I cannot quite understand what he means by saying no complaints would be taken. Does it mean that someone has made a complaint, but the Secretary refuses to take it? I also asked about the cause of the delay. Is it because the banks concerned have not provided the required information after 12 to 24 months or even longer, or because the Secretary has asked them to provide further information upon receipt of the information?*

**SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY** (in Cantonese): Madam President, perhaps I have not made myself clear enough. We have not received any complaints. As for the other part of the supplementary question, since many documents are involved in correspondence in many different cases, we have opened a file for each case to keep track of such

correspondence. Therefore, we know that 522 cases have not yet been provided with adequate information.

**MR LEUNG YIU-CHUNG** (in Cantonese): *Many colleagues have already raised concern about the long time required for the processing of many cases and the large number of outstanding cases. May I ask the Secretary has a review ever been conducted to identify why adequate information cannot be obtained after such a long time? What are the reasons? Is it because the information required cannot be readily provided by the applicants, so even after prolonged waiting, the applicants still fail to supply such information? Will the Secretary tell us clearly whether thorough investigation has ever been conducted to understand why this problem has dragged on for so long?*

**SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY** (in Cantonese): Madam President, we have carried out an analysis of this issue. In fact, many banks do know clearly what information we need, but in many cases, in particular those cases involving a small amount of money, it is really difficult for applicants to provide the necessary information. Therefore, up to now, quite a number of cases have not been provided with the required information.

**MR LEUNG YIU-CHUNG** (in Cantonese): *I think I have asked the Secretary whether a review will be conducted to see what improvement can be made? If we allow this situation to go on, this problem will never be settled.*

**SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY** (in Cantonese): Madam President, we have to strike the right balance. Since this concerns public money, we have to exercise extra caution. On the one hand, we have to see how this problem can be solved as soon as possible, but on the other hand, we have to make sure that money is properly used.

**MR YEUNG YIU-CHUNG** (in Cantonese): *Madam President, I would like to know, regarding the claims made by lending institutions for defaulted guaranteed loans, are there any cases where the applicants abuse the Scheme by transferring their own bad debts to the Scheme? If there are, what is the amount involved?*



**SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY** (in Cantonese): Madam President, Members may recall that in 2002, the Audit Commission also queried about this. Concerning the issue of transferring debts, since we have already ceased the operation of the old Scheme and it has been re-designed into a new Scheme, this problem should not exist any more.

**MR HOWARD YOUNG:** *Madam President, I have some difficulties in reconciling the figures given in the Secretary's main reply. In paragraph (a), he said there were a total of 1 718 claims received; in paragraph (c) he referred to 572 outstanding claims, and in paragraph (a), he said that 856 claims had already been settled. That means there is approximately a balance of about 300 claims — in fact, 290 to be exact. Can the Secretary tell us what the status of the claims is if they do not fall into the category of the 856 claims already settled and the 572 claims outstanding? Are they deemed to be cases whereby documents have already been received in the process of being processed and therefore will not become outstanding, or what is their status?*

**SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY:** Madam President, of the 290 claims, nine were found unsubstantiated and rejected. For the remaining 281 claims, the lending institutions have asked the Government to suspend processing because the so-called defaulted borrowers have resumed making payments.

**MR HUI CHEUNG-CHING** (in Cantonese): *Madam President, has the Government drawn any lesson from the long processing time required for claims under the Special Finance Scheme, so as to prevent the recurrence of the problem under the current SME Loan Guarantee Scheme?*

**SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY** (in Cantonese): Madam President, as I have said, the new Scheme now in operation is designed on the basis of the experience we have drawn from the previous Scheme, so there should not be such problems.

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

**MR SIN CHUNG-KAI** (in Cantonese): *May I ask the Government, when the report is complete, will the Government provide a detailed account of all the cases, that is a complete set of statistics, including the rate of bad debts and the processing time for these cases?*

**SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY** (in Cantonese): Yes, we will do so.

**PRESIDENT** (in Cantonese): Third question.

### **Shortage of Beds in Medical Wards of Hospital Authority**

3. **DR TANG SIU-TONG** (in Cantonese): *Madam President, it has been reported that while the beds in the medical wards of a hospital under the Hospital Authority (HA) have long been in short supply, the surgical wards, paediatric wards, obstetric and gynaecological wards and private wards of that hospital were often redeployed as medical wards. In this connection, will the Government inform this Council whether it knows:*

- (a) *of the average monthly occupancy rates of the beds in various wards of the HA's hospitals over the past three years, and the average waiting time for admission to various wards at present;*
- (b) *whether the staff side of the HA has reflected to the HA's management the problems arising from the shortage of beds in the medical wards of the HA's hospitals; if so, of the response of the HA's management; and*
- (c) *the measures taken by the HA to address the long-standing shortage of beds in the medical wards of its hospitals?*

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

- (a) The average monthly occupancy rates of beds in medical wards, surgical wards, paediatric wards, obstetric wards and

gynaecological wards in public hospitals between 2001 and 2003 were 90.3%, 75.1%, 63.3%, 69.4% and 81.2% respectively.

Admissions to hospitals can be broadly divided into elective admissions and emergency admissions. Elective admissions refer to the admission of patients who have been receiving care at out-patient clinics. Patients who require hospitalization are prioritized and scheduled to present themselves to the wards for admission and treatment on specific dates depending on the relative urgency of their medical conditions. Patients in urgent medical conditions will be admitted into a hospital immediately. The HA does not routinely collate information on the waiting time of patients in less urgent medical conditions. The elapse time between consultation and hospitalization is affected by many factors including patient preference and varies from case to case. Emergency admissions refer to the admission of patients through the Accident and Emergency Departments (A&ED). Clinicians in the A&EDs assess the medical conditions of the attending patients and determine their need for immediate hospitalization. Once such a need is identified, the patient would be admitted immediately and there is usually no waiting time as such.

- (b) HA management and hospital management monitor the occupancy rate closely. The management has also received feedback from staff on these matters. The management has taken measures to meet the higher demand for admission to medical wards in the winter months including augmenting medical beds and deferring non-urgent services. Measures to alleviate the demand for admissions, such as strengthening the medical support to elderly residential homes, have also been implemented.
- (c) For the annual winter influx of patients, the HA has devised a structured plan for changing the bed mix for winter. The relevant measures include scheduling cyclical reduction of non-urgent services and increasing the number of medical wards during each winter based on the assessment of the prevailing bed situations. For this winter, additional measures implemented by the HA include the Influenza Vaccination Programme for staff and patients to

reduce incidences of influenza and the strengthening of medical support to residential homes through the collaborative efforts of Community Geriatric Assessment Teams and the Visiting Medical Officers to minimize hospital admissions. In the long run, the HA will also continue its efforts in strengthening the manpower in medical departments and promoting its ambulatory care to reduce reliance on inpatient services. In respect of the latter, the HA will:

- (i) Reducing the need for hospitalization as inpatients through the use of advanced technology such as endoscopic procedures or new drugs, and quality improvement initiatives in infection control and nursing care, and so on;
- (ii) Enhance quality of ambulatory/outreach services in terms of the breadth and depth of the encounter. By taking a holistic approach, doctors and nurses will put greater emphasis on, among other things, discussing with patients on choices of appropriate treatment, enhancing their awareness on the proper use of medications and educating the caregivers in a bid to reduce the demand for inpatient services;
- (iii) Promote care in the community and by the community through new collaborative programmes with the private sector and non-governmental organizations; and
- (iv) Introduce disease management programmes for selected chronic diseases, supplemented by other efforts on health promotion, disease prevention and early detection.

**DR TANG SIU-TONG** (in Cantonese): *Madam President, in part (a) of the main reply, it is mentioned that the average occupancy rates of medical wards was over 90% and on some occasion, it may indeed be over 100%. But then the Secretary said that the HA did not routinely collate information on the waiting time of patients in less urgent medical conditions. For those patients who are scheduled to be admitted, but have to be deferred due to a shortage of beds, may I know the number of such patients each year and the time deferred for their admission?*

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): Madam President, I am sorry, could Dr TANG Siu-tong repeat his supplementary question? I cannot hear it quite clearly.

**DR TANG SIU-TONG** (in Cantonese): *My supplementary question is: Some patients are scheduled to be admitted, but then their admission has to be deferred due to the shortage of beds. May I know the number of such patients each year and the time deferred in their admission?*

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): Madam President, as I have said just now in the main reply, the HA does not routinely collate such information. As the condition of different patients varies, it is difficult to compile such data. However, if and when time allows, the HA will conduct reviews from time to time to see if there are any patients whose admission to hospitals has been deferred though their admission has been scheduled. But currently we do not routinely collate such data.

**MR CHAN KWOK-KEUNG** (in Cantonese): *Madam President, in his main reply, the Secretary mentioned that the present occupancy rate of paediatric wards was 63.3%. Compared to other wards, the occupancy rate of paediatric wards is on the low side. May I know if it is attributed to the low birth rate at present and that the health of our children is better than before?*

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): Madam President, Mr CHAN Kwok-keung has already provided himself with an answer. What he has said is right. The birth rate is low at present and our children are, on the whole, healthier. At the same time, with the availability of advanced technology, for a number of illnesses, patients can receive ambulatory care without hospitalization. Besides, parents generally prefer to have their children staying home while receiving treatment.

**MR MICHAEL MAK** (in Cantonese): *Madam President, speaking from my own experience, the occupancy rate of medical wards is definitely over 90%, the figure given by the Secretary is an average only. As a matter of fact, in many hospitals, the occupancy rate of medical wards is frequently over 100%. As Mr*

*CHAN Kwok-keung just said, the occupancy rate of paediatric wards was only 63.3%. According to the Secretary, one of the solutions is to change the bed mix for winter. In fact, as we can see, the shortage of beds in medical wards has been a long-standing problem. If the bed mix is to be changed only in winter, the quality cannot be guaranteed, no matter for the staff concerned or to the patients. Since the Secretary is aware of this long-standing situation, can the bed mix be changed long before winter, instead of changing it until winter has come?*

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): Madam President, we adopt a two-pronged approach. As a matter of fact, the HA reviews the demand for different types of bed each year, and some beds have been redeployed to the medical wards. Generally speaking, more beds are allocated to surgical and orthopaedics wards. As for paediatric wards, the number of beds is sometimes smaller — less than 1 000 in the whole hospital system. As such, even if their occupancy rate is relatively low, there is little room for redeployment. I believe Mr Michael MAK is aware that the occupancy rate of certain wards may be low, but as there are relatively less beds, unless a whole paediatric ward in a hospital is cancelled, the room and feasibility for reducing beds in paediatric wards will be limited. We have deployed some of the surgical and orthopaedics wards to medical wards, but we also need to consider the seasonal demand. For instance, the occupancy rate of medical wards will be generally higher in January, February and March. It is because many people suffer from common cold, cold or influenza during this period and these may very often lead to pneumonia. Thus, the patients admitted during this period are mostly the elderly, rendering the occupancy rate higher than usual. In view of this, we must make temporary changes in accordance with seasonal demand. As such, we adopt a two-pronged approach.

**DR LO WING-LOK** (in Cantonese): *Madam President, the SARS experience tells us that if the wards are too crowded with patients, it is very likely to lead to an outbreak. However, on the other hand, if we have too few patients in a ward, the demand will not be met. In this connection, how does the Government or the HA strike a balance between infection control and meeting service demand?*

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): Madam President, as I have mentioned in my main reply, we understand that the

demand for medical wards will be larger in winter, so deployments will be made accordingly. If beds in other wards are available, we will make deployments and arrangements. For instance, one arrangement is that the number of non-urgent operations will be reduced in winter. In addition, we are taking some measures in certain elderly residential homes, as most patients admitted during the winter season are referred by these homes. If we can strengthen medical care in these homes, the number of elderly persons admitted to the hospitals will be reduced. As such, we will put in resources in this regard, and the HA has made a lot of efforts.

**DR TANG SIU-TONG** (in Cantonese): *Madam President, medical wards are very often full, as a result, patients are transferred to other wards. In this connection, how can the Government prevent cross-infection among patients? Patients in medical wards generally suffer from diseases which are more infectious.*

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): Madam President, I understand that in most hospitals, patients will not be transferred to other wards. Though some hospitals will do so under certain circumstances and they will keep the situation in view. At present, there are isolation wards in hospitals, so patients with infectious diseases will be put into these wards. The HA has presently about 1 000 beds in such isolation wards, so we are in a better position to deal with infectious diseases. Generally speaking, patients will be placed in wards according to their medical condition, yet some hospitals will adopt more flexible arrangements. However, on the whole, patients will be put into the wards according to their medical condition.

**MR MICHAEL MAK** (in Cantonese): *Madam President, the Secretary has mentioned that the need for hospitalization would be reduced. He said that in the longer term, one of the measures to be adopted would be to promote care in the community through new collaborative programs with the private sector and non-governmental organizations (NGOs). Will the Secretary inform us of the responses from the private sector and NGOs? How do they support this programme?*

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): Madam President, as far as NGOs are concerned, the success rate will be higher as they have different programmes underway, such as the programme with elderly residential homes I have just mentioned. Of course, these homes welcome more out-reaching services and programmes which can provide them with support. Besides, some community rehabilitation programmes have also been quite successful. A number of rehabilitation programmes organized by the HA and the NGOs have been implemented outside the hospitals. Initially, the NGOs will provide their rehabilitation services in the hospitals, but after that, patients will return to the NGOs. Work in this aspect has been quite successful.

As regards the collaborative programmes with private hospitals, we all know that there may be some difficulties as financing considerations are involved. Yet there are some successful examples. At present, sometimes we offer choices to patients. For instance, for certain operations that may require a longer waiting time, private hospitals will provide information to public hospitals in order that patients will be given more choices. For non-urgent operations undertaken in private hospitals, the patients can know roughly how much they will be charged. We have now a collaborative programme with a private hospital, and the result is quite good. So some patients may choose to have non-urgent operations performed in private hospitals.

**PRESIDENT** (in Cantonese): This Council has spent more than 15 minutes on this question. We shall now proceed to the fourth question.

### **Standards Required of "Patriots"**

4. **MR SZETO WAH** (in Cantonese): *Madam President, official media in the Mainland have recently re-published the remarks made by Mr DENG Xiaoping in 1984, which mentioned the standards required of "patriots", and that "Hong Kong people ruling Hong Kong" should mean the administration of Hong Kong affairs by "Hong Kong people, with patriots forming the main body of administrators". In this connection, will the Government inform this Council if it has assessed:*



- (a) *whether the people who initiated and participated in the procession on 1 July last year are "patriots";*
- (b) *whether members of the Hong Kong Alliance in Support of Patriotic Democratic Movements of China and the people who participate in the candlelight vigil held in memory of the 4 June Incident every year are "patriots"; and*
- (c) *whether, in order to ensure the administration of Hong Kong affairs by "Hong Kong people, with patriots forming the main body of administrators", it is necessary to amend the existing legislation on elections to subject the candidates for the elections of the Chief Executive or Legislative Council Members to political vetting and benchmark tests for patriots?*

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Madam President, on the question put by Mr SZETO Wah, we set out our overall reply as follows:

On parts (a) and (b) of the question, in June 1984, when meeting a delegation of the Hong Kong industrial and business community visiting Beijing and a group of Hong Kong community leaders, Mr DENG Xiaoping affirmed that the Chinese people in Hong Kong would be capable of running Hong Kong well. In doing so, he emphasized that "Hong Kong people running Hong Kong" meant that Hong Kong should be managed by Hong Kong people, with patriots forming the main body. The criteria for a patriot are to respect one's own nation, sincerely support the resumption of the exercise of sovereignty over Hong Kong by the Motherland, and not to do any harm to Hong Kong's prosperity and stability.

One point must be made clear. "Hong Kong people running Hong Kong" as mentioned here refers to the principle that we should rely on Hong Kong people, with patriots forming the main body, to manage Hong Kong. This refers to people who have a part to play in the administration of Hong Kong's public affairs, not the Hong Kong public in general. However, we consider that the vast majority of the people of Hong Kong are patriotic.

On part (c) of the question, in accordance with the relevant provisions of the Basic Law, we enacted the Legislative Council Ordinance and the Chief

Executive Election Ordinance in 1997 and 2001 respectively. Since the reunification, we have conducted two elections of the Legislative Council and one election of the Chief Executive according to these ordinances. We will continue to conduct such elections in accordance with the Basic Law and these ordinances.

Furthermore, Article 104 of the Basic Law requires that when assuming office, the Chief Executive and Members of the Legislative Council must swear to uphold the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China, and swear allegiance to the Hong Kong Special Administrative Region of the People's Republic of China.

**MR SZETO WAH** (in Cantonese): *Madam President, it can be said that the Government has completely failed to answer the three parts of my main question. The answer does not address the issue, nor touch the core of the matter and it is a prevarication. If such an answer sheet were submitted in an examination, it would only get a zero. However, this is also what I have expected. Even so, I will still pursue this matter. The answer that I will go on pursuing this matter would perhaps still score a zero. The Secretary said in the main reply that the vast majority of the people of Hong Kong were considered patriotic. Does it follow from this judgement that in an election through universal suffrage, since the votes are cast by the public of Hong Kong and since the vast majority of Hong Kong people are patriotic, the people they elect will also be considered as patriotic?*

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Madam President, patriotism is not an examination. As a citizen of Hong Kong and our country, this is our lifelong commitment. One knows full well if one meets the standards required of patriots. Madam President, since Mr SZETO Wah has taken part in so many elections, I believe he knows very well that every election is held under a fair, open and equitable system and the final results of the elections depend on the social circumstances at that time. Indeed, the vast majority of the Hong Kong public are patriotic but the election outcomes are dependant on the situation at the time.

**MR LEUNG FU-WAH** (in Cantonese): *Madam President, the Hong Kong people who rule the country, as mentioned in Mr DENG Xiaoping's remarks in the past, include principal officials and Members of the Legislative Council. As a host of a phone-in programme said this morning of three Members of this Council, "when the Americans play the music, they begin to perform a belly dance immediately" by hurrying to the United States to attend a so-called hearing on Hong Kong. May I ask the Secretary if, as some of the people ruling Hong Kong, would their behaviour live up to the standards required of patriots ruling Hong Kong?*

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): *Madam President, constitutional development is in fact an internal affair of the country and it has to be dealt with by the Central Authorities and the SAR according to the Basic Law. On this issue, we have a very definite position as far as overseas countries and legislatures are concerned, that is, they should respect the SAR's approach of handling matters regarding constitutional development in full compliance with the principles and stipulations of the Basic Law and foreign countries should not interfere. Regarding Legislative Council Members, I believe they should also respect the roles accorded the Legislative Council and the SAR by the Basic Law. It is unnecessary for them to attend hearings of overseas legislatures to discuss the subject of constitutional development. I believe that their decision is inappropriate and I am also disappointed by their decision.*

**MR ANDREW CHENG** (in Cantonese): *Madam President, in the second paragraph of the main reply, the Secretary again quoted the remarks of Mr DENG Xiaoping when talking about "Hong Kong people running Hong Kong", namely, patriots should form the main body of the people ruling Hong Kong. On this issue of "Hong Kong people running Hong Kong", may I ask the Secretary whether, according to government policy, the remarks of Mr DENG Xiaoping are more important, or is the Basic Law more important? If the remarks made by Mr DENG Xiaoping are more important, will the relevant legislation or even the Basic Law be amended, so that the patriotic principle can be incorporated?*

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Madam President, on our recent visit to Beijing, when discussing with the relevant departments of the Central Authorities, I felt that they were absolutely justified and had a sound basis in reiterating the patriotic principle. As we all remember, the problem of Hong Kong's future was first raised in the '80s. Our country set the long-term policy direction of "one country, two systems" for Hong Kong according to a series of policies formulated by Mr DENG Xiaoping and the Central Authorities. This set of policies is national and national policies do not change. The Joint Declaration was later drawn up according to this long-term policy direction. Annex I of the Joint Declaration spells out in detail the various long-term policy directions concerning the "one country, two systems" principle. During the four or five years in the second half of the '80s, the Basic Law was drawn up according to these long-term policy directions and the national policies formulated by our country. Therefore, the Basic Law is a manifestation of the principles of "one country, two systems", "a high degree of autonomy" and "Hong Kong people running Hong Kong". There are many stipulations concerning the principle of "Hong Kong people running Hong Kong" in the Basic Law, for example, Article 3 stipulates that the executive authorities and legislature shall be composed of permanent residents of Hong Kong. Concerning the executive authorities, Article 44 stipulates that the Chief Executive shall not be less than 40 years of age and must have resided in Hong Kong for a period of not less than 20 years. There are also other provisions, for example, Article 67. Madam President, Article 67 stipulates that Members of the Legislative Council shall be permanent residents with no right of abode in any foreign country, and Article 71, Madam President, stipulates that the President of the Legislative Council must also be not less than 40 years of age and must have resided in Hong Kong for a period of not less than 20 years. There are also similar provisions concerning the Judiciary. I have also mentioned in the main reply that principal officials and Members of the Legislative Council must swear to uphold the Basic Law and swear allegiance to the Hong Kong Special Administrative Region of the People's Republic of China.

Madam President, I also wish to say that all people having a part in the administration of public affairs in Hong Kong must agree with the constitutional order and arrangements of the country and the SAR. Constitutional order and arrangements include the following: one country being the premise of two systems, the Party leads the country according to the constitution of the People's Republic of China; it is according to the constitution and the Basic Law that the

Central Authorities have established the Hong Kong SAR and accorded the SAR with a "high degree of autonomy". These are part of the constitutional order and relationship between the Central Authorities and the SAR. I believe this principle and the provisions of the Basic Law are very clear.

**MR ALBERT HO** (in Cantonese): *Madam President, the Secretary took the opportunity today or rather, seized this juncture to proclaim his stance, saying that it is inappropriate for the three Members to go to foreign legislatures to express their views on Hong Kong affairs. I wonder if he is suggesting that they are unpatriotic? I hope the Secretary could further clarify if it is the case that regardless of the circumstances, should Members of this Council or people having a part in the public affairs of Hong Kong go to foreign legislatures or have discussions with foreign governments and then make public what has transpired, then whatever they may say, including opposition to Taiwan independence and support for the opening up of China, will all be considered as interference with the internal affairs of our country and they will therefore be regarded as unpatriotic?*

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Madam President, I believe foreign governments should respect the position of the Hong Kong SAR, that is, to follow the principles and stipulations of the Basic Law in dealing with matters of constitutional development. I have in fact stated this some time ago and this is nothing new. The new development is that several Members announced publicly yesterday that they would go to a foreign country to discuss an internal affair of the country, that is, the issue of constitutional development. It is always a good thing to have exchanges. Hong Kong is an international city and the SAR Government, the legislature as well as other organizations are often happy to hold talks with foreign visitors to let them understand the latest situation in Hong Kong. I also make overseas visits frequently to present the successful implementation of the "one country, two systems" principle in Hong Kong and the latest developments in the economy and in other areas in Hong Kong. The world is getting smaller and it is a positive move to enhance understanding and exchanges. However, what we are talking about today is a hearing arranged by a foreign legislature to explore and discuss the issue of constitutional development in Hong Kong, which is being dealt with internally in our country. According to the Basic Law, this should be dealt with by the Hong Kong SAR and the Central Authorities according to the stipulations

of the Basic Law. Therefore, I do not think it necessary for any Member to go to any foreign legislature to attend a hearing and discuss this matter.

**MR ALBERT HO** (in Cantonese): *In fact, part of my supplementary has to do with whether the Secretary is suggesting that this course of action is unpatriotic, since he considers this action as inappropriate? Could he clarify this point further?*

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

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Madam President, I beg your pardon, I hope Mr HO could repeat his question. What did he say about being patriotic?

**MR ALBERT HO** (in Cantonese): *All right, Madam President, I will repeat clearly. What I asked the Secretary in my supplementary is whether, since he considers such behaviour inappropriate, he is suggesting — since the subject of this question is patriotism — that this so-called inappropriate behaviour is tantamount to being unpatriotic?*

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Madam President, in fact we have already given a clear definition on being patriotic. Every person who serves as Member of the Legislative Council, takes part in elections or has a part in public affairs has to account for his pledge and his support for the Basic Law.

**MR ALBERT HO** (in Cantonese): *Madam President, I am asking for the view of the Secretary. Will he ever give an answer?*

**PRESIDENT** (in Cantonese): Mr Albert HO, I think it would be difficult for the Secretary's replies to satisfy you. There are still a number of Members waiting to raise queries. I hope they will have the chance to ask supplementaries.

**MR ANDREW WONG** (in Cantonese): *Madam President, it seems the standards for defining patriots are not all that clear. The Secretary's reply to Mr Andrew CHENG's supplementary may have made them clearer, but something may be left unanswered. What I am interested in asking is, the phrase "have a part to play" cannot be found in the Chinese version of the written reply given by the Secretary but it has been added to "people.....in the administration of Hong Kong's public affairs". May I ask what people are included? Are all the people in the executive, the legislature, the District Councils, the Judiciary and the advisory and statutory bodies included? Or are some people not included?*

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Madam President, I would explain this in a strict sense. I think that the long-term policy direction of "Hong Kong people running Hong Kong" has already been implemented through the Basic Law. Therefore, I have said that under the Basic Law, we who serve as principle officials, every Honourable Member here and some high-level judicial officers must all swear to uphold the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China and swear allegiance to the Hong Kong Special Administrative Region of the People's Republic of China when assuming office. For these several types of people, it is already stipulated in the Basic Law that they shall be Chinese citizens with no right of abode in any foreign country. In addition, people who assume the offices of the Chief Executive and the President of the Legislative Council must be no less than 40 years of age. Generally speaking, I think that people in the senior levels of the executive, the legislative and the judicial authorities are all included in the group having a part to play in the administration of Hong Kong's public affairs. This is what I understand to be generally the case.

**MR ANDREW WONG** (in Cantonese): *Madam President, I want to get a more specific answer. For example, judicial officers do not necessarily have to be of Chinese nationality. Is this also the case with Members of the legislature that they do not have to be of Chinese nationality? May I ask if they are also included?*

**PRESIDENT** (in Cantonese): Mr Andrew WONG, you should have pointed this out when you first raised your supplementary. As the Secretary has already

answered your supplementary, you are now asking the Secretary to make further clarifications. Please wait for your turn to raise your question.

**MR ANDREW WONG** (in Cantonese): *Madam President, I am only asking for a more specific answer since I have listed out everything.*

**MR CHEUNG MAN-KWONG** (in Cantonese): *Madam President, I would like to ask the Secretary if Legislative Council Members in Hong Kong attend hearings in foreign countries, asking these countries to respect the views of Hong Kong people, including their support for the reunification of Hong Kong with China, for the "one country, two systems" principle and for democratic elections through universal suffrage, so that Hong Kong can set a good example for Taiwan and the goals of peaceful reunification with Taiwan and opposition to Taiwan independence can be achieved, in this case, will this be an appropriate course of action?*

**PRESIDENT** (in Cantonese): Mr CHEUNG Man-kwong, according to the Rules of Procedure, Members cannot ask hypothetical questions. Since you have said "if" at the beginning of your question, I cannot allow you to ask your question in this way.

**MR CHEUNG MAN-KWONG** (in Cantonese): *Madam President, could you allow me to ask it again? (Laughter)*

**PRESIDENT** (in Cantonese): Yes.

**MR CHEUNG MAN-KWONG** (in Cantonese): *Thank you. Madam President, some Members go to attend a hearing in a foreign country and adopt a very clear-cut position by asking these countries to respect the views of Hong Kong people, including their support for the reunification of Hong Kong with China, the "one country, two systems" principle and democratic elections through*



*universal suffrage, so that Hong Kong can set a good example for Taiwan and achieve the goals of peaceful reunification with Taiwan and opposition to Taiwan independence, in this case, will it be an appropriate course of action?*

**PRESIDENT** (in Cantonese): Secretary for Constitutional Affairs, you may reply in any way you think fit.

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Madam President, it has always been the position of the Hong Kong SAR Government that the principles of "one country, two systems" and "Hong Kong people running Hong Kong" should be given full play, in the hope that the implementation of "one country, two systems" in Hong Kong can contribute to the country's unification and opposition to Taiwan independence. We also believe that this also reflects the conviction and position of the general public. I also hope that all Members will support this position. However, what we are talking about today is whether it is necessary to attend a hearing of a foreign legislature to discuss the issue of constitutional development in Hong Kong. If one wants to support the unification of the country and oppose Taiwan independence, one can do so at any time.

**MR CHEUNG MAN-KWONG** (in Cantonese): *Madam President, my supplementary should be taken holistically, that is, will it be an appropriate course of action if the constitutional issue, or rather, when the constitutional issue is raised in an overseas legislature, together with the overall effects that this issue may have on a series of other issues, including democracy in Hong Kong, peaceful unification with Taiwan, opposition to Taiwan independence and reunification with China?*

**PRESIDENT** (in Cantonese): Mr CHEUNG, have you finished asking your question?

**MR CHEUNG MAN-KWONG** (in Cantonese): *Yes, I have.*

**PRESIDENT** (in Cantonese): I think the Secretary has already answered your supplementary. Since question time is limited and Council has spent more than 20 minutes on this question, this will be the last supplementary.

**MS EMILY LAU** (in Cantonese): *Madam President, Mr DENG Xiaoping said in 1984 that "Hong Kong people running Hong Kong" meant that Hong Kong should be managed by Hong Kong people, with patriots forming the main body. This refers to people who have a part to play in the administration of Hong Kong's public affairs. In view of the present situation in Hong Kong, may I ask the Secretary if we have put into practice what Mr DENG Xiaoping said?*

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Madam President, since the reunification, we have striven to implement the Basic Law and the principles of "one country, two systems", "Hong Kong people running Hong Kong" and "a high degree of autonomy". Generally speaking, we have kept in place all relevant systems in Hong Kong according to the Basic Law. Concerning the standards of patriotism, these are all very clear to us. As regards whether individuals having a part to play in the administration of public affairs in Hong Kong can live up to these standards, this is up to individuals to judge for themselves. Generally speaking, we have implemented the Basic Law in Hong Kong, kept in place the systems in all aspects of Hong Kong and put into practice the principles of "Hong Kong people running Hong Kong" and "a high degree of autonomy".

**PRESIDENT** (in Cantonese): Last oral question.

### **Training Programmes on Environmental Protection for Works Staff**

5. **MISS CHOY SO-YUK** (in Cantonese): *Madam President, will the Government inform this Council whether, in order to equip the works staff with sufficient knowledge to prevent works projects from causing unnecessary nuisance to residents nearby and inflicting unnecessary damage on the environment:*

- (a) *it has provided the civil servants responsible for works projects with training programmes in environmental protection, including educating them on the criteria and measures for reducing site noises and protecting the ecological environment and trees, and so on; if so, of the details; if not, the reasons for that; and*
- (b) *it knows if the engineering courses offered by universities and tertiary institutions include the environmental protection training programmes mentioned in (a); if so, of the weightings of such training programmes in the relevant engineering courses?*

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

- (a) The Environmental Protection Department (EPD) has organized training seminars and workshops under the Construction Partnership Programme to heighten the awareness on environmental protection of works-related personnel (including civil servants responsible for works projects) by, among others, giving advice on ways to reduce site noises, protect the ecological environment and reduce tree felling. The Community Relations Unit of EPD also provided 11 training programmes in the past two years (with a total of 55 workshop sessions) for 650 government works-related staff to enhance their knowledge in environmental protection.

In addition, the EPD established a dedicated Environmental Impact Assessment Ordinance (EIAO) Support Section in July 2002 to help works-related public officers in government departments gain a better understanding of the EIAO requirements. One of its tasks is to deliver an EIA Training and Capacity Building Programme for these officers so as to raise their environmental awareness in planning and implementing works projects. In light of the welcoming response, the Programme has been extended to contractors, professional institutes and private and public sector corporations. Between November 2002 and February 2004, 34 tailor-made workshops were provided to about 820 professionals from different backgrounds. Around 450 of them, who participated in 20 workshops, were from government works

departments. The EPD has also prepared a Training Manual and launched a web-based e-learning platform to promote a better understanding of the EIA mechanism among government works staff. Furthermore, the EPD operates an EIA Helpdesk Hotline to answer general enquiries on EIA matters. Between July 2002 and February 2004, the Hotline provided assistance to over 150 enquiries, of which 60 were from government works-related officers.

In addition to training, we have also issued technical circulars to require works departments to conduct EIAs according to the category of works projects so as to minimize the environmental impacts of the projects in the implementation and operation stages. Tree felling is explicitly prohibited in government works projects unless it is absolutely necessary and there are no other alternatives. Even under such circumstances, compensatory planting of trees will be carried out as far as practicable.

- (b) University Grants Committee (UGC)-funded institutions and the Vocational Training Council offer many different engineering courses, including civil engineering, building services engineering and environmental engineering courses, and so on. Environmental protection subjects are generally included in these courses, but their weightings depend on the nature and teaching targets of individual courses. As such, it may not be appropriate to give a generalized figure. Besides, a programme of environmental protection management is also available. The programme involves the management of environmental protection. It is outside the curriculum of engineering courses, but students majoring in engineering courses may also enrol in it.

**MISS CHOY SO-YUK** (in Cantonese): *Madam President, I am glad that the Government is offering some training courses now. In my impression, there were no such courses in the past. I wonder if they were only organized after the Secretary had assumed her office. If so, we should thank the Secretary. This shows that it is important to appoint someone who has sound knowledge of environmental protection to be the Secretary.*

*Madam President, I would like to ask the Secretary, for works staff of government departments, are such training courses compulsory or voluntary? If they are compulsory, which ranks of works staff must attend such courses? If they are voluntary, why are they not made compulsory?*

**SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS**

(in Cantonese): Madam President, in the sphere of environmental protection, we can discuss such issues at great length, if we want to. We may discuss how to educate the professionals or works staff to instil in them a genuine understanding and acceptance of environmental protection, so that when they plan for the projects or when they implement the projects, they would really give very solemn considerations to environmental protection. Therefore, all the heads of departments are required to attend all our training courses, and each department has appointed an officer of the ranks of D1 or D2 as the environmental protection liaison officer. As for other technical or professional staff, they will also receive notifications from the heads of their respective departments, asking them to participate in such training. Usually civil servants are very obedient, if they are asked to enrol in the courses, they will surely comply. There is no need to force them. However, as to how much they can learn from the courses, this is the most critical issue. Even if they have attended the courses, but if they do not put what they have learned into practice, or if they do not have a good understanding of the concepts, it still does not serve any purpose. Therefore, we feel that this is the first step to let them learn what environmental projects are, and what perspectives they should adopt in studying certain issues. And then the next step is to carry on with our work to make them genuinely agree with our concepts.

**MS CYD HO** (in Cantonese): *Madam President, having the knowledge is one thing. But after acquiring the knowledge, what incentive will the Government provide in order to motivate civil servants to adopt more environmental protection measures as far as statutory requirements are concerned?*

**SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS**

(in Cantonese): I was just stressing exactly this point a moment ago, that is, if we really want to strive for environmental protection, we must get the acceptance of the people. In terms of acceptance, it is relatively difficult to provide incentive

in government departments. In the processes of promotion and demotion, the functions that can be played by a stick and a carrot are rather limited. This is really because of the system.

However, in the community, Madam President, as I have said recently, our works staff has only a rudimentary understanding of environmental protection. If we want them to do better, we should give them more encouragement. Therefore, after joining the Government, I have been encouraging them to participate in this kind of projects, no matter they are government or non-government in nature. At present, many of our directorate colleagues or engineers are participating in such projects. However, unfortunately, sometimes certain incidents have taken place, such as the Tung Chung River incident, which makes the entire community hold some prejudice against them. This has upset them. They have actually adopted the new legislation. The Civil Engineering Department and the Drainage Services Department have issued some guidelines, which are about river training. However, some works have already been started before the establishment of these new approaches, and that is why they have come under a lot of criticisms.

Madam President, I wish to call on the public and Honourable Members to be aware of one fact, that is, for wherever we do, we have to go through a learning process. But how high should we set the standard in order to make everyone happy? We should be realistic when we look at certain issues. Be they professionals or engineers, if we give them the encouragement, we will make them learn and accept the concepts quicker. Otherwise, whenever the subject of environmental protection is mentioned, they would think that it is better for them to evade it as far as possible. This is because they will come under severe criticism even if a minor mistake is made. I think this is not a trend that we should promote.

**MR CHAN KWOK-KEUNG** (in Cantonese): *Madam President, may I ask the Secretary, during the past year, how many complaints have been received with regard to construction site noises, as well as improper care for trees or even the felling of trees?*

**SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS** (in Cantonese): With regard to construction site noises, I have some information

on hand to show that we have done a lot in controlling such noises during the past few years. Our colleagues and contractors in the construction industry have received a lot of training on that. Therefore, in comparison with 2002 and 2001, the year of 2003 saw a substantial decrease in the number of complaints. Maybe I can quote some figures. Regarding the number of prosecution cases instituted under the Noise Control Ordinance, there were 240 cases in 2001, 195 cases in 2002, and 81 cases in 2003. For prosecution cases involving government construction sites, there were 89 cases in 2001, 84 cases in 2002 and 30 cases in 2003.

With regard to tree felling, we have received some complaints. However, as the act does not constitute any offence in law, we do not have any detailed figures. However, I have personally handled many cases. Each of such cases complies with the relevant legislation. However, as far as human considerations are concerned, the people concerned could have given some more thoughts and see if they could avoid felling so many trees. Therefore, we need to make them accept the ideas, instead of controlling them by regulations and specifications. We have received many such complaints in a year. We hope the situation could be improved.

**MR IP KWOK-HIM** (in Cantonese): *Madam President, may I ask the Secretary whether during the past year the Government had issued warning letters to contractors of government projects for violating the provisions of reducing construction site noises and protecting construction sites? If so, can the relevant information be provided?*

**SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS** (in Cantonese): Madam President, in fact government construction sites will also subject to prosecution under the Noise Control Ordinance, just as any construction sites of ordinary private organizations. The 89 cases in 2001, 84 cases in 2002 and 30 cases in 2003 mentioned by me just now were government projects against which prosecution had been made.

**DR RAYMOND HO** (in Cantonese): *Madam President, the Secretary said the EPD has organized some courses through the Construction Partnership Programme. However, in the second paragraph of part (a) of the main reply, it*

*is mentioned that the programme has been extended to contractors, professional institutes and so on. Profession institutes such as the Hong Kong Institution of Engineers have their own internal environmental protection divisions composed of experts in the sector. Has the Government considered asking the EPD to work with the relevant divisions of professional institutes when it is to design future programmes, so as to make such programmes more practical?*

**SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS**

(in Cantonese): Madam President, in the Construction Partnership Programme which we conduct in conjunction with contractors, we mainly work with developers' trade associations. In the next phase of our programme, we of course hope to have greater participation from professional institutes. As such, we are very glad to accept the suggestion made by Dr HO, and hope that we could have the chance to organize more training on engineering and environmental protection.

**MISS CHOY SO-YUK** (in Cantonese): *Madam President, The Secretary has stated clearly that it takes a long time to implement environmental protection education, and that acceptance is very important, that is, it is necessary for us to start from the scratch. As such, engineering education at the universities is very important. The reply furnished by the Secretary makes me feel that such education is very inadequate. May I ask the Secretary if she would write to the universities to urge them to strengthen environmental protection education in their respective programmes, especially in the weightings of this aspect in engineering disciplines?*

**SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS**

(in Cantonese): Madam President, I believe if we intend to instil environmental protection awareness into our young people, we should start doing it when they are very young — as early as when they are in the kindergarten. In the past, when I was working in non-government organizations, I prepared a lot of teaching materials, in the hope that such education could progress from kindergartens, primary schools and onwards. Presently, in fact there are also some organizations working hard to promote work in this regard. On the issue of how in-depth should such programmes be, or what kind of approaches should



be adopted, we must leave them to people of the education sector to design, especially for programmes offered by the universities — how in-depth the programmes should be, how much professional knowledge should be incorporated and so on. Although such issues have a close relationship with the ideas we promote, we cannot design the level of complexity for them. However, I believe the message must have got across to the universities because I can see that, there are more and more such programmes being offered since I left the university. We shall also organize some activities to encourage the students to participate in and learn about environmental protection. After they have acquired an understanding of environmental protection, they would naturally strive to promote it, and there will be people who are interested in pursuing the discipline. I believe, on issues related to university education, I should leave them for discussion by Secretary Prof Arthur LI. However, I know the universities nowadays — I am not saying that they are commercialized — have to design programmes which will be chosen by students in their academic pursuit, disciplines that people will be interested in studying. This is something we cannot impose on others. Therefore, with regard to promoting the understanding of environmental protection and the acceptance of such concepts, I believe, in the curricula of the universities, be they for undergraduate, master or doctorate programmes, there must be more such courses offered to our young people in their academic pursuit.

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

**MISS CHOY SO-YUK** (in Cantonese): *No, Madam President. I am not talking about environmental protection courses, but whether the part on environmental protection awareness would be incorporated into engineering courses. The Secretary has just spoken on environmental protection courses, but I am talking about engineering courses. Does the Secretary wish to enhance the environmental protection awareness of undergraduates pursuing engineering courses?*

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

**SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS**

(in Cantonese): Madam President, as far as I know, in the curricula of the engineering discipline, there are a lot of subjects on environmental management. Besides, one of the provisions of the Hong Kong Institution of Engineers — the only organization from which all practising engineers have to get their professional qualifications — is to require them to make a commitment towards environmental protection, that is, apart from safety, quality and prices, environmental protection has already become a requirement for engineers. Therefore, they have to pursue courses in this regard.

**PRESIDENT** (in Cantonese): This Council has spent more than 18 minutes on this question. Now the last supplementary question.

**DR RAYMOND HO** (in Cantonese): *Madam President, the Secretary said that the Government has already issued technical guidelines requesting the various works departments to carry out environmental impact assessment according to the nature of the projects. Many of the medium or smaller projects, however, do not have to carry out environmental impact assessment. May I ask the Secretary, in this aspect, are there any measures that could ensure that during the period of time when the construction projects are being carried out, the impact on the environment could be reduced to the minimum?*

**SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS**

(in Cantonese): Madam President, what Dr HO has just said are the requirements which have been stipulated in the law. There are legal provisions on the types of projects that have to go through the complete processes of environmental impact assessment. However, we do have some internal papers, that is, our Works Branch has formulated some guidelines, which state very clearly how different types of works should go through the environmental impact assessment. But they are not legal requirements.

**PRESIDENT** (in Cantonese): Question time ends here.

**WRITTEN ANSWERS TO QUESTIONS****Policy Recommendations of the Culture and Heritage Commission**

6. **MR MA FUNG-KWOK** (in Chinese): *Madam President, the Culture and Heritage Commission (the Commission) submitted its policy recommendation report to the Chief Executive at the end of March last year, but the Government has not yet responded to the recommendations in the report. In this connection, will the Government inform this Council:*

- (a) *whether it has studied the recommendations in the report; if it has, of the reasons for not responding to the recommendations;*
- (b) *whether, in developing the West Kowloon Cultural District (WKCD), the authorities have taken into consideration the report's recommendations, especially in terms of hardware facilities and the mode of operational management; if so, of the outcome of their consideration; if not, the reasons for that; and*
- (c) *when the authorities will formulate an overall policy on cultural development and, in doing so, whether the authorities will adopt some or all of the principles and strategies on cultural development as recommended in the report; if so, of the recommendations which will be adopted and those which will not; if not, the reasons for that?*

**SECRETARY FOR THE CIVIL SERVICE** (in the absence of Secretary for Home Affairs) (in Chinese): *Madam President, my reply to Mr MA Fung-  
kwok's question is as follows:*

- (a) The Commission, established in April 2000, is a high-level advisory body responsible for advising the Government on the policies as well as funding priorities on culture and the arts. After three years of unflinching efforts, the Commission submitted the "Culture and Heritage Commission Policy Recommendation Report" (the Report) to the Government in April 2003, putting forward more than 100 recommendations which cover overall policies as well as specific implementation strategies.

When the Report was received, the Government was paying full attention in combating SARS and dealing with related issues. As a result, the response to the Report was delayed. After the crisis, the Home Affairs Bureau conducted a detailed study on over a hundred recommendations therein. At the same time, in drawing up the response, the Bureau also made reference to the consultancy reports commissioned by the Government on performance venues, libraries and museums, which were submitted to the Bureau in early 2003, mid-2003 and end 2003 respectively after public consultations.

The Report will shape the long-term cultural development in Hong Kong. On 27 February 2004, the Government issued its detailed response to the Report.

- (b) As pointed out in the Report, the WKCD presents an unprecedented opportunity and its completion will provide a new horizon of cultural development for Hong Kong. We entirely concur with this vision and agree that emphasis should be given to the principles of "people-oriented", "partnership" and "community-driven" in the planning and development as well as the operation and management of the WKCD. We will ensure that the cultural facilities would be integrated with other facilities in the WKCD and that the cultural facilities in the WKCD should complement cultural facilities elsewhere in Hong Kong. We will forge partnerships between developers and the community (particularly the cultural sector) and allow community involvement in the planning and future operation of the WKCD.
- (c) The Report depicts our future cultural scene, outlines the direction of the cultural development in Hong Kong, and serves as an important reference. We recognize and accept the six strategies put forward by the Commission for promoting the long-term cultural development in Hong Kong: "people-oriented", "pluralism", "freedom of expression and protection of intellectual property", "holistic approach", "partnership" and "community-driven". It is imperative that any policy needs to be timely and readily adaptable to the changing social environment. We will follow up the implementation of the policy recommendations in the Report on the principles and strategies for cultural development in Hong Kong.

## Quantity of Abandoned Plastic Bags

7. **MS CYD HO** (in Chinese): *Madam President, the quantity of abandoned plastic bags has been increasing sharply over the past three years, from 281 050 tonnes in 2001 to 388 360 tonnes in 2002 and to 371 940 tonnes (initial figure) in 2003. In this connection, will the Government inform this Council:*

- (a) of the reasons for the sharp increase in the quantity of abandoned plastic bags;*
- (b) of the annual expenditure on the disposal of abandoned plastic bags in each of the past three years, and whether it has calculated the quantity of degradable plastic bags among such plastic bags; if so, of the results, and whether there are any treatment processes that can facilitate smooth decomposition of degradable plastic bags;*
- (c) whether the authorities have plans to promote the recycling of abandoned plastic bags; if so, of the details of such plans; if not, the reasons for that; and*
- (d) whether the authorities have plans to introduce measures to reduce the use of plastic bags; if so, of the details of such plans; if not, the reasons for that?*

## **SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS**

(in Chinese): Madam President,

- (a) In the past six years, the quantity of abandoned plastic bags disposed of at landfills was maintained at the range from 280 000 to 380 000 tonnes each year, accounting for 4.5% to 6% of all solid waste disposed of. However, we observe a rising trend in the quantity of abandoned plastic bags over the past three years, probably due to increased use of plastic bags and consumption of products with plastic bag packaging as a result of population growth and changes in people's living style.
- (b) Abandoned plastic bags are disposed of at landfills together with other solid waste. Based on the weight of the abandoned plastic

bags, we estimate that the annual disposal cost for abandoned plastic bags is around \$23 million.

We do not keep statistics on the quantity of degradable plastic bags among all abandoned plastic bags. As far as we understand, bio-degradable plastic bags are not popular in the market. Thus, we do not have any special processes in place for treating bio-degradable plastic bags.

(c) and (d)

In the past, our focus was more on reducing the use of plastic bags. The Environmental Protection Department (EPD) has carried out various educational and publicity campaigns to promote reduction in the use of plastic bags, such as promoting the use of reusable shopping bags and encouraging supermarkets and news-stands to reduce distribution of plastic bags. Moreover, some supermarkets provide a refund of 10 cents for each bag not required by customers from the supermarkets. The EPD has also provided training on reducing the use of plastic bags for the trades concerned, including organizing seminars and formulating training guidelines. It has also worked with the trades to explore ways to reduce the use of plastic bags. The EPD will continue to encourage the public and the trades to use fewer plastic bags through publicity and educational activities.

In view of the increased public awareness of waste separation and recovery, we consider it opportune to examine whether recovery of plastic bags would be practicable and economically viable. The EPD therefore launched a trial scheme on plastic bag recovery in August 2002. Under the trial scheme, plastic bag collection bins are placed at the participating public/private housing estates and at the supermarkets in their vicinity to collect abandoned plastic bags for recycling. So far, the number of participating housing estates has increased from eight to 32 and about 13.6 tonnes (approximately 2.4 million pieces) of plastic bags have been collected for recycling. The EPD will continue to promote the trial scheme at these housing estates to encourage more residents to participate. It will also

conduct a survey of residents' attitude towards plastic bag recovery so as to review the effectiveness of the trial scheme by the end of this year.

Moreover, we introduced a wet/dry waste sorting pilot scheme at four housing estates in the Eastern District on Hong Kong Island in March last year. The dry waste collected and sold to recyclers under the pilot scheme includes also abandoned plastic bags. We will carry out a review upon completion of the pilot scheme in March this year to examine the feasibility, logistics and cost-effectiveness of this form of waste recovery.

### **Free Legal Advice Service for Prospective Candidates of 2004 Legislative Council Elections**

8. **MR JAMES TO** (in Chinese): *Madam President, prior to the Legislative Council elections held in 2000, the Government had announced that free legal advice would be made available to prospective candidates to ascertain whether they were qualified for being nominated as candidates, and details of applications for such service were also provided. Although the authorities have announced that the 2004 Legislative Council elections will be held on 12 September this year, they have not yet advised whether the above free legal advice service will be available for this year's Legislative Council elections. In this connection, will the Government inform this Council whether it will provide the above service; if it will, when the service will be provided and the details on applications for the service; if not, the reasons for that?*

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Chinese): Madam President, following arrangements similar to those for the 2000 Legislative Council general election, the Electoral Affairs Commission (EAC) will appoint Nominations Advisory Committees (NACs) in accordance with the Electoral Affairs Commission (Nominations Advisory Committees (Legislative Council)) Regulation to provide, upon request, free advice to prospective candidates on their eligibility for nomination in the 2004 Legislative Council election. The NACs will provide services to prospective candidates starting from 19 March.

A prospective candidate may:

- (i) make only one application in respect of the geographical constituency election; and
- (ii) make only one application in respect of a particular functional constituency election, but may apply for advice in respect of more than one functional constituency.

A prospective candidate in need of the service should make his application by filling in the specified application form and send it to the Chief Electoral Officer who will pass the application to a NAC for its consideration. Upon receipt of the application, the NAC will give advice to the applicant as soon as possible. The deadline for application is the day before the commencement of the nomination period. The NAC will reply to all applications no later than the second working day after the deadline for application.

The EAC will publish a notice in the Gazette on 19 March to announce the appointment of the NACs and the relevant operational arrangements.

### **Ticket Scalping on the Internet**

9. **MS AUDREY EU** (in Chinese): *Madam President, will the Government inform this Council:*

- (a) *whether complaints about scalping admission tickets on the Internet have been received over the past three years; if so, of the number of such complaints;*
- (b) *whether the existing legislation regulates the above scalping activities; if not, whether the authorities will consider enacting legislation to do so; and*
- (c) *of the measures currently adopted by the authorities to combat and prevent such scalping activities?*



**SECRETARY FOR THE CIVIL SERVICE** (in the absence of Secretary for Home Affairs) (in Chinese): Madam President, my reply to the Honourable Member's question is as follows:

- (a) No complaints from the public about scalping admission tickets on the Internet have been received in the past three years.
- (b) Section 6(1)(b) of the Places of Public Entertainment Ordinance (Cap. 172) (the Ordinance) provides for certain restrictions on the unauthorized sale of tickets for admission to any place of public entertainment licensed under the Ordinance. Section 6(1)(b) of the Ordinance provides that no person shall sell, or offer or exhibit or have in his possession for sale, or solicit the purchase of, any ticket or voucher authorizing or purporting to authorize admission to any place of public entertainment licensed under the Ordinance at a price exceeding the amount fixed by such proprietor, manager or organizer to be charged therefor. As such, section 6(1)(b) of the Ordinance would apply to admission tickets sold on the Internet provided that the admission tickets are for admission to any place of public entertainment licensed under the Ordinance and the price exceeds the amount fixed by the proprietor, manager or organizer.
- (c) The police maintains liaison with organizers of major local entertainment or sport events to monitor the situation as necessary.

### **Advanced Practice Nurse**

10. **MR MICHAEL MAK** (in Chinese): *Madam President, the Hospital Authority (HA) launched an 18-month pilot scheme in September 2003 which involved the creation of new posts entitled Advanced Practice Nurse (APN). Appointees must hold a relevant master's degree or are attending relevant courses, and are employed on contract terms. In this connection, will the Government inform this Council whether it knows, in respect of the HA:*

- (a) *why the possession of a relevant master's degree or taking of relevant courses is set as one of the entry requirements for APN posts;*

- (b) *the number of APN posts created;*
- (c) *the numbers of applications received and appointments made so far, and the numbers of appointees who have a relevant master's degree and are attending relevant courses respectively;*
- (d) *if the HA has assessed whether the appointment of APNs on contract terms makes the appointees feel that their jobs are not permanent, and in turn affects the quality of nursing services; if so, of the assessment results; and*
- (e) *the criteria that will be adopted for assessing whether APN posts should be created on a territory-wide basis upon the completion of the pilot scheme?*

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

- (a) The APN is part of a proposed new nursing grade structure of the HA, designed to enhance professional accountability and role of nurses with the principle of linking career advancement of nurses to professional competence and development. The APN position is the first promotional level within the proposed new nursing grade structure and the possession of a Master's degree or Postgraduate Diploma, which indicates a higher professional competence and stronger commitment to the nursing profession by the applicants, is set as one of its entry requirements.
- (b) The HA has created about 200 APN positions to be filled in 2003-04 and 2004-05.
- (c) As at February 2004, the HA has appointed a total of 130 APNs. All of them either possess a Master's degree/Postgraduate Diploma or have enrolled in such a course. These positions are filled by recruitment from within the HA. The total number of applications received so far is 2 674.
- (d) Contract/fixed term employment is the prevailing human resources policy. It is not limited to APNs only but applies to all

promotional ranks in the HA irrespective of their grades. The APN Pilot Scheme provides more career advancement opportunities for nurses as well as promotes professional competence. Consequently, the creation of APN posts is intended to bring about greater motivation and commitment among the nursing staff and should improve quality of patient care.

- (e) The APN Pilot Scheme is introduced into all hospital clusters. The HA will conduct a review in the fourth quarter of 2005 on the future developments of the Scheme having regard to the service needs of the community.

### **Registered Medical Practitioners Prescribing Weight-loss Drugs for Beauty/Slimming Centres**

11. **MR FRED LI** (in Chinese): *Madam President, it has been reported that some beauty/slimming centres employ registered medical practitioners so that they can provide customers with prescribed weight-loss drugs. In this connection, will the Government inform this Council:*

- (a) *of the respective total numbers of complaints received by government departments and the Consumer Council in each of the past three years about the provision or prescription of weight-loss drugs by beauty/slimming centres and their doctors, together with breakdowns of the cases;*
- (b) *whether it knows if the World Health Organization (WHO) has issued any guidelines on the prescription of weight-loss drugs; if so, of the details of such guidelines;*
- (c) *whether the relevant authorities have issued regulations on the prescription of weight-loss drugs by registered medical practitioners; if so, of the details of such regulations; if not, how the Government and the Medical Council of Hong Kong (MCHK) prevent the abuse of weight-loss drugs; and*
- (d) *whether it knows if the MCHK has assessed whether registered medical practitioners are in breach of the Professional Code and*

*Conduct for the Guidance of Registered Medical Practitioners when they run businesses jointly with beauty/slimming centres or allow their names and titles to be published in advertisements or promotional materials of such centres; if the MCHK has assessed this, of the results?*

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

- (a) In the three years between 2001 and 2003, the Government and the Consumer Council received a total of three complaints relating to the provision or prescription of weight-loss drugs by beauty/slimming centres and their doctors. Of these three complaints which were all received in 2003, two were on inappropriate prescription by slimming centres or their doctors and one was on the side-effects of the drugs prescribed. Meanwhile, the MCHK has not received any similar complaint over the past three years.
- (b) The WHO and its Western Pacific Regional Office (WPRO) have organized workshops on obesity prevention and control strategies. It is considered that diet, exercise and behaviour modification are the mainstay for management of obesity.

In particular, the WPRO issued a report entitled "Redefining Obesity and its Treatment" in February 2000. The report contained detailed information on obesity, including its prevalence in the Asian Pacific region, definition of obesity, its diagnostic criteria in different ethnic groups, associated health risks, burden of diseases, economic costs to the community and individuals, prevention and treatment strategies, and current research areas about obesity. Albeit not regarded as detailed guidelines on the prescription of weight-loss drugs by doctors, the report stated that drug treatment for obesity should only be used as an adjunct to diet and exercise for obese patients with special indications, and weight-loss drugs should not be recommended for children, pregnant and lactating women and patients who are concurrently taking certain kinds of antidepressants.

- (c) In Hong Kong, weight-loss drugs are controlled medicines and the majority of them have to be prescribed by a registered medical practitioner. Under the Pharmacy and Poisons Ordinance (PPO) (Cap. 138), all pharmaceutical products are required to be registered before sale. The criteria for registration are based on efficacy, safety and quality of the product concerned. In addition, the PPO requires that pharmaceutical products supplied by a registered medical practitioner for the purpose of medical treatment be distinctly labelled with the name and address of the doctor concerned, and particulars relating to the supply of such medicines be properly recorded. Mechanism is also in place to allow the subsequent deletion or deregistration of any pharmaceutical product if there is a safety concern. For instance, the Pharmacy and Poisons Board, being the statutory authority established under the PPO, deregistered two weight-loss drugs, fenfluramine and dexfenfluramine, in 1998 when they were found to be linked with valvular heart disease.

Moreover, a few weight-loss drugs have further been classified as dangerous drugs under the Dangerous Drugs Ordinance (DDO) (Cap. 134) and are subject to more stringent control because of their abuse potential. Examples are the inclusion of phentermine in 1994, and amfepramone and cathine in 1999. Whenever there is a new drug being classified under this category, letters will be issued to doctors to inform them of the ensuing legislative requirements. It is a statutory requirement for doctors to keep full records regarding the receipt and supply of such drugs, and to keep all dangerous drugs in locked receptacles.

Specifically with regard to prescription of pharmaceutical products by doctors, all registered medical practitioners are required to observe the Professional Code and Conduct (the Code) issued by the MCHK. The Code provides that a registered medical practitioner has the responsibility to decide, after proper consultation, the proper medications with appropriate duration. According to paragraph 11 of the Code, which governs the supply of dangerous drugs or scheduled drugs, doctors are advised to acquaint themselves with the Guidelines on the Proper Prescription and Dispensing of Dangerous Drugs issued by the MCHK, in addition to ensuring compliance

with the PPO and the DDO. Disciplinary proceedings will be taken against doctors found guilty of non-compliance with the relevant provisions of the Code.

- (d) Paragraphs 14 and 15 of the Code (copied at Annex) contain guidelines on the relationship between doctors and organizations providing medical or related services. For instance, it is stipulated that a doctor who has any financial or professional relationship with such an organization, or who uses its facilities, shall bear the responsibility to ensure the organization's advertising conforms to the principles and rules set out in the Code. It is further stated that if a doctor has financial or commercial interests in organizations providing health care services or in pharmaceutical or other biomedical companies, these must not affect the way he prescribes for, treats or refers patients. Moreover, a doctor may not receive from, or offer to, another doctor or organization any payment by way of commission, rebate or otherwise for referring a patient for consultation or treatment.

Whether relationship between a doctor and a commercial organization and its related promotion practice is in contravention of provisions in the Code can only be judged depending on the facts of individual cases. Complaints against registered medical practitioners are dealt with by the MCHK in accordance with provisions of the Medical Registration Ordinance (Cap. 161). If a registered medical practitioner is found guilty of misconduct in a professional respect, the MCHK will exercise its disciplinary power under the Ordinance and take appropriate disciplinary actions.

Annex

Extract of paragraphs 14 and 15 of the Professional Code and Conduct issued by  
the Medical Council of Hong Kong

14. Relationship between doctors and organizations

- 14.1 Medical services are offered to the public not only by individual doctors but by a wide variety of organizations such as hospitals, screening centres, nursing homes, medical scheme administrators,

insurance companies, health administration companies, managed care companies and counselling centres. Such organizations may be providing the medical service itself directly or through middlemen; or may be acting as an agent or a middleman itself. Some of them advertise their services to the public and the principles and rules set out in paragraph 4.2 above [i.e. Principles and rules of good communication and information], concerning the advertising of medical practitioner services, apply also to such advertising.

- 14.1.1 Doctors who have any kind of financial or professional relationship with such an organization, or who use its facilities, bear responsibility to ensure the organization's advertising conforms to the principles and rules set out in paragraph 4.2 above. This also applies to doctors who accept for examination or treatment patients referred by any such organization. All such doctors must therefore make it their responsibility to acquaint themselves with the nature and content of the organization's advertising, and must exercise due diligence in an effort to ensure that it conforms with this guidance. Should any question be raised about a doctor's conduct in this respect, it will not be sufficient for any explanation to be based on the doctor's lack of awareness of the nature or content of the organization's advertising, or lack of ability to exert any influence over it.
- 14.1.2 Doctors should also avoid personal involvement in promoting the services of this kind of organization, for example, by public speaking, broadcasting, writing articles or signing circulars, and should not permit the organization's promotional material to claim superiority for their professional qualifications and experience. Nor should they allow their personal address, telephone number, facsimile number or e-mail address to be used as an inquiry point on behalf of an organization. Professional fees should not be mentioned.
- 14.1.3 A doctor who recommends that a patient should attend at, or be admitted to, any hospital, nursing home, health

centre or similar institution, whether for treatment by that doctor or by another person, must do so only in such a way as will best serve, and will be seen to best serve, the medical interests of the patient. Doctors should therefore avoid accepting any financial or other inducement from such an institution which might compromise, or be regarded by others as likely to compromise, the independent exercise of their professional judgement. Where doctors have a financial interest in an organization to which they propose to refer a patient for admission or treatment, whether by reason of a capital investment or a remunerative position, they should always disclose that they have such an interest before making the referral.

#### 14.2 Contract medicine and managed care

A doctor who is an owner, a director or an employee of, or in a contractual relationship with, an organization which, either directly or indirectly, provides medical services or administers medical schemes, may only continue such association provided that the organization conforms to the following principles:

- 14.2.1 The principles on advertising mentioned in paragraph 14.1.1 must be observed.
- 14.2.2 Doctors should exercise careful scrutiny and judgement of medical contracts and schemes to ensure that they are ethical and in the best interests of patients. Doctors should dissociate themselves from organizations that provide substandard medical services, infringe patients' rights or otherwise contravene the Professional Code and Conduct.
- 14.2.3 When administrators, agents, brokers, middlemen etc. are involved in a medical contract, information pertaining to the financial arrangements must be readily available to all parties on request.
- 14.2.4 Medical schemes and contracts often involve administrative costs. Doctors should do their best to



ensure that these administrative costs are reasonable. Nevertheless, each doctor is to retain 100% of the professional fees which he charges the patient. Where payment is by credit card, remission/deduction of the amount due to the credit card company is acceptable.

14.2.5 Commercial pre-paid capitation schemes (whereby a doctor or a group of doctors undertake certain insurance-type financial risks) which may be incompatible with a high standard of medical practice should not be entered into.

14.2.6 Doctors in accepting contracts to provide service should avoid taking on unreasonable financial risk as in the case of low capitated payment. It will be unacceptable for doctors who provide substandard service to use any capitated medical scheme which they joined as their excuse.

## 15. Improper financial transactions

15.1 A doctor may not receive any payment by way of commission, rebate or otherwise from another doctor or organization for referring a patient for consultation or treatment. A doctor may not offer or pay any commission, rebate or otherwise to another doctor, person or organization who refers a patient to him for consultation or treatment.

15.2 A doctor shall not share his fees with any other person other than the bona fide partners of that practice.

15.3 A doctor shall not receive any rebate from diagnostic laboratories or similar organizations to whom he refers patients.

15.4 If a doctor has financial or commercial interests in organizations providing health care or in pharmaceutical or other biomedical companies, these must not affect the way he prescribes for, treats or refers patients.

- 15.5 A doctor, before taking part in discussion with patients or their relatives about buying goods or services, must declare any relevant financial interest or commercial interest which he or his family may have in the purchase.
- 15.6 The seeking or acceptance by a doctor from a hospital, nursing home, health centre or similar institution of any inducement for the referral of patients to the institution, such as free or subsidised consulting premises or secretarial assistance, is considered improper. Similarly the offering of such inducements to colleagues by doctors who manage or direct such institutions may be regarded as improper.
- 15.7 Sponsorship from commercial organization for participation in scientific meetings, or for educational and charitable services is acceptable provided the amount sponsored is reasonable and not excessive.

### **Complaints Against Telecommunication Operators**

12. **MR SIN CHUNG-KAI** (in Chinese): *Madam President, the Office of the Telecommunications Authority Trading Fund Report 2002/03 has pointed out that the number of consumer complaints against telecommunications operators handled by the Office of the Telecommunications Authority (OFTA) increased dramatically from 1 867 in 2001-02 to 2 930 in 2002-03. The Report has also pointed out that keen competition in various telecommunications services was one of the major reasons for the increase in the number of complaints. In this connection, will the Government inform this Council:*

- (a) *of the respective numbers of complaints in 2001-02 and 2002-03, broken down by type of telecommunications service (such as fixed line telephones, mobile phones, external telecommunications and broadband access to the Internet) and nature of complaints;*
- (b) *whether the authorities will make reference to the experience gained in the Mobile Number Portability and formulate measures to*

*improve the existing number portability for fixed telecommunications network services (FTNS), such as giving directions to operators and releasing the relevant statistics on a regular basis, so as to avoid the operators' delays in processing customers' applications for FTNS number portability by improper practices; and whether the authorities will consider simplifying the existing application procedures for FTNS number portability so as to reduce the inconvenience caused to customers;*

- (c) *given that some new FTNS operators have pointed out that, although they can rent local access link from the Pacific Century CyberWorks Limited to provide services under the policy of "Type II Interconnection", they have encountered substantial difficulties in applying for the link and cannot activate the number portability for their customers as scheduled, and some customers' FTNS were even suspended, whether the authorities will review the existing arrangements for such kind of number portability, formulate service standards and prevent FTNS operators from wilful obstruction, so as to shorten customers' waiting time for switching between service providers and reduce the impact of such switching on the customers; and*
- (d) *apart from formulating the scheme for monitoring the quality of public telecommunications services, whether the authorities will formulate measures, such as imposing heavier fines and taking proactive actions against operators which adopt improper business practice, obstruct fair market competition or are in breach of licence conditions, so as to maintain a fair and effective competitive environment for the telecommunications market; if they will, of the details of such measures?*

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

- (a) The number of consumer complaints received by the OFTA in 2001-02 and 2002-03 is shown below:

## (i) Categorized by Service

<i>Service Type</i>	<i>2001-02</i>	<i>2002-03</i>
Fixed Line Telephones	274	668
Mobile Phone	777	710
Internet Access (Broadband and Narrowband)	618	1 172
External Telecommunications	135	321
Paging and Others	63	59
Total	1 867	2 930

## (ii) Categorized by Nature of Complaint

<i>Nature</i>	<i>2001-02</i>	<i>2002-03</i>
Disputes over Contract/Bill	503	1 013
Customer Service/Technical Quality	905	1 521
Suspected Deceptive/Misleading Sales Conduct/Advertisements	100	176
Others	359	220
Total	1 867	2 930

- (b) In 1995, the OFTA formulated the Code of Practice on "HKTA 2102 Procedures for Handling Number Porting by Database Solution" on the procedure of FTNS number portability. The OFTA has instructed in accordance with the licence terms that the relevant operators should comply with the Code. Since the publication of Issue 1 of the Code in 1995, the OFTA has reviewed the Code with the operators through a standing working group from time to time with the objective of improving the relevant procedure, including simplifying the application procedure for FTNS number portability. As at December 2003, the Code has been revised to the current Issue 6.

Apart from formulating code of practice, the OFTA also endeavours to improve the existing number portability of FTNS through other channels. At present, the OFTA and FTNS operators are discussing the publication of statistical data on FTNS number portability. After consensus is reached over the details (including the definition of each type of data, the procedure for submitting

information and the method for publication), the OFTA will publish the relevant data as soon as possible.

- (c) Apart from the code entitled "HKTA 2102 Procedures for Handling Number Porting by Database Solution" mentioned in (b), the OFTA also issued in 2001 the "Industry Code of Practice for the Interconnection of Broadband and Narrowband Local Access Links". Together, the two codes set out the details and time limits for porting arrangements. The aim is to ensure that, under reasonable circumstances, FTNS operators can implement the porting arrangement effectively, shorten consumers' waiting time for switching between FTNS operators and reduce the impact of such switching on the consumers. The OFTA has been strictly implementing these codes. Upon receipt and substantiation of complaints, the OFTA will take appropriate regulatory action. The OFTA will also review and amend the codes from time to time so as to further prevent the operators from wilful obstruction.
- (d) The OFTA is committed to upholding a fair and competitive environment in the telecommunications market. As amended by the Telecommunications (Amendment) Ordinance 2000, the amount of financial penalty that can be levied by the Telecommunications Authority (TA) under section 36C of the Telecommunications Ordinance when an operator is in breach of the law or licence terms has already been increased to \$200,000 (for the first occasion), \$500,000 (for the second occasion), \$1 million (for the third or any subsequent occasion), or if approved by the Court, \$10 million or 10% of the turnover of the relevant operator, whichever is the higher.

The OFTA has devoted considerable amount of resources to the investigation of complaints about alleged breaches of the law or licence terms by the operators. If the investigation reveals that the relevant operator is in breach of the Telecommunications Ordinance or licence conditions, the TA will impose the corresponding penalty. For example, the TA has recently publicly warned two operators for their improper processing of porting services.

**Smog Problem**

13. **MR ALBERT CHAN** (in Chinese): *Madam President, for several consecutive days in December last year, a number of places in Hong Kong, especially Tung Chung, were engulfed in smog. In this connection, will the Government inform this Council of:*

- (a) *the number of days last year on which Hong Kong was engulfed in smog, as well as the concentration, composition and cause of the smog;*
- (b) *the impact of ambient smog on human health and the number of consultations at public hospitals last year on illnesses triggered by smog; and*
- (c) *the short-, medium- and long-term measures to address the smog problem and the estimated time for the problem to be completely solved?*

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

- (a) Air pollution is the major cause of the smog phenomenon. When a temperature inversion is formed in the Pearl River Delta (PRD) Region, or when a weak northerly or northwesterly wind prevails, ambient air pollutants (including nitrogen oxides (NO<sub>x</sub>) and volatile organic compounds (VOC)) in the region will be trapped easily in the lower atmosphere and cannot be dispersed effectively. The above factors, if coupled with strong sunlight, will generate ozone under photochemical reaction between NO<sub>x</sub> and VOC and lead to the phenomenon of photochemical smog.

As ozone is a major component of photochemical smog, ozone concentration is used as a scientific indicator of the level of photochemical smog. Over the past year, among the 11 general air quality monitoring stations throughout the territory, the stations at Tap Mun and Tung Chung had records of incidents of ozone concentration exceeding the Air Quality Objective (AQO): the ozone concentrations recorded at the Tap Mun station exceeded the

AQO by between less than 1% to 29% in 13 hours, whereas those recorded at the Tung Chung station exceeded the AQO by less than 1% to 26% in 26 hours.

- (b) High concentrations of ozone have a greater impact on the respiratory system: it may irritate the mucous membrane lining of the nasal passage, the throat and the trachea, causing cough, chest pain and throat and eye irritation. It may also increase the system's susceptibility to respiratory infection. In serious cases, it may impair the normal pulmonary function and trigger inflammation of the respiratory system. Photochemical smog also contains other compounds such as peroxyacyl nitrates and formaldehyde, which may cause eye irritation when the concentrations are high.

We do not have information on the number of consultations at public hospitals last year associated with illnesses triggered by smog. However, the Environmental Protection Department, the University of Hong Kong and The Chinese University of Hong Kong carried out in 2002 a study on the correlation between air pollution in Hong Kong and its impacts on health. The study made use of air quality data and the data on daily admissions at 12 public hospitals of the Hospital Authority to assess the correlation between air pollution and respiratory and cardiovascular illnesses in Hong Kong. According to the findings of the study, the admission to hospital of 3 770 patients with respiratory illness and 3 970 patients with cardiovascular illness could have been correlated with air pollution. The numbers account for 4.2% and 5.8% respectively of the total number of patients admitted to the hospitals for respiratory and cardiovascular illnesses.

- (c) To address the problem of photochemical smog, we have to reduce the emissions of NO<sub>x</sub> and VOC in the whole of the PRD Region. In this connection, we have since 1999 been implementing a programme of measures to reduce the emissions from motor vehicles in Hong Kong. We anticipate that, upon full implementation of the measures by the end of 2005, the NO<sub>x</sub> emissions from motor vehicles in Hong Kong will be reduced by 30%. So far, we have already reduced the NO<sub>x</sub> emissions from motor vehicles by 28%. Moreover, the Hong Kong Special

Administrative Region Government and the Guangdong Provincial Government have jointly drawn up a "Regional Air Quality Management Plan" to reduce the emissions of four major air pollutants in the PRD Region, including NO<sub>x</sub> and VOC that are to be reduced by 20% and 55% respectively. When the targets are achieved, the ambient ozone concentrations in Hong Kong and in the whole of the PRD Region will fall significantly. The problem of photochemical smog will be alleviated and air quality will improve. Under the Regional Air Quality Management Plan, the two Governments will implement enhanced air pollution control measures, including those for reducing NO<sub>x</sub> and VOC emissions. The details of those measures are set out at the Annex. The two Governments are gradually implementing the measures with the objective of achieving, on a best endeavour basis, the agreed emission reduction targets by 2010.

Annex

#### Enhanced Control Measures of the Hong Kong SAR

<i>Measure</i>	<i>Implementation Programme</i>
Encourage the replacement of diesel light buses with light buses using cleaner fuels	Programme has started since the third quarter of 2002 to provide incentives to encourage early replacement of diesel light buses with ones that are run on liquefied petroleum gas (LPG) or electricity.
Require the retrofitting of particulate removal devices on pre-Euro diesel vehicles	Programme providing financial assistance to retrofit pre-Euro light diesel vehicles with particulate removal devices has been completed and the installation has been made mandatory for those vehicles. Programme providing financial assistance to retrofit pre-Euro heavy diesel vehicles is going on and is expected to complete by end-2004 following which the installation will be made mandatory for those vehicles.
Enhance the vapour recovery systems at petrol filling stations	To introduce proposed legislation into the Legislative Council in 2004 to require the recovery of petrol vapour emitted during vehicle refueling at petrol filling stations.



<i>Measure</i>	<i>Implementation Programme</i>
Tighten the motor fuel standards	To tighten the motor petrol standard to Euro IV by 2005 in parallel with European Union (the motor diesel standard has already been tightened to Euro IV since 2002).
Tighten vehicle emission standards	To tighten the motor vehicle emission standard for newly registered vehicles to Euro IV by 2006 in parallel with the European Union.
Reduce the emission of VOC from printing operations, paints and consumer products	To introduce proposed legislation into the Legislative Council in 2004-05 to require the labelling of products with VOC contents.
	To introduce proposed legislation into the Legislative Council to reduce the use of products with a high VOC content and to develop VOC emission standards for printing operations.
Reduce emissions from power stations	Set up an effective and flexible mechanism (which may include emissions trading) to control the total emissions of SO <sub>2</sub> , NO <sub>x</sub> and RSP from power stations to achieve their respective reduction targets by 2010.

## Enhanced Control Measures of Guangdong Province

<i>Measure</i>	<i>Implementation Programme</i>
Use cleaner energy	To achieve by 2005 the energy consumption rate of 0.85 tonne standard coal per RMB 10,000 yuan of GDP. To construct by 2010 an energy production and supply system that is safe, stable, economical, efficient and clean.
	To construct an LNG trunk pipeline and carry out the associated works. To complete in 2005 Phase I that will have a capacity of 3 million tonnes/year. To complete Phase II in 2009 that has a capacity of 3 million tonnes/year and to finish construction of a number of LNG power plants.

<i>Measure</i>	<i>Implementation Programme</i>
	To upgrade by 2005 the 500 kV dual circuit annular core transmission grid to cater for the transmission of electricity from western provinces.
Control the sulphur contents of fuels	To restrict use of high sulphur fuels. To limit the sulphur content of the fuel oil and coal used in the acid rain control zone to below 0.8% by 2005.
Reduce emissions from coal-fired and oil-fired power stations	To close down small power generation units. After implementation of this measure, the power generation units of capacity above 300 MW will make up more than 70% of the total installed generation capacity of the Region by 2005 — an increase by 35% as compared with 2000.
	To finalize by 2005 plans for installing flue gas desulphurization systems at power plants in Shajiao, Huangpu, Taishan and Zhuhai.
	To require all oil-fired and coal-fired power generation units of capacity above 125 MW to be equipped with flue-gas desulphurization systems by 2007.
Control emissions from industrial boilers and industrial processes	To phase out coal-fired boilers of capacity less than 2 tonnes/hour in the urban areas of cities. By 2005, to prohibit the use of coal-fired boilers of capacity below 2 tonnes/hour in the built-up areas of major cities, and to require all large and medium-size industrial boilers to install desulphurization systems or adopt clean combustion technologies to reduce emissions.
	To continue to phase out various production technologies or installations that cause serious pollution by emitting sulphur dioxide, smoke and particulates.
Reduce the emission of VOC from paints	To replace paints using VOCs like Xylene as solvents.

<i>Measure</i>	<i>Implementation Programme</i>
Reduce exhaust emissions from motor vehicles	To commence the construction of a regional rapid light-rail system by 2005. To construct expressways in major cities, such as the district expressway in Southern Guangzhou and the Shenzhen-Changping Express Trunk Road.
	To develop green transport by implementing clean vehicle action programmes in major cities within the region. To encourage the use of clean fuels, develop electric vehicles and actively promote the use of advanced clean fuel motor vehicles.
	To require all new motor vehicles to meet emission standards. To step up annual inspection and on-road spot checks of in-use vehicles. To strengthen the control of in-use vehicles with the objective of ensuring that over 90% of motor vehicles in the cities within the region will meet emission standards by 2005.

### Ambulance Service

14. **DR RAYMOND HO** (in Chinese): *Madam President, it has been reported that, in the morning of the ninth of last month, a sick old woman in Lai Chi Kok was not taken to the hospital speedily for treatment because no ambulance was available at that time. In this connection, will the Government inform this Council:*

- (a) *of the number of cases in the past three years in which the patients were not taken to hospitals speedily due to shortage of ambulances;*
- (b) *of the measures to improve the situation in which patients cannot be taken to hospitals speedily due to shortage of ambulances; and*
- (c) *whether it has reviewed if more ambulances should be procured to meet the demand for the service; if it has, of the result of the review?*

**SECRETARY FOR SECURITY** (in Chinese): Madam President, the incident referred to in the preamble of the question occurred in the morning of 9 February this year at Phase 8, Mei Foo Sun Chuen. The emergency call was received at 8.01 am, and an ambulance aid motorcycle arrived at the scene at 8.11 am and rendered first aid service to the patient immediately. This is in line with the Fire Services Department's (FSD) performance standard for an ambulance or an ambulance aid motorcycle to reach the scene within 12 minutes of the emergency call. First Responders and an ambulance were also deployed to the scene. The patient was conveyed to Princess Margaret Hospital by the ambulance which reached the hospital at 8.42 am.

Answers to the specific questions are:

- (a) We measure the performance of our emergency ambulance services by our performance pledge. Our performance pledge is that our ambulances or ambulance aid motorcycles arrive at the scene within 12 minutes of the emergency calls for at least 92.5% of such calls.

In the past three years, our performance compared against this performance pledge is:

	2001		2002		2003	
No. of emergency ambulance calls	463 154		487 420		464 223	
No. of calls attended within target response	425 000	(91.8%)	447 274	(91.8%)	432 649	(93.2%)
No. of calls unattended within target response time	38 154	(8.2%)	40 146	(8.2%)	31 574	(6.8%)

- (b) The percentage of ambulance calls attended to within the target response time in 2001 and 2002 was 0.7% less than the pledged target of 92.5%. In 2003, apart from the additional resources allocated by the Government, the FSD also introduced a series of improvement measures, including the implementation of staggered shift system in 17 ambulance depots which targets ambulance resources at the peak hours in the evening, and the setting up of an Urgent Care Fleet, which releases more resources to attend to emergency ambulance calls. The Urgent Care Fleet comprises 12 two-man crew ambulances which replace the usual three-man crew

ambulances and are tasked for the transfer of patients in critical conditions from one hospital or medical institution to another for emergency treatment or examination. As a result of the introduction of these improvement measures, response time performance in 2003 reached 93.2%, exceeding the pledged performance target of 92.5% by 0.7%.

In a bid to utilize resources more flexibly and further enhance emergency ambulance services, the FSD is studying the feasibility of criteria-based dispatch of emergency ambulances whereby such resources can be better targeted at patients or injured persons in critical conditions so that they can receive earlier treatment.

- (c) The FSD reviews the level and deployment of ambulance resources from time to time. The FSD will procure 10 additional ambulances in the 2003-04 and 2004-05 financial years and the first batch of seven new ambulances will be delivered in the middle of this year.

### **Auditing Accounts of English Schools Foundation**

15. **MS EMILY LAU** (in Chinese): *Madam President, it has been reported that the English Schools Foundation (ESF), which currently runs 19 schools, has been accused by its former Secretary and Chief Executive of poor financial control. While the ESF receives an annual subvention in the region of \$300 million from the public purse, its accounts are not subject to audit by the Audit Commission because the amount of the subvention does not exceed half of the ESF's income. In this connection, will the executive authorities inform this Council whether:*

- (a) *they have demanded the ESF to submit a financial report audited by an independent auditor, so as to have an understanding of its accounts and management; if so, when the ESF will submit such a report; if not, of the reasons for that;*
- (b) *as it is stipulated in the Audit Ordinance (Cap. 122) that the Chief Executive may, in the public interest, authorize the Director of Audit (Director) in writing to audit the accounts of any body corporate,*

*whether the authorities will consider authorizing the Director to audit the accounts of ESF; if not, of the reasons for that; and*

- (c) *they will set up a mechanism for handling complaints about the financial control of subvented organizations in order to strengthen the supervision over these organizations and to avoid a wastage of public money; if so, when such a mechanism will be set up; if not, of the reasons for that?*

**SECRETARY FOR THE CIVIL SERVICE** (in the absence of Secretary for Education and Manpower) (in Chinese): Madam President

- (a) The ESF has all along been required to submit to the Education and Manpower Bureau (or to the then Education Department before 2003) its annual financial account audited by an independent auditor. The account is normally submitted within three to four months after the end of a school year.
- (b) The Administration has already raised concerns about the cost-effectiveness of the operation of the ESF some time earlier. In early 2003 we started a joint study with the ESF management to review the cost structure of the ESF and to identify possible areas for efficiency enhancement. The coverage of this review is comprehensive. We will also take into account concerned parties' views on the financial management of the ESF. Pending completion of the review, we do not consider it necessary to examine the accounts and other financial arrangements of the ESF through other means.
- (c) The Administration has already put in place a mechanism to handle complaints about financial management of subvented bodies. In general, the relevant Controlling Officers should monitor the activities and estimates/financial accounts of subvented bodies under their purview, taking into account the relevant legislation (if any) and subvention conditions. Should a Controlling Officer receive any complaints in discharging the abovementioned duties, he/she would take appropriate follow-up actions.

### Accidents Inside Bus Compartments

16. **MR LAU KONG-WAH** (in Chinese): *Madam President, it has been reported that the number of accidents occurring inside bus compartments in 2003 was substantially higher than that in 2001. In this connection, will the Government inform this Council:*

- (a) *of the respective numbers of claims made against bus companies in respect of the above accidents in 2003 and those which were successful, and the reasons for failure to make claims;*
- (b) *of the details of serious body injuries, disabilities or even deaths caused by such accidents; and*
- (c) *whether the authorities have studied jointly with various bus companies measures to reduce such accidents; if so, whether the scope of the study covers the measures to reduce the possibility of passengers sustaining injuries because of difficulty in holding handrails firmly in crowded bus compartments?*

### **SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS**

(in Chinese): Madam President, of the 565 accidents occurred inside bus compartments in 2003, 474 (83.9%) cases were minor accidents while 89 (15.8%) cases involved one or more injured persons admitted to hospital for more than 12 hours. Two (0.3%) accidents resulted in fatalities.

There were 313 claims made against franchised bus companies in respect of the above accidents in 2003. The franchised bus companies are not able to provide a breakdown on the outcome of the claims as they are commercially sensitive information.

To reduce the number of accidents inside bus compartments, the Transport Department (TD) has been working closely with franchised bus companies with a view to improving safety measures. Measures implemented and/or being considered include:

(1) *Driver training*

- (i) the TD, in collaboration with the Traffic police, has organized a series of road safety seminars for franchised bus drivers to promote their road safety awareness;
- (ii) franchised bus companies have included topics on safe driving and care for passengers in training programmes for new drivers as well as refresher and enhancement courses for serving drivers;
- (iii) franchised bus companies have issued instructions to their drivers reminding them of proper driving behavior, for example, to avoid braking abruptly. New instructions are issued from time to time to alert drivers of specific areas requiring attention.

(2) *Improving bus facilities*

- (i) franchised bus companies have installed handrails and armrests at seats which are more exposed. The TD has asked the companies to consider providing more handrails, stanchions, and armrests or seat belts at such seats where necessary;
- (ii) the TD has asked franchised bus companies to consider installing blackboxes on buses to enable continuous record of vehicle operating information which will facilitate monitoring of driving practice.

(3) *Passenger education*

- (i) the TD holds "Road Safety Forum for Franchised Bus" regularly with the participation of all franchised bus companies. Preventive measures on accident on buses is one of the themes covered by the Forum;
- (ii) franchised bus companies have strengthened education programmes to remind passengers to grasp handrails tightly



on buses through Announcement of Public Interest, advertisement, audio-visual broadcasting on board and posters inside bus compartments.

The TD will continue to closely monitor bus accident statistics and will maintain discussions with the franchised bus companies to examine how safety measures could be further improved as necessary.

### **Number of Directorate Civil Servants Under Old Pension Scheme**

17. **MR TAM YIU-CHUNG** (in Chinese): *Madam President, will the Government inform this Council of:*

- (a) *the total number of civil servants in the Old Pension Scheme (OPS), and the number of Directorate civil servants among them;*
- (b) *the numbers of Directorate civil servants who have reached/will reach the retirement age of 55 under the OPS this and in the next two years and have to/will have to retire, broken down by salary point; and*
- (c) *its plans to avoid a succession gap among the Directorate civil servants in order to ensure the quality and efficiency in implementing government policies?*

**SECRETARY FOR THE CIVIL SERVICE** (in Chinese): Madam President,

- (a) As at 31 January 2004, there are a total of 16 760 serving civil servants who are under the OPS, of whom 133 are Directorate officers.
- (b) The number of Directorate officers who have reached/will reach the prescribed retirement age (that is, 55) under the OPS and hence have to/will have to retire for the period from 2003-04 to 2005-06 is as follows:

<i>Directorate Pay Scale (salary with effect from 1 January 2004)</i>	<i>Total number of posts for each directorates pay point<sup>Note</sup></i>	<i>Number of Directorate officers retiring under the OPS</i>		
		<i>2003-04 (*already retired as at 31 January 2004)</i>	<i>2004-05</i>	<i>2005-06</i>
D8 (\$181,050)	19	-	1	-
D7 (\$175,600)	-	-	-	-
D6 (\$162,650)	35	-	-	2
D5 (\$154,150)	20	-	1	1
D4 (\$145,150 – \$149,600)	67	1	4	2
D3 (\$127,900 – \$135,550)	147	4 (* 1)	2	3
D2 (\$113,520 – \$120,553)	520	9 (* 4)	7	7
D1 (\$95,623 – \$101,458)	566	7 (* 3)	9	14
Total	1 374	21 (* 8)	24	29

Note: These are figures in respect of Directorate officers in government departments as at 31 December 2003. The Independent Commission Against Corruption and judicial officers are excluded.

- (c) We have in place a directorate succession planning mechanism to ensure smooth succession to the management level in a department. The Secretary for the Civil Service reviews the directorate succession plan with Heads of Departments and the relevant Permanent Secretaries every year. The directorate succession planning mechanism aims to ensure that a ready pool of suitable directorate officers is available to lead the department in the short, medium and long term.

### **Stepping up Publicity on Safe Ways to Keep Warm to Ethnic Minorities**

18. **MS AUDREY EU** (in Chinese): *Madam President, it was reported that in early February this year, a Nepalese family closed all the windows and burned charcoal at home, just like what they do in their native country, resulting in a tragedy with two deaths and one injury due to the excessive intake of carbon monoxide. In this connection, will the Government inform this Council whether, after the incident, it has stepped up publicity efforts to educate the ethnic*

*minorities in Hong Kong on the safe ways to keep warm in the cold weather, if so, of the details; if not, the reasons for that?*

**SECRETARY FOR THE CIVIL SERVICE** (in the absence of Secretary for Home Affairs) (in Chinese): Madam President, following the tragic incident on 8 February 2004, the Government launched an extensive publicity campaign to warn both the ethnic minorities and the general public against such practices as burning wood or charcoal in confined or unventilated premises. Immediate measures comprised:

- (i) radio and television weather reports: as a first step, the Information Services Department, Radio Television Hong Kong and commercial stations issued a modified cold weather warning (in Chinese and English) to include a warning against such practices as burning wood or charcoal in confined or unventilated premises; and
- (ii) publicity in minority languages: on 9 February, to reach as many non-Chinese/English speakers in the shortest possible time, the Race Relations Unit of the Home Affairs Bureau asked representatives of the minority communities to pass the message to their constituents. The message was also issued through the local Nepalese and Pakistani newspapers and the radio programme "Metro 1044", which broadcasts in Indonesian and Tagalog.

With a view to helping the ethnic communities to face future cold snaps, the Information Services Department, with the assistance of the Race Relations Unit and relevant consulates, is preparing leaflets in Nepali, Indonesian, Thai, and Urdu for distribution.

### **Staffing of Registered Nurses (Psychiatric)**

19. **MR MICHAEL MAK** (in Chinese): *Madam President, in regard to the staffing of registered nurses (psychiatric) (RNs(P)), will the Government inform this Council:*

- (a) *of the target ratio of RNs(P) to patients determined by the Hospital Authority (HA), and the actual ratio at the end of each of the past five years;*

- (b) *of the numbers of patient-days in respect of psychiatry inpatient services, attendances and new cases at psychiatric specialist out-patient clinics, as well as service attendances for community psychiatric services provided by the HA in each of the past five years;*
- (c) *of the respective numbers of RNs(P) employed by the HA and the Department of Health at the end of each of the past five years, and the numbers of new appointees and those who left the service, broken down by ranks and salary points respectively, in each of the past five years; and*
- (d) *based on the target ratio of RNs(P) to patients, the number of such nurses in service and their wastage rate, and the number of patients, of the number of places of pre-employment courses for such nurses that should have been offered in each of the past five years; the respective numbers of actual places of those courses and graduates in each of the past five years, as well as the number of places that will be offered in each of the next three years; and provide breakdowns of the aforesaid numbers based on places and graduates by training institutions, levels of the courses, and whether such courses are public-funded?*

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

Madam President,

- (a) The HA plans its manpower for psychiatric nurses by making reference to factors such as service type, patients' dependency, unit size and bed occupancy rate, and so on. A simple ratio of psychiatric nurses to patients is not sufficient for the purpose of manpower planning. The HA has therefore not set a target ratio. The actual manpower situation in the past five years can be seen from the reply to parts (b) and (c).

(b) The data are shown in the following table:

<i>Type</i>	<i>1999-2000</i>	<i>2000-01</i>	<i>2001-02</i>	<i>2002-03</i>	<i>2003-04 (up to January 2004)</i>
Patient days for psychiatric services (including Mentally handicapped services)	1 887 811	1 853 017	1 695 559	1 650 665	1 322 871
Psychiatric SOP attendances	432 046	471 228	511 127	549 133	447 297
SOP New cases	20 148	21 398	24 224	26 005	17 802
Community psychiatric service attendances and home visits	49 363	57 002	71 408	82 199	66 348

(c) The number, intake and turnover of RNs(P) in the HA for the past five years are as follows:

<i>RNs(P)</i>	<i>1999-2000</i>	<i>2000-01</i>	<i>2001-02</i>	<i>2002-03</i>	<i>2003-04 (up to January 2004)</i>
Intake*	86	92	110	23	19
Turnover	5	2	12	7	19
No. of RN(P)	787	877	978	994	977

\* Intake includes external recruits and internal graduating nurses in the HA.

Some new appointees were enrolled nurses before being appointed as RNs(P). These appointees enjoyed a salary point higher than the minimum salary point of RNs(P) in their previous post. They were thus offered a salary at their original salary point on appointment as RN(P)s and the salary offered differed from case to case, depending on the appointee's original salary. Other new

appointees entered at the minimum salary point which was as follows in the past five years:

<i>Year</i>	<i>Minimum Point</i>
1999-2000	Point 17 HK\$22,075
2000-01 2001-02 2002-03 April 2003 – December 2003	Point 15 HK\$20,010
January 2004 onwards	Point 15 HK\$19,463

The salary points of those who left the service range from Point 15 (HK\$20,010 for 2002-03) to Point 26 (HK\$33,705 for 1999-2000 and 2000-01; HK\$34,505 for 2001-02; HK\$34,505 and HK\$33,940 for 2002-03; HK\$33,940 and HK\$32,900 for 2003-04). (See <sup>Note</sup>)

The Department of Health has not employed any RNs(P) in the past five years.

- (d) There is no University Grants Committee (UGC)-funded programme that specifically trains psychiatric nurses. We understand that there are currently two self-financed psychiatric nursing education programmes offered by the local universities, one being offered by The Chinese University of Hong Kong (CUHK), with an annual training capacity of 30, and the other by The Hong Kong Polytechnic University (HKPU), with an annual training capacity of around 60. The CUHK programme commenced in 2001. To date, there have been 19 graduates from the course offered by the CUHK. The HKPU programme commenced in 2002 and there has been no graduate yet. At present, there are a total of 49 employees from the HA enrolled in the two programmes

<sup>Note:</sup> There was only departure by an RN(P) at point 15 in 2002-03 while there were departures by RNs(P) at point 26 in each of the past five years.

in 2003. A cumulative total of 87 HA nurses are currently studying in the two programmes and they are expected to graduate as registered psychiatric nurse in the next 18 months. We have no information as yet on the training capacity of these two self-financed psychiatric nursing education programmes in the coming years.

### **Hong Kong Monetary Authority Intervening in Money Market**

20. **MS EMILY LAU:** *Madam President, under the Currency Board System which has been adopted in Hong Kong to maintain the peg of the Hong Kong dollar to the US dollar, interest rates will respond to inflows or outflows of funds, creating the monetary conditions which automatically counteract the original capital movement, thus stabilizing the exchange rate. However, it is learnt that with the strengthening of the Hong Kong dollar, the Hong Kong Monetary Authority (HKMA) has, since September 2003, intervened many times in the money market by selling Hong Kong dollars for US dollars, resulting in the Aggregate Balance of the banking system gradually building up from its normal level of about \$0.6 billion in mid-September 2003 to about \$54.7 billion in the middle of last month. In this connection, will the executive authorities inform this Council:*

- (a) of the number of times the HKMA intervened in the money market in the past two years;*
- (b) whether the HKMA has recently adopted a more proactive approach in the operation of the Currency Board System; and*
- (c) how the Currency Board System is now intended to operate?*

**FINANCIAL SECRETARY:** Madam President,

- (a) During the period from 1 January 2002 to 20 February 2004, the HKMA bought US dollars from banks on 31 days in response to bank offers. Most of these purchases took place from

22 September 2003, when substantial amount of inflows of funds into the Hong Kong dollar began to emerge and exerted upward pressure on the Hong Kong dollar exchange rate.

- (b) The purpose of the HKMA's purchases of these US dollars is to maintain currency stability under the Linked Exchange Rate system, which is a Currency Board System. Under the System, the HKMA will sell US dollars for Hong Kong dollars when there is outflow of funds (that is, when the Hong Kong dollar is under depreciating pressure), and buy US dollars for Hong Kong dollars when there is inflow of funds (that is, when the Hong Kong dollar is under appreciating pressure). The sale or purchase of US dollars, as the case may be, is an integral part of the design of the Currency Board arrangements. The recent purchases of US dollars for Hong Kong dollars by the HKMA, in response to the inflow of funds, have prevented the Hong Kong dollar exchange rate from excessive deviation from the linked rate of US\$1 to HK\$7.80. They have also resulted in a very substantial increase in the Aggregate Balance of the banking system, which is a component of the Monetary Base, thereby exerting downward pressure on interest rates and thus providing a disincentive for continued inflows.

The operation of the Currency Board System is monitored by the Exchange Fund Advisory Committee's Sub-Committee on Currency Board Operations. The records of the Sub-Committee's meetings and the reports on Currency Board operations submitted to it are published on the HKMA website and in the HKMA Quarterly Bulletin.

- (c) The Currency Board System will continue to operate in accordance with the arrangements set out in the Monetary Policy Objective attached to the Exchange of Letters between the Financial Secretary and the Monetary Authority of 25 June 2003 and in HKMA publications such as the Annual Report. In other words, the HKMA will continue to maintain currency stability through the sale or purchase of US dollars as appropriate.



**MEMBERS' MOTIONS**

**PRESIDENT** (in Cantonese): Members' motions. Two motions with no legislative effect. I have accepted the recommendations of the House Committee: the movers of the motions will each have up to 15 minutes for their speeches including their replies, and another five minutes to speak on the amendments; the movers of amendments will each have up to 10 minutes to speak; other Members will each have up to seven minutes for their speeches. I am obliged to direct any Member speaking in excess of the specified time to discontinue.

First motion: Merger of the two railway corporations and provision of interchange concessions.

**MERGER OF THE TWO RAILWAY CORPORATIONS AND PROVISION OF INTERCHANGE CONCESSIONS**

**MR LAU KONG-WAH** (in Cantonese): Madam President, I move that the motion, as printed on the Agenda, be passed.

Madam President, when I proposed this motion, the Government had not yet announced the plan on the merger of the two railway corporations. Since the Government made the announcement, I have been paying much attention to the responses in the market. On the fifth day after the Government had made the announcement, the share price of the MTR Corporation Limited (MTRCL) showed a downward trend. The Hang Seng Index rose but the share price of the MTRCL went down, and by 6%. The market is very accurate; the market carries messages; the market is telling the Government something. On that day, they seemed to have said during the press conference that if the merger went ahead, it might be an all-win situation — this all-win of course includes the shareholders. However, is the present situation casting a no-confidence vote on what has been said by the Government? I very much hope that the Secretary can later on briefly interpret for us this market message.

Of course, the merger of the two railway corporations has been frequently brought up in society and in this Council. We hope that it can be studied somehow. The Government is now saying that it needs half a year for consideration and study, which I think is worth it. Moreover, after its study, the Government must make public all the messages for society and the market as reference. Basically, the merger of the two railway corporations involves the

interests of many parties. The interests of three parties will at least induce different concerns. For the shareholders, they of course hope that there will be a big leap in the ability to make profits after the merger. If the profits increase substantially, it may have a bearing on whether there will be staff retrenchment or fare increases. For the passengers, they of course hope that, after the merger, fares can really come down to within their affordability. Nevertheless, fare cuts and profit increases may contradict each other. Thirdly comes the staff. For the staff, they are of course concerned about their "rice bowls". Judging from the other instances, it seems to be an inevitable phenomenon for listed companies to lay off staff upon merger. Thus, it is understandable that the staff are worried about their "rice bowls".

Just now, some staff of the MTRCL and the Kowloon-Canton Railway Corporation (KCRC) petitioned outside. I asked them how many times they had discussed with the companies. I found out they had only had one discussion which bore no result. During the meeting of the Panel on Transport last week, the Chief Executive Officers of the two railway corporations guaranteed that the "rice bowls" of all staff — including the highest, top and the lowest levels will be taken care of. We have got this message, but we hope that they can continue their discussions with the staff as soon as possible.

We very much understand that it is not easy to balance the interests of these parties, and the merger may not easily win the acclaim of all. Nonetheless, there is one very important point and that is, the Government has to be frank, with a high degree of transparency. I note that the Government seemed to have only touched on some favourable messages during the press conference, but made no mention of some unfavourable conditions. I do not know if the consultancy report to be presented by the Government or the consultants commissioned is going to report only the good news rather than the bad. I also hope that I can have the answer soon because the Government has agreed to table the report to this Council this week.

However, with regard to the Government's claim that the merger will definitely achieve an all-win situation, I feel there is at least one point which is not fully substantiated and supported by data. Is it too early to say this will be an all-win situation? To me, the allusion to a fare cut right at the beginning by the Government appears to be a bait to entice the public into supporting the merger. Nonetheless, we have to tell the people our concern, and that is, whether the fare cut only has a short-term effect or whether it will bring about a

long-term one. Therefore, we very much hope that the Government can make public the consultancy report. Of course, after the merger, the worst thing will be an all-lose situation — a reduction in "rice bowls", an increase in fares, a drop in share price. This is something which we hope will not happen. If it turns out to be the case, it will be the worst scenario. Is this going to happen? There is a possibility.

Madam President, why do I say this may happen? At present, what is the biggest worry for the merger of the two railway corporations? The biggest worry, which is also the most crucial, lies with the KCRC. In fact, the KCRC has a few worries. First, the KCRC itself has started constructing some new railways and announced plans for some new infrastructure. It may also develop some new projects. Let me do some brief calculations. The West Rail has been completed, spending \$46.4 billion; the Ma On Shan Rail and the Tsim Sha Tsui Extension will cost \$16.7 billion; the Sheung Shui to Lok Ma Chau Spur Line requires \$10 billion; the cost of the Sha Tin to Central Link is estimated at \$35.5 billion; the estimated cost for the Southern Link is \$8.2 billion; it may build the Northern Link, incurring another \$9 billion. The estimated total expenditure stands at \$125.8 billion. This huge expenditure will bring about huge debts and monstrous interests to be paid. Is this huge infrastructural project we are injecting into the MTRCL some "crap" or some "treasure"? Is this a "misfortune" or a "fortune"? It remains unknown at the moment, but at least we do not have the data to make an evaluation.

The second worry has to do with the operational returns for the KCRC. Take the West Rail as an example. Well before this, the returns of the West Rail were mentioned. It is estimated that when the West Rail becomes operational, it will have a ridership of 200 000 but the actual situation turns out to be not this. The number of passengers is even less than half of the projected figure. If the fare remains high, if it only reflects the unwillingness of the MTRCL and the KCRC to provide more interchange concessions, I believe ridership will continue to remain low.

Madam President, although the Ma On Shan Rail is still under construction, the Government has begun its consultation at the district level. The Rail will be completed at the end of this year, but the Government is already prepared to cut seven to eight regional bus routes which are considered extremely convenient to by the residents. Basically, there is no need for the residents to use the Rail. They can get to their destinations by bus. Let me

cite a very simple example, and the Secretary must also understand this. Bus route No. 681 gets to Central from Ma On Shan via the Tate's Cairn Tunnel and Eastern Harbour Crossing. This is a direct route. If there is no traffic jam, people can get to their destination within half an hour. This is a "point-to-point" bus route. Nevertheless, the Transport Department has to scrap this route, forcing the people to turn to the Ma On Shan Rail. They will have to go to Tai Wai to change to the KCR, then to change to the MTR, using a longer and more expensive route. If the Government has to "stifle" all bus routes to "make room" for the Ma On Shan Rail, this will stir up big trouble. Therefore, the return of the Ma On Shan Rail in the future is actually doubtful. Another example is the Lok Ma Chau Spur Line. In fact, while the Line was being planned or even built, it was not known that there would be a bus-stop. However, it has now been confirmed that there will be a bus interchange. Under such circumstances, the return of this Line is also open to question. These few examples cited by me suffice to state clearly that these projects of the KCRC may turn out to be costly investments of yielding low returns — extremely low returns.

In respect of the KCRC, the third worry is its cross-boundary line. We know very well that the KCRC relies on its cross-boundary line. Nonetheless, the patronage of its cross-boundary line is now showing signs of relaxing. One reason for this is that at present, there are a lot of cross-boundary through buses. Someone has furnished me with an unofficial estimation, that at the moment, throughout Hong Kong Island, Kowloon and the New Territories, there may be around 11 legal or illegal stops, and among them, some buses are running direct routes to the Mainland. Such competition is dealing the KCRC a certain blow. Coupled with the completion of the future Shenzhen Western Corridor, these direct buses will also have certain effects on the KCRC.

The fourth worry is that, at present, the fare structures of the MTRCL and the KCRC are different. After a rough calculation, I find that the fare per kilometre of the KCR is cheaper than that for the MTR. However, after the future merger, what will be the situation? Will the fare of the MTR rise because of the debts incurred by the KCRC, or will the fare of the KCR be increased because of the need to follow the MTR fare? If this happens, the notion that "one plus one is bigger than two" will become not a matter of effect, but a case of fare. If the fare increases as a result of "one plus one is bigger than two" following the merger of the two railway corporations, we will firmly oppose it.

The last worry is the supervisory mechanism. The MTRCL has been listed for several years. What can be seen is that, despite enormous public pressure in society demanding a reduction in fares, the Government, as the principal shareholder, has remained indifferent. I say that the Government is indifferent because it, being the principal shareholder, has virtually done nothing. When the two railway corporations merge in the future, that is after the KCRC has joined in, this situation may well remain. This is to say on the one hand, the Government is the principal shareholder, but on the other, since the Government is the principal shareholder and the corporation is also listed, the situation may eventually turn out to be one which is "pleasing to neither side". Would the Government make any change to this supervisory mechanism?

Thus, no matter what, the overall situation must be maintained by fair rules of the game, and all reports must be made public. In respect of future reports, we will be concerned about several aspects and will raise several questions, that is, after the merger: First, will the so-called favourable condition be a short-term effect or a long-term one? Second, regarding the assets value, will the Government sell it at a right price or will it sell the KCR cheaply? Third, turning to fares, will they be set after making reference to normal business operation, or will public interest be also taken into consideration?

Madam President, I have already stated my views of the merger. I am of the opinion that before the merger of the two corporations, there is absolutely the chance and room to effect an immediate fare reduction. This is a so-called synergy effect. For example, even if the West Rail has offered interchange concessions, the problem is that the extent is not sufficient to lure residents of New Territories West into switching to the West Rail. Therefore, should we step up and extend what has been done in this respect? Besides, I do not think that the second boarding charge at the Kowloon Tong Station can be scrapped only after merger. This is purely an administrative and technical problem. If the KCRC is willing, the second boarding charge can be scrapped at any time, thereby lowering the fare. As a start, the bus companies have reduced the fares for long-haul passengers by 10%. However, if residents in the New Territories are now required to take the KCR and change to the MTR, this group of long-haul passengers will all along be unable to enjoy the benefits. Thus, I am pleading the Secretary to again consider cutting the fares direct and providing interchange concessions. Thank you, Madam President.

**Mr LAU Kong-wah proposed the following motion: (Translation)**

"That, as the Executive Council has formally invited the Kowloon-Canton Railway Corporation and the Mass Transit Railway Corporation Limited to conduct a merger study, and given that the plan will have far-reaching implications for the future fare structures of the two railway corporations, this Council urges the Government to expeditiously announce the outcome of the merger study by the two railway corporations after it has been completed before the end of August, in order to facilitate public consultation and ensure that the merger will alleviate the burden on the public; furthermore, before the implementation of the merger plan, the Government should give impetus to the two railway corporations to reduce their fares and encourage them to co-operate in introducing interchange concessions expeditiously."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr LAU Kong-wah be passed.

**PRESIDENT** (in Cantonese): Ms LI Fung-ying, Mr Andrew CHENG and Ms Miriam LAU will move amendments to this motion respectively. Their amendments have been printed on the Agenda. The motion and the three amendments will now be debated together in a joint debate.

I now call upon Ms LI Fung-ying to speak first, to be followed by Mr Andrew CHENG and Ms Miriam LAU; but no amendments are to be moved at this stage.

**MS LI FUNG-YING** (in Cantonese): Madam President, last Tuesday, the Executive Council finally made a decision on the merger of the MTRCL and the KCRC. The Environment, Transport and Works Bureau tabled an information document to the Legislative Council, emphasizing that the main areas followed in the discussion of the merger of the two railway corporations include: the adoption of a fare adjustment mechanism which is more objective and which has a higher level of transparency, scrapping of interchange fares, review of the fare structure with the aim of reducing fares, and a guarantee that the front-line staff of the two railway corporations will not be made redundant as a result of the

merger, and so on. Apart from the document, the official responsible for handling the merger has over and over again emphasized in public occasions the principle and merits of the merger. I do not think that with the areas followed in the merger of the two railway corporations and the words of the responsible official the public would be at ease with the merger proposal under discussion. At least, quite a number of staff of the two railway corporations have great misgivings and feelings of uneasiness towards the pledge of not laying off front-line staff when the merger takes place.

On the issue of the merger of the two railway corporations, no matter whether they are front-line staff or not, their concern is whether their jobs, their working conditions and their interests would be affected as a result of the merger. Today, my amendment seeks to reflect the aspirations and demands of the staff. I understand that the merger is a major change in Hong Kong's transport policy and has a direct bearing on the people's livelihood. Therefore, in my speech, I will first give an overall view of the merger, then express the worries of the staff of the two railway corporations about the merger and the possible solution, so as to avert resistance outside the establishment which may harm Hong Kong society.

In January 2001, the Government issued a document entitled "Railway Development Strategy 2000" to the Legislative Council. The document mentioned the public's views and the next stage of work, and indicated that the Government thought that the prevailing arrangement of having two railway corporations should be maintained because it believed that, I quote "we shall be able to strike a right balance between efficiency and competition." End of quote. Obviously, the Government has now changed its views, but how is it going to explain this major change in policy?

In the information document on the merger of the two railway corporations, when it comes to the analysis of the pros and cons, the highlight is on the emphasis of a reduction of fares, elaborating "..... the opportunity of the merger is providing us with the necessary framework to push for a more objective and transparent fare adjustment mechanism as part of the package", and "..... will argue for the abolition of the second boarding charge". Is the Government telling the public there is no way other than the merger that the handling of the fare issue as mentioned in the document can be achieved? If the answer is in the affirmative, how is the Government going to handle the mechanism for increasing and decreasing the fares of other means of transport and interchange

concessions? For example, does the Government need to consider merging the different bus companies in Hong Kong so that the public can enjoy cheaper fares?

The merger of the two railway corporations can reduce the overlapping of future railway projects and streamline the management structure of the corporations. In the document, the analysis of the sequence and the length covered falls far short of the fare factor. I understand that in order to appeal to the public and to gain their support for the merger, the most convenient and effective course which the Government can take is fare reduction. However, if the order of the pros and cons of the merger is reversed in the interest of gaining the support of the public, I think it is not going to work. On the issue of the merger, the Government intentionally puts the emphasis on fares. If, after the merger, the fares fail to meet the expectations of the public, the governance of the Government will be subject to enormous impact.

I welcome the Government's inclusion of provisions to protect staff into the major areas of discussion on the merger of the two railway corporations. Nonetheless, the ambiguous meaning of the phrase "ensuring job security for the front-line staff of both corporations at the time of the merger" cannot allay the staff's worry of a layoff upon merger. It may even have the opposite effect of increasing the staff misgivings. This is because in the past few years, many large corporations underwent reorganization and merger, and in the beginning, all employers would pledge seriously that there would be no retrenchment and no salary cut but finally, they took action and the staff basically had no ability to bargain. For example, last February, the New World First Bus Services Limited (NWFB) and the Citybus Limited (Citybus) merged and the parent company pledged that there would be no layoff in the short term. However, in less than one month after the merger, the management introduced the voluntary retirement scheme and even threatened that if the response to the plan was not satisfactory, it would not rule out the possibility of mandatory retirement. To the wage earners, such experience is still vivid. Now, the pledge of the Government gives us the same impression as what was done by the employers at the time of the merger of the NWFB and the Citybus. How can the staff not be concerned? The staff will of course feel concerned whether there will be a layoff at the time of the merger. Similarly, they will also be concerned about whether there will be layoffs and salary cuts after the merger.



According to the annual reports of the two railway corporations in 2002, a total of more than 12 400 staff were employed by the corporations. For the KCRC, it had over 1 500 staff on its works projects, over 700 staff for its non-operational projects and over 3 000 staff for its operational projects, totalling more than 5 500, while the MTRCL employed over 6 800 staff. They together employed a total of 12 000-odd staff. Taking this as an example, how do we define which members of the staff belong to the front-line category? We are of the opinion that in order to maintain good service, management and logistics support are an integral part of the make-up. Insofar as the staff of the two railway corporations is concerned, the Government should not divide them by defining them as front-line and non-front-line staff.

Apart from job security, the existing working conditions and rights of the staff of the two railway corporations are not the same, rendering it another worry. For example, at present, there is a big difference in the calculation of overtime pay between staff of the KCRC and the MTRCL. For a KCRC worker who has attained the age of 50, if he retires voluntarily after working for 10 years, the benefits he can enjoy are completely different from those of the MTRCL worker. Upon merger, what principles would the two railway corporations adopt to reconcile the working conditions and rights of their staff? Nothing has been mentioned at this stage, and staff of the two corporations certainly feel very anxious and worried.

All these questions involve the personal interests of the staff of the two railway corporations. The Government must state clearly the impact on the jobs, working conditions and rights of the staff after merger. I do not support the Government's resort to empty promises and ambiguous provisions to try to gain the staff's support for the merger, just as the Government should not emphasize the fare reduction to lure the public into supporting the merger of the two railway corporations.

Madam President, at present, the two corporations are carrying more than 3 million passengers daily. In order to maintain the normal operation of Hong Kong society, I do not hope that the employees have to resort to actions on the streets to fight for their personal rights and interests. If that happens to be the case, Hong Kong society will have to pay a heavy price.

If the most significant purpose of the merger is to restructure the fare mechanism, then that should also be an opportunity for the Government to

establish system for negotiation. In the process of the merger, it is only by recognizing the status of the staff unions of the two railway corporations, resolving the contradictions resulting from the merger through talks with the staff unions, and establishing the system of collective bargaining that the two railway corporations can be successfully merged, and that the jobs, working conditions and rights of the staff concerned can be truly protected. Then, the society of Hong Kong as a whole can ultimately benefit from the merger. Thank you, Madam President.

**MR ANDREW CHENG** (in Cantonese): Madam President, soon after the announcement of the merger of the two railway corporations, just as what Mr LAU Kong-wah said, the share price of the MTR Corporation Limited (MTRCL) fell right away. At present, the Government is still the principal shareholder of the MTRCL. If the share price falls, the Government will become a loser, and "one plus one may be less than two". As for the "one plus one may be bigger than two" notion suggested by Secretary Frederick MA, it may be over optimistic and his own wishful thinking.

Since Secretary Dr Sarah LIAO assumed her office, she has been suggesting that the two railway corporations should be merged. After almost two years of study, the Government finally invited the Kowloon-Canton Railway Corporation (KCRC) and the MTRCL to discuss a merger. If successful, it will bring a very important change to Hong Kong's transport. However, would the change bring long-term benefits to Hong Kong as a whole? Since the Government still holds a lot of data in its hands, and since the two railway corporations have only commissioned independent financial consultants to provide views on the merger only recently, in the interest of prudence, the Democratic Party will continue to study the pros and cons of the merger.

Nonetheless, I hope that once the merger turns out to be a success, it must be guaranteed that the fares are well within the affordability of the public, and will not be raised instead of reduced. Of course, in the long term, under a mechanism whereby fares can increase or decrease, fares must be adjusted in accordance with the economic gains of society as a whole. We have no objection to this.

It is an extremely tremendous project to merge two massive corporations. Besides, one of them is a listed company and the other is wholly owned by the

Government. To enable a successful merger with all parties benefiting from it is no easy task. In the next 10 years, the whole railway network would require an investment of \$80 billion to over \$100 billion. If the present debt of the KCRC is factored into this, the future liability of the MTRCL will amount to more than \$100 billion. The interest payment alone already renders the operations unprofitable, not to mention providing shareholders with suitable returns. From the market point of view, upon merger, the listed company has to look for reasonable returns. Judging from the present operation of the two railway corporations, it would be all the more difficult to achieve this target. In order that small shareholders of the MTRCL will cast a vote of confidence on the merger, the Government may have to "make great offers", selling it at a discounted price. Of course, if the Government sells the public's asset cheaply, it has to make public convinced. Moreover, both the Government and the two railway corporations think that upon merger, there will be room for fare reduction. If the Government can achieve this, the public will surely applaud it. Nevertheless, since the Government has to satisfy the needs of all parties at the same time and strike a balance between the interest of the public and the shareholders, I believe the merger process will be quite difficult.

With regard to the original motion, we are in support of it. However, we feel that including the past pledges of the Government in the motion can more clearly express the views of the Legislative Council.

Last week, in the press release on inviting the two railway corporations to merge, the Government expressed explicitly that while discussing the merger, it is necessary for the two railway corporations to deliberate on certain basis. On matters involving fares, two points are included:

- (i) adopting a more objective and transparent fare adjustment mechanism; and
- (ii) scrapping second boarding charge, and reviewing the fare structure with the objective of reducing fares.

Madam President, with regard to the first point, the wording used by the Government is "a more objective and transparent fare adjustment process". Nonetheless, in the past, when Secretary Dr LIAO came to the Legislative Council or attended other public functions, she claimed over and again that this is a mechanism whereby "fares can increase or decrease". Although this term has

not been cited in the official documents issued by the Government, in a document submitted to the Legislative Council last August, it was stated that in adjusting fares of public transport, the mechanism would adopt a formula based on a price-cap model. The Democratic Party supports the adoption of this formula which allows room for fares to increase or decrease in future. Therefore, we hope that once the merger turns out to be a success, this mechanism and this option must also be used as the basis for fare adjustment by the new corporation in future.

On the second point, the Government demands the scrapping of second boarding charge and a review of fare structure with the objective of reducing fares. With regard to the hope of the Government that the new corporation can scrap second boarding charge, we of course have no objection and also feel that upon merger, efforts must be made to achieve this objective, otherwise, it is unlikely that the public will accept the merger. Nevertheless, the attitude of the Government may have been too conservative because when we look at "The Second Railway Development Study" issued by the Government in 2000, in the paragraph "Fares" under "Institutional Studies", the report expressed this view — Madam President, I quote, "Closer integration of rail fares is recommended in so far as maintaining revenue returns and commercial autonomy permits. Two key areas for improved integration could be explored: first, fares for MTR/KCR interchange journeys should be developed in joint consultation by the Railway Corporations as the number of interchanges and route choices increase. Second, rail fares should be rationalized as the railway network is expanded."

Madam President, for this reason, and according to my understanding, even if the two railway corporations do not merge, the second boarding charge should also be scrapped. I still remember that when Mr Michael TIEN first assumed office, there had been discussion with the MTRCL in this respect. Unfortunately, as the MTRCL was not willing to let the public benefit, it insisted that the principle of not affecting the revenue of the MTRCL must be maintained and refused to provide interchange concessions. The Democratic Party thinks that since the merger of the two railway corporations has been placed on the agenda, before it takes place, the corporations should, as mentioned in the motion, introduce interchange concessions and consider the proposals contained in The Second Railway Development Study quoted by me earlier. If the second boarding charge is now scrapped, then based on the present situation of maintaining two railway corporations, the introduction of combined fares will

enable the public to enjoy the fruit of fare reduction before the merger. In this case, the basis for public support of the merger will be larger.

Madam President, another topic of concern to us is the competition of the merged railway corporations with the other modes of transport. Even if they are two separate companies at present, given that the Government accords priority to railways, the other modes of transport are in fact barred from operating certain routes, or will face a slash of routes and frequencies. Given no choice, passengers very often can only travel on trains. Just now, Mr LAU Kong-wah also briefly mentioned the issue of the Ma On Shan Rail. As the Railway is nearing completion, I believe the Government is planning to scrap seven to eight bus routes in Ma On Shan, including routes Nos. 681, 681P, 680X, 286N, 287K, 85K and 285. Depending on patronage, route No. 81C may also be scrapped. Madam President, such proposals may force Ma On Shan residents to take the Ma On Shan Rail in future. As a result, people have to squeeze into the trains at Tai Wai like "sardines", be travel-worn and sweat-soaked before arriving at their workplace. If such policies are implemented, it is believed that Ma On Shan residents will surely be all complaints. Thus, such policies are not appropriate. In view of this, Madam President, we in the Democratic Party agree with the Government's idea of using the railway as the backbone, but in formulating its transport policy, consideration must be given to the creation of an environment for fair competition, so that the various public transport operators can maintain healthy competition with the railway corporations, providing the public with an appropriate option. The Government has projected that by 2016, the market share of the two railway corporations will reach 45%, their dominance is thus obvious. If the Government fails to take some effective measures and allows the two railway corporations merge into a dominant operator in future, the passengers may ultimately be victimized. Not only will they be unable to enjoy the advantages brought about by healthy competition, but also, with one company monopolizing the services, the operational efficiency will not improve but drop, and the quality of service may even fall instead of rising.

As regards the amendments proposed by the other two Members, Ms LI Fung-ying's amendment is shaped from the angle of protecting labour rights, demanding that the merger of the two railway corporations will have no impact on staff, while Ms Miriam LAU's amendment is similar to mine, proposing that

there is room for fare adjustment. Therefore, Madam President, the Democratic Party will support the above two amendments.

With these remarks, Madam President, I beg to move.

**MS MIRIAM LAU** (in Cantonese): Madam President, the negotiation on the merger of the two railway corporations which has been brewing for quite some time has finally been launched, but the process is not simple at all. It is still too early to speculate if the merger will succeed. As the merger of the two railway corporations is a very important proposal in the privatization of our major transport infrastructure and involves the long-term transport policy of Hong Kong, it will affect the interests of the public, staff members of the two railway corporations, the existing and future shareholders of the MTR Corporation Limited (MTRCL), that is, the interests of future shareholders of the merged entity, the Government should therefore take a prudent approach.

The Government hopes that the merger can achieve synergy. It is also the hope of the Liberal Party. In principle, after the merger, the two corporations can share some of the resources, reduce operating costs, rationalize the planning on routes and reduce resource wastage caused by overlaps in service provision. The proposed Sha Tin to Central Link, for instance, can achieve the most cost-effective planning by connecting to the MTR Island Line, or even to the proposed Southern Link under consideration after merger, thereby alleviating the crowd packing along the stations from Admiralty to Causeway Bay.

More important, more resources can be deployed to improve the service quality after merger, to provide the public with a more efficient, convenient and better integrated rail network. On the contrary, the standard of service will deteriorate if the railway corporations are unable to obtain sufficient resources in sustaining and developing their quality services in the long run. It may be too late until we realize it. We have many examples in overseas countries.

For the sake of public interest, I have specifically raised the question of improving service quality in my amendment. However, to provide sufficient resources for the merged corporation, we may have relatively limited room in fare adjustment, and such room may be further reduced as other legislators may

have other aspirations while the Government has its own established requirements.

One of the conditions imposed by the Government is ensuring job security for the front-line staff. This is supported by the Liberal Party. As the Kowloon-Canton Railway Corporation (KCRC) will commission new lines in the next few years, and the MTRCL has businesses in both the Mainland and overseas countries, new job opportunities will be provided for their staff. After the merger, such businesses will possibly expand further. Thus, I believe the merger will not affect front-line staff, but I also hope that the impact on all staff of the two corporations should be minimized.

As regard Ms LI Fung-ying's aspiration, she is not only asking that front-line staff not be affected, but also no impact, let alone the minimal, on all staff. In other words, she is requesting that not one single staff member should be reduced or affected. In that case, how can the merger attain the synergy effect? For instance, at present, each of the two railway corporations has a Chief Executive Officer who is remunerated at millions of dollars yearly. If no staff member is to be cut, as suggested by Ms LI, there will still be two Chief Executive Officers in the merged corporation, will it be an outcome of the merger desired by the public? How savings can be achieved for the price cut? Maybe Ms LI Fung-ying would say that she did not refer to the Chief Executive Officer, and that the post would not count. But then who will count and who will not? That is difficult to decide. In any case, the Liberal Party hopes that the merger will have as little effect on staff as possible and that the two railway corporations should be cautious about this.

Apart from ensuring job security for front-line staff, the Government requires the railway corporations to abolish the second boarding charge and to reduce fares at the same time. Notwithstanding these requirements, the Government did not consult the two railway corporations in advance and laid down the framework unilaterally. The Government may deem it appropriate to lay down the framework for the public without considering if the two corporations can meet the requirements. The Government may not have considered how it can be achieved. Now it is for the two corporations to consider if they can really meet the requirements. The Government has generated a fare reduction expectation among the public, therefore the two corporations may be subject to constraints when it comes to reducing the impact of the merger on their staff members. They may not want to reduce their staff

size, however, subject to the requirement of fare reduction, some staff members, or even their service quality, may be sacrificed in the end. This is the last thing I want to see. The Government should be very cautious in balancing the interest of the staff members of the two corporations and public interest. The Government should avoid giving too great an expectation to the public in terms of fare reduction and to be realistic about it on the one hand, while minimizing the impact of merger on staff members and service quality of the two railway corporations on the other.

Another point of caution is that the Government should balance public interest and shareholders' interest. If the MTRCL has not been listed, the merger would be very easy. However, the MTRCL is a listed company with over 400 000 small shareholders. If the merged corporation is listed as well, then it will have another hundreds of thousands of shareholders. We have, at present, a number of uncertain factors concerning the merger. For instance, what is the assets value of the KCRC? How the problem of low return rate of the railway corporations is to be addressed? Whether the savings should be ploughed back to shareholders, to be invested in the corporation's development or to be ploughed back to the public as fare concessions? The Government should strike a careful balance between the interest of the public and the shareholders. The Government should, once the negotiations on the merger are completed, make a public announcement as soon as possible, so that the public and shareholders can evaluate if the merger is beneficial to them.

Madam President, apart from reducing fares and ensuring job security of front-line staff, the Government also requires the merged corporation to adopt a more objective and transparent fare adjustment mechanism. As regards Mr Andrew CHENG's further request on the merged railway corporation to adopt a fare adjustment process which is based on a price-cap model for fare determination in the future, I really cannot agree with him. As a matter of fact, when the Government put forward the proposal of enabling transport fare to increase or decrease, it recognized the importance of fare autonomy of the two railway corporations. I think we should not set down any mode of fare adjustment mechanism for the merged corporation at the present stage and leave it to discussions between the two railway corporations.

However, I absolutely agree with Mr CHENG that the Government should also ensure that after the merger, other public transport operators can still have healthy competition with the merged railway corporation. In terms of service



quality and corporate image, the two railway corporations do have healthy competition at present, so that they can monitor each other. After the merger, as there will not be any other similar corporation in the market, with only one railway corporation, the merged corporation must compete with other modes of public transport to maintain its service quality.

The two railway corporations are big companies, so it will take a long time for them to implement a merger. Therefore, I hope that in the interim, they can continue to enhance co-operation, so as to provide convenient interchange arrangements for commuters. Also, the operation conditions granting, fares should be reduced and concessions offered, including interchange concession, so as to alleviate the burden of the public in terms of transport expenses. As for Mr Andrew CHENG's request on the two railway corporations to abolish the second boarding charge before the merger, this is good-intentioned thinking, but only wishful. I doubt whether the two corporations can do so at the present stage, especially when we see that their rate of return is in fact very low. If the two railway corporations can do so now, then it is not necessary for them to be merged so as to attain synergy to strive for room for fare adjustment.

Madam President, the successful merger of the two railway corporations will be a big event in our transport history. I support the merger of the two railway corporations. I hope the two railway corporations can make every efforts to overcome their difficulties. However, we must not neglect the reality in trying to make this a success. As the Government, the public, the staff members, the present and future shareholders of the two railway corporations have different aspirations, and these aspirations are conflicting in some measure, each party may eventually have to make some sacrifices before arriving at a merger proposal which is beneficial to the Government, the public, staff members and shareholders. Only this four-win situation will be a successful solution.

Madam President, I so submit.

**MR IP KWOK-HIM** (in Cantonese): Madam President, the merger of the two railway corporations, which has been brewing for more than two years, eventually made some headway last Tuesday. The Executive Council has formally invited the MTR Corporation Limited (MTRCL) and the Kowloon-Canton Railway Corporation (KCRC) to conduct a merger study. Though there

is still a long way to go for the actual merger, the Democratic Alliance for Betterment of Hong Kong (DAB) believes that, with active promotion by the Government, the merger is highly likely to realize.

For the general public, the greatest merit of the merger lies in bringing about a fare reduction. The DAB, in two past surveys, asked the public about their expectation of a merger. On the two occasions, on the same question, our public opinion has been the same, that is, the public would like to see a fare reduction. As a matter of fact, the DAB has been asking the two railway corporations to reduce their fares over the past few years. The economic downturn in the past few years has resulted in declining income and persistent deflation, but the transport fare has only been frozen without any reduction. As a result, the burden on the travelling public has practically been increasing. Unfortunately, the two railway corporations have been refusing to reduce fares in order to maintain their profits. It is disappointing.

Last week, at the press conference jointly held by the Government and the two railway corporations, it was stated that there would be room for fare reduction after the merger. The DAB welcomes this for it accords with the public expectation. However, at the same time, there are misgivings about such a suggestion. These people are worried that, upon the merger, there may be fare reduction in the short term, but the fares will rise rather than drop in the long run. In the past, the two railway corporations used to rely mainly on revenue from property development as their major income, now that as a result of government control on the supply, the property market has remained sluggish. As for the KCRC, according to the analysis made by Mr LAU Long-wah, it has in fact a heavy financial burden. If its patronage level does not enhance greatly, the burden will ultimately be passed onto commuters by way of a fare increase.

This analysis is well founded. We do not want this to happen. To prevent this from happening, other than being prudent in studying the financial arrangement of the merger, the Government should also review the various development proposals of the two railway corporations, thereby avoiding wastage of resources arising from route duplication. In fact, it is indisputable that the two railway corporation should be allowed to compete freely, so that their efficiency can be enhanced through market force. However, in recent years, the two railway corporations have been excessively extending their network, as a result there is duplication in their network, causing the undesirable effects of route overlapping, competition for passengers and wasting of resources.

The overall effectiveness of our railway transportation system has been undermined. If we allow this to continue, the interest of the general public will be jeopardized.

Therefore, the Government must make full use of the opportunity arising from the merger, to re-examine the railway development planning in Hong Kong, with a view to integrating the network for optimal effectiveness. Only in this way can the railway corporations optimize their resources and plough back the cost thus saved to commuters, thereby maintaining fares at a reasonable and sustained level.

Madam President, the study on the merger is still underway, and its fruition is still not known. However, the public has been facing the pressure exerted by the expensive transport fares. We should not pin our hope on the merger which has yet a fixed timetable as a solution. The two railway corporations have in fact been making huge profits, so we believe that they are in a position to reduce their fares. Therefore, the DAB strongly urges the two railway corporations to reduce fares immediately, so as to alleviate the burden of the public.

Apart from fare reduction, the two railway corporations should also continue to provide interchange concessions. At present, the interchange concession is only offered to the West Rail-MTR interchange. The concession, lasting for three months only, will expire towards the end of this month. The DAB is of the opinion that the interchange concession will not only ease the burden of commuters, but also help the businesses of the two corporations, especially in attracting more passengers to the West Rail. The measure can cut both ways and therefore merits continuation.

It has been suggested that the second boarding charge of the two corporations should be abolished. The DAB is of the view that any measure that can ease the burden of the public should be pursued. For the interchange concessions, as we have experience in implementing such a measure, more of the same should therefore be provided by the two railway corporations, including making it a long-term measure for the West Rail-MTR interchange, and extending the concession to interchange commuters at the Kowloon Tong Station, so that more members of the community can be benefited.

Madam President, I so submit.

**MR LEUNG FU-WAH** (in Cantonese): Madam President, as the merger of the two railway corporations is still an unknown, the Government has to require the two corporations to submit reports for further study. Yet, whether the synergy can achieve the result of "one plus one equals to two" or "more than two" is still a question to which there can be no answer now. However, it is certain that the staff members concerned worry that they may lose their jobs and be replaced by other people. It may not be "one plus one", but rather "two minus one". Those who have a job now are wondering if they can keep their job after the merger. The Secretary promised at the outset that no front-line staff would be affected. It is certainly good news, yet other staff, those non-front-line staff have started to worry about their job security since last week. What exactly is the definition of front-line staff? Are they non-operational staff? Or is there any difference even in the operational unit?

Besides, within the Kowloon-Canton Railway Corporation (KCRC) alone now, we have the East Rail, the Light Rail and the West Rail. So together with the MTR Corporation Limited (MTRCL), each of them has a different salary structure, how the remuneration of staff in the merged corporation is to be dealt with? We hope that the two railway corporations, in considering the merger, must take into account staff stability and maintain a high level of transparency. Most importantly, they must enable the employees and the public to fully understand the pros and cons of the merger, rather than just emphasizing the fare reduction after the merger without paying regard to the sequelae and complications arising from this major operation on our transport system.

Madam President, according to the paper on the merger, as submitted by the Government to this Council last week, the Administration will focus on devising a new fare-setting mechanism, reducing duplication of networks and structures in the two railway corporations, streamlining the management structure, providing a more integrated and convenient interchange environment for commuters and ensuring timely emergency transport relief services in case of service disruption. These advantages sound pleasing to the ears of consumers. However, the investors may have expressed their view in a different manner, leading to pressures on the MTRCL stocks price. The MTRCL announced its business performance of last year yesterday, though attaining more-than-expected net profits, yet it also revealed the fact that the MTRCL could not live on the fare proceeds alone and that it should exert efforts to make more money. As for the KCRC, the local network has long been subsidized by the cross-boundary line. Although the fare has never been its major source of revenue, a

fare reduction will definitely have a bearing on its accounts overall. How is the MTRCL to be accountable to its shareholders after the merger?

Among the six key parameters for negotiation between the two railway corporations, other than the last item which requires the conclusion of the negotiations by the end of August this year, there are two items concerning fare arrangements. As far as the fare is concerned, the Secretary has indicated repeatedly that there is room for reduction, yet the two railway corporations have been encouraging people to save more by travelling more. The Government has now taken action to require the two railway corporations to undergo a major operation, and the focus is on fare adjustment which sounds indeed pleasing to the ears and will bring about benefits. Yet, will it really be so? What will be the implication of the merger to our overall public transport ecology? Will it be possible for the bus, minibus and taxi services to carry on operation?

Madam President, government planning uses the railway development as the backbone of our public transport system, thus, several railway projects have been proposed in the Railway Development Strategy 2000. By 2016, we shall have five passenger railway lines and a Port Rail Line. Some experts have inferred that, by 2015, the railways would take up 50% of the market share, and there might be vicious competition with other modes of transport, thereby eliminating some modes of transport. It seems natural and reasonable for the fittest to survive. Yet, will it be fair for the two railway corporations to compete with other modes of transport under the policy and strong financial back-up given by the Government?

The FTU convened a forum on the impact of railway development on the transport industry at the end of last year. In the forum, academics, professional drivers and representatives of the minibus and taxi trades voiced the worry that they would be unable to survive under the continuous expansion of the two railway corporations, jeopardizing the means of living of tens of thousands of professional drivers. In our opinion, in studying the proposed merger, the Government should take this opportunity to review if it is necessary to make changes to some of the railway development projects of the two railway corporations because of the merger, so as to achieve the greatest benefit.

Madam President, summing up, the proposed merger will bring about four aspirations from four different sectors:

- (a) more than 12 000 staff members of the two corporations request that all their posts and remuneration not to be affected. I support Ms LI Fung-ying's amendment in this regard;
- (b) the general public request fare reduction and interchange concessions, a change in the mechanism which enables transport fares to increase or decrease to going down only, and an improvement in the quality of services;
- (c) small shareholders and investors of the MTRCL demand higher stock price and a better return for their investment; and
- (d) other sectors of the transport industry require the merger not to threaten and marginalize the survival of other modes of transport, such as buses, taxis and minibuses.

How our Bureau Directors, just like our Mother Buddha, can ensure that these four aspirations from four different sectors will be satisfied during the merger? We have to look at the performance of our two Bureau Directors in the six months to come.

Madam President, I so submit.

**MR LAU CHIN-SHEK** (in Cantonese): Madam President, the two Secretaries and the Chairmen of the two railway corporations held a joint press conference to announce the agreement in principle on the merger of the two corporations. The trump card they played to win public support was obviously the claim that "the merger may result in fare reduction". At the first glance, this has been effective publicity as what the public are most concerned right now is whether the railway fares can go down as soon as possible.

However, Madam President, before we go into a discussion of the merger, my colleagues and I all agree that the high transport fare is a major livelihood issue that the Government must deal with. We have been experiencing a continuous deflation for more than five years, with the accumulated deflation rate standing at over 10%. At the same time, while employees in general are facing unemployment and salary cuts, the transport fares remain high, people are thus

becoming more and more aggrieved. As such, I must stress again the strong request of people over the past few years, that is, the two railway corporations (and other modes of public transport) must reduce their fares immediately. Also, the two corporations must expeditiously abolish the unnecessary second boarding charge, so as to alleviate people's burden in transport expenses.

Madam President, I think the two corporations should not make the merger as the premise for the possible fare reduction. Firstly, even without the merger, there is still room for the two corporations to take an initiative to reduce the fares. The two corporations should also abolish the second boarding charge by way of negotiation. Secondly, to discuss, finalize and effect the merger, it will take some time, at least one to two years or even longer, for the process to complete. There is no reason to further delay, thus making people to pay more.

I reiterate that the Government, either as the major shareholder of the two corporations or as the decision-maker of the public transport policy, is duty-bound to urge the two corporations to reduce on a full scale the fare level immediately. I appreciate the efforts of Secretary Dr LIAO in promoting the fare reduction and the abolition of second boarding charge by the two corporations, but I hope she can advise us of the specific difficulties that are still unable to be resolved up to now.

Madam President, in principle, I have always been in support of the merger. As a matter of fact, the merger can further lead to a reduction in fares, and more importantly, in a small and densely populated city like Hong Kong, where residential and workplaces are packed together, we can hardly have full competition in railway operation, so an effective co-ordination will be conducive to the development of a comprehensive railway network and the convenience of passengers.

However, on the issue of the merger, especially when the MTRCL has been partially privatized and is at present a listed company, I am quite worried what would happen during the course of merger and thereafter. Yet, if you ask me whether I support the merger, I may say, "Possibly. But I do not dismiss the possibility of saying no. It all depends on whether the worries of the public, the existing staff members of both corporations and mine can be dispelled by the Government and the two corporations."

I have worries mainly in three areas. I am concerned that, firstly, the staff members' jobs would be affected; secondly, the fare level will not be subject to any regulation in future and thirdly, the merged corporation will attach too much importance to commercial considerations to the neglect of public interest.

The proposed merger has aroused concerns and worries among staff members within the corporations and trade unions once the plan was announced. I am glad that the Government has included "ensuring job security for front-line staff" as one of the key parameters for the merger. However, this guarantee alone is absolutely not sufficient and unable to assure all existing staff members. Firstly, apart from front-line staff, there are many supporting and clerical staff. Will their livelihood be protected by the Government and the management of the two corporations? Besides, while they can keep their jobs, will their pay and benefits be subject to any cut during and after the merger? It is also very important. So far, the Government and both corporations have not made the necessary undertaking. I think that this is very unfair to the staff members.

Madam President, I call on the two corporations to jointly set up a working group on the merger arrangements, which should include representatives of staff members and various worker unions — particularly to recognize the negotiation status of the worker union — to collect views of staff members on a regular basis, with a view to ensuring that the interest of staff members will not be undermined in the shorter and longer term. I must emphasize once again that, as the unemployment rate remains high, I do not want to see anyone being laid off during the merger, also, Mr LEE Cheuk-yan and I will not support any changes that will break the "rice bowls" of workers!

Another point of concern is about the fare level. I believe the public support for the merger lies to a considerable extent in whether the two corporations have an action plan to reduce overall fare level and whether they can set up a comprehensive fare adjustment and monitoring mechanism.

If the merger can indeed attain synergy as claimed by the Government, making "one plus one greater than two", the fare level must adjust downward significantly. Right now, as the fare level of the two corporations is unreasonably high and there is a second boarding charge for passengers at interchange points when switching to different railway networks, people are



deeply aggrieved. As such, I think the two corporations must tell the public how the fare reduction is going to realize, so that the public can assess effectively if the merger is to their advantage. In fact, the effectiveness of the merger will be definitely more than just cutting a few percent off the second boarding charge. Due to further co-ordination in railway operation, I believe the patronage of both corporations will certainly increase as a result, thus providing plenty room for fare reduction.

Furthermore, I stress that the present situation where both corporations can increase their fares automatically without being subject to any regulation must be rectified as soon as possible. Apart from establishing a fare adjustment mechanism which enables increases or decreases, to enhance the public acceptance of a vetting and approving mechanism for fare adjustment is also very important. And the Legislative Council, being a body representing public opinion, should be the final gatekeeper in protecting the people's livelihood.

Finally, I believe the merged railway corporation must give the public a greater role in decision-making and monitoring, and must ensure that the quality of service will not suffer. As the scale of the merged corporation will be gigantic and it will have a bearing on the railway operation and even the overall public transport network, for effective monitoring, the decision-making level of the company (particularly the board) should be composed of more representatives from the public, with the protection of public interest being the major premise.

With these remarks, I hope the Government and the two railway corporations can fully address our concerns in the above three areas, to achieve an all-win situation where public interest, staff interest and effectiveness of railway operation are fully taken care of. Thank you, Madam President.

**MR ABRAHAM SHEK:** Madam President, last Tuesday, the Executive Council formally proposed that the two railway corporations should consider the possibility of a merger, and invited them to enter into merger discussions. The Government has high expectations over the proposed merger and strongly believes that it will be good for the overall long-term interests of Hong Kong; whereas, not surprisingly, the general public hopes that it will lead to a downward adjustment in railway fares. Since the announcement of the

proposed merger, positive response has been heard from different sectors of the community. In fact, a successful merger will lead to more effective use of resources, prevent wastage from aggressive rail competition and improve the transport system's economy of scale. In addition, a merger will result in a larger company with increased financial strength, which should help it to expand further into the Mainland and overseas markets.

With the possible merger, one of the foremost concerns of the general public and the political parties is fare adjustment. As to whether the merger will create enough savings to warrant reductions in existing rail fares, I think that idea should be subject to a comprehensive review. It is wrong to assume that a merger would automatically provide adequate savings for fare cuts. In fact, once the financial structures and conditions of the two railway corporations have been analyzed in an objective manner, you may find that there is little room to reduce existing fares.

To illustrate, let us look at the MTR Corporation Limited (MTRCL). The Corporation has been growing progressively and operating smoothly over the past few decades. It provides reliable service to the public while enjoying a high level of profits. One of the main reasons is that the Corporation has successfully exploited its property development rights above the stations and along the railway lines. At times, one wonders whether the MTRCL is a property company or a railway corporation. Although the Government has not provided monetary subsidy to the Corporation, the effect of granting property development rights is the same as giving direct monetary subsidy, and this should not be the format for the future merged company. Taking into consideration the property market's collapse in recent years, and in line with the Government's policy, the MTRCL's property development rights are also temporarily frozen, leading to a likely drastic fall in its profits level in the coming years. Instead of room for fare reduction, at this point, the company faces more pressure to increase its fares in order to maintain its high level of service.

As for the Kowloon-Canton Railway Corporation (KCRC), the Corporation currently has a debt of over \$50 billion. This is the result of its huge capital investment for constructing and planning new railway projects. According to the KCRC, its East Rail has long been heavily subsidized by revenue from its cross-border service. However, the number of commuters on the Lo Wu line has been decreasing since the 24-hour opening of the Lok Ma

Chau Control Point. Plus, passenger numbers on the newly commissioned West Rail have been lower than expected. All these factors are pressuring the KCRC to increase its fares too.

Madam President, the two railway corporations are required to conclude their merger talks by the end of August. In my view, it is of the utmost importance that ample room and flexibility are provided for the two corporations to negotiate their merger. Thus, the Government and Members of the Legislative Council should not set any framework for their negotiations. Fare reduction should not be their prime aim in creating a merger. Also, they should not regard fare cuts as an obligatory by-product of the merger. I sincerely hope that my colleagues will not take on such a short-sighted attitude. If they insist on such conditions, the two corporations will be put under very heavy pressure. The fact is that the significance of the future merger is to better co-ordinate the territory's railway development in the long term, upgrade its serviceability and utilize its experience in railway construction and operation management for future expansion. Certainly, the existing fare structures of the two railways would undergo a thorough review after the potential merger. With increased cost-efficiency and the elimination of network duplications, there may indeed possibly be opportunities for some fare cuts. However, whether the future merger would result in an overall, across-the-board fare reduction benefiting all passengers will depend on the business condition at the time. This should be conditioned on the company's ability to continue to uphold prudent commercial principles.

In the press conference on the possible merging of the two railway corporations, the Secretary Dr Sarah LIAO delivered a clear message that the Government would announce the implementation of a public transport fare adjustment mechanism before the merging of the two railway corporations. Of course, I have no information about the exact details of the mechanism. But I sincerely hope that such a mechanism would be implemented only when it is fully understood and supported by the public transport trade. Otherwise, it will just result in endless talks and discussions without constructive conclusion. The way forward for the two railway corporations is to achieve unity for growth and benefit for the travelling public. Thank you, Madam President.

**MISS CHAN YUEN-HAN** (in Cantonese): Madam President, recently, the Executive Council has formally invited the Kowloon-Canton Railway

Corporation (KCRC) and the MTR Corporation Limited (MTRCL) to study a merger. I think that the merger will have far-reaching impact on the railway system of Hong Kong in future. On the day of announcement, we noted that the Government or the relevant corporations all thought that the merger could lead to a more effective utilization of resources to build a more extensive railway network, but many people still worry that the merger may result in a monopolization of railway services as a whole, which may foster a super kingdom to dominate the entire railway network. We are very much concerned that the impetus to the improvement of service quality will be dampened due to a lack of competition. Moreover, we also know that the existing fares are very expensive. Therefore, in recent years, we have often urged the Secretary to set up a fare reduction mechanism. We are gravely concerned that during the initial existence of this super kingdom, the fares may probably be increased in the end even if there may be a fare reduction in the beginning, and that the Government may also encounter regulatory problems. Madam President, these are the concerns that I have heard from the general public after the announcement.

Moreover, we realize that the relevant corporations and the Government think that the new fares after the merger can relieve the burden on the public, but the public are still worried that the merger may result in a monopolization of railway services, which may probably lead to a fare increase eventually even if there may be a fare reduction soon after the merger. In particular, they believe that once a monopoly arises, there will certainly be no more fare reduction. As some colleagues said earlier, we notice that the present merger has already included the KCRC's several sizeable projects, which have certain financial implications. Upon merging, these debts will be transferred to the accounts of the future merged corporation, creating much pressure for a fare increase, as we have noticed.

In addition, we have also heard from many in the industry that, actually, whenever a new railway is built, other land transport trades do feel concerned. As I can remember, in a programme once hosted by me, I invited Mr Michael TIEN, the then Chairman of the KCRC. At that time, I raised this issue with him. Upon the merger of the two railway corporations, will the variety of land transport modes be progressively reduced? What we have noticed is that, after the opening of Tseung Kwan O Extension of the MTRCL, the Kowloon Motor Bus (KMB) has lost 100 000 passenger times, and after the opening of West Rail, the passenger volume along the railway lines has also dropped 70 000 to 100 000 passenger times. In addition, we have noticed that there are minibuses and

other transport modes at many connection points, where they can find their own space. Will these future developments turn the present imbalanced situation into an unfair situation? Let them join in a healthy competition. This is the opinion we have been receiving during this period.

Madam President, besides these concerns about the people's livelihood, I am also most concerned about the arrangement for all the employees of the two railway corporations after merger. That day, the Secretary said that the employment, conditions of work, and the rights and interests of the employees of the two railway corporations would not be affected after merger. Nevertheless, several colleagues, including Ms Miriam LAU, have said earlier that it is very difficult to ensure that "zero" employee will be affected. So it does have impact. I think this is the problem we want to bring up.

Madam President, I originally intended to amend Ms LI Fung-ying's amendment. Later I discovered that, in terms of wording, I did not mean to request the Government to consult the employees upon completion of the study by the two railway corporations, but before. I mean that we should now incorporate this into the original provisions of the ordinance regarding the listing of MTRCL. For this reason, the amendment that I intended to propose that day is to let the trade unions of the two railway corporations (KCRC and MTRCL) join in the discussions. I admit that what Ms Miriam LAU has just talked about is a problem, that is, "How should we deal with two operations directors and two publicity managers?" I notice that there are overlaps in resources, not only in terms of basic rank and front-line personnel, but also possibly in the connection of stations. However, during our discussions, if we have addressed the public's concerns mentioned by me earlier, then comes the question of how to make us realize that it is necessary to understand the standpoints of the employees when we come to discuss the specifics of the merger.

Madam President, I now have the Mass Transit Railway Ordinance (Cap. 556) on hand. On the listing of the MTRCL, we once considered how to incorporate the interests of the employees when we discussed the relevant clauses with the government departments concerned. Ms LI Fung-ying has earlier mentioned some of her other concerns: How do these two railway corporations balance their different interests, different starting points, different benefits and many different systems? If we have already discussed these problems before the discussion with employees, I think it will create a very big problem. Therefore, although I cannot make any amendment, I still hope that during the discussion on the overall merger (whether or not it will come to fruition is

another story), the Secretary can allow the representatives of the employees of the KCRC and the MTRCL, which are operating under different systems, to join in the discussions. Will the Secretary please make reference to section 41 of the Mass Transit Railway Ordinance (Cap. 556) regarding employment-related matters? Section 41 clearly states that any contract of employment with the MTRCL in force immediately before the appointed day "is deemed for all purposes to be a single continuing employment", meaning that the employees are secured on a continual basis. How to achieve this result? I think it is necessary to let the employees join in the discussions early to raise their opinions. Madam President, I hope the Government will sincerely listen to the concerns of the public and the employees in these areas widely, so as to facilitate the future merger.

In addition, Madam President, I have noticed that there was originally a Sha Tin to Central Link. During the discussion on the Sha Tin to Central Link, the Government originally agreed that a station will be built at Tsz Wan Shan, where there is a population of 100 000 people. It was clearly stated that the Tsz Wan Shan station of the Sha Tin to Central Link would be situated at 40 storeys below the ground level. At that time, both the Government and KCRC said that there was no problem. Upon the presentation of the proposal, there was still no problem. However, it is probably because the merger will soon take place, they now say that the proposal may involve monopolization, so the Tsz Wan Shan station is now cancelled and the new station will be at Diamond Hill. Therefore, the public may wonder if it is no longer necessary to maintain competition after the merger. Can the two railway corporations simply cancel a station in underhand deals? This may be our conjecture only, but certainly is our concern. We are worried that our opinions will no longer be given weight after the merger.

Madam President, I so submit.

**MR HUI CHEUNG-CHING** (in Cantonese): Madam President, the Executive Council has decided to invite the MTR Corporation Limited (MTRCL) and the Kowloon-Canton Railway Corporation (KCRC) to study the possibility of a merger. The Hong Kong Progressive Alliance (HKPA) approves of a merger, believing that it will reduce the investment in duplicated alignment necessitated by the need to attract passengers, thus achieving the effective utilization of existing railway facilities. It is also hoped that the two railway corporations can achieve synergy through co-operation and enhance the operating efficiency of

Hong Kong's mass transit systems, thereby lowering fares and providing greater convenience to members of the public.

To begin with, the greatest concerns of the public are naturally the fare adjustment mechanism and possibility of fare reduction after merger. When the Secretary for the Environment, Transport and Works announced the launching of studies on a merger of the two railway corporations two weeks ago, she pointed out the four major advantages that might come out of it. Besides bringing forth an early resolution of interchange arrangements for rail projects under planning, there can be a more objective and transparent fare adjustment mechanism, coupled with the abolition of the second boarding charge with the objective of reducing fares. To members of the public, fare reduction is the most practical benefit. As a matter of fact, exorbitant transport fares do impose a heavy burden on low-income earners having to work outside the districts where they live. For instance, the travelling expenses of a North District resident having to work on Hong Kong Island amount to as much as \$50 a day, or more than \$1,000 a month. This may stifle the desire of some to work because given the high proportion of travel expenses in their income, they may choose to stop working and live on Comprehensive Social Security Assistance instead. This is not good to both themselves and society as a whole. The lowering of transport fares can help reduce geographical barriers and increase people's eagerness to work outside their districts of dwelling. And, people may also be encouraged to spend money and engage in other activities in other districts. When the flows of people increase, a fare reduction may bring more revenue to the railway corporations.

Some academics are of the view that there will not be too much room for fare reduction after the merger because a good part of the two railway corporations' expenditure is on railway and train investment, and staff costs are comparatively small, meaning that the streamlining of corporate management and efficiency enhancement after merger can only lead to very limited costs saving. It is further pointed out that at present, the return rates of the two railway corporations are on the low side, and since their respective passenger services are both incurring losses, they have to rely on the profits from other kinds of business, especially property development along their alignments, as a means of cross-subsidy. If the proceeds from this drops, there will be very slim hope of any downward fare adjustment, and not only this, there will even be pressure on an upward adjustment. All these analyses are to a certain extent valid. Therefore, during the six-month study period, apart from considering

how best to streamline their structures and enhance the flexible utilization of resources, the two railway corporations should also seek to open up new sources of revenue by conducting in-depth studies on fostering passenger flows and better utilizing station premises for commercial purposes. The HKPA believes that a merger will bring forth an early resolution for rail projects under planning and even long-term integration, thus facilitating interchange arrangements and in turn fostering passenger flows. Early planning on articulation and interchange arrangements can also facilitate the planning and full utilization of station premises for commercial purposes to increase revenue.

In announcing the launching of studies on a merger, the Government and the two railway corporations all said that the second boarding charge would be abolished after merger. This shows that through co-ordination and co-operation, the two railway corporations are capable of absorbing the second boarding charge resulting from their respective autonomous fare pricing. That being the case, I hope that the second boarding charge can be abolished as soon as possible instead of being deferred until the implementation of the merger. For example, interchange concessions in the form of fare discount can be offered during the study period, and the rate of concession can then be raised gradually until the total abolition of the second boarding charge. I believe there should not be any technical problems. In this way, passengers will benefit, and in addition, as more passengers are induced to make interchanges, the flows of people will increase. This will be beneficial to both the railway corporations and members of the public.

The other two advantages of a merger mentioned by the Government are also connected with an early resolution of interchange arrangements; all this will provide greater convenience to members of the public. I hope that the effects of synergy resulting from combining the financial strength of the two railway corporations can bring forth the early implementation of rail projects with anticipated economic benefits. For example, the Northern Link connecting the West Rail to Lok Ma Chau via San Tin should be constructed as soon as possible. This will provide much greater convenience to the residents of New Territories West and travellers commuting between Hong Kong and the Mainland, reducing the inconvenience resulting from catching feeder buses and frequent interchanges. The pressure on the overloaded East Rail will also be relieved. Besides, the Northern Link will also increase the passenger flow of the recently commissioned West Rail, the passenger volume of which has been far below expectation, thus enabling it to maximize its effectiveness. The cross-boundary



route connecting to Lok Ma Chau will also enable the West Rail to make substantial revenue comparable to that of the Lo Wu route of the East Rail. Shenzhen has already launched its Shenzhen Metro Line 4 Project, under which the MTRCL shall be responsible for constructing and operating the subway system for 30 years. This will also provide a condition for better articulation planning.

Madam President, I so submit.

**DR RAYMOND HO:** Madam President, the possibility of a merger of the MTR Corporation Limited (MTRCL) and Kowloon-Canton Railway Corporation (KCRC) has been an issue under discussion for some time. Now that the two rail operators are invited to conduct a merger study, this brings the eventuality of such a merger closer to reality. If the merger is finally implemented, there will be a significant impact on society and the transport industry in Hong Kong.

Railway is a primary mode of transport in Hong Kong. As it provides a fast, efficient, reliable and environmentally-friendly transport service with very clean cars and stations, it has been able to attract a large patronage, but the fares charged by the MTRCL and the KCRC are higher than those of the other transport modes, such as franchised buses and minibuses. Although the two railway companies are asked from time to time to reduce railway fares, no action for real fare reduction has been apparent. High operation and financial costs are reasons for it. However, it is believed that the merger will provide room for fare reduction, as a result of streamlining the organizations and cutting overheads. It is one of the benefits which citizens in Hong Kong will be able to enjoy from the merger.

Convenience is another benefit. When the MTRCL and the KCRC are put under one roof, the existing interchange problems would be resolved. For example, passengers will no longer need to pass through the ticket gates at the interchange points. It will save them fare as well as time, especially during rush hours. It is expected that soon after the merger plan is implemented, the current interchange ticket gates will be removed. It is also expected that in the future, the new rail lines will be designed to provide seamless interchange arrangements for passengers. Because the two corporations are apparently not fully co-operating closely enough with each other in the design of interchange stations at the moment, like what passengers are and could be experiencing

otherwise, the commuting public therefore will no longer need to walk a long distance in order to change lines if the merger materializes.

The merger will not only bring advantages to society, but also disadvantages. One of the major concerns, particularly for the staff of the two companies, is that some staff may need to be made redundant. I hope that the newly merged corporation will be able to retain those staff with technical expertise and good local railway experience as far as possible, so that a better and more sophisticated railway network can be designed and provided to the public in the future.

The MTRCL and the KCRC are the only railway companies in Hong Kong. If they are merged, a railway giant with monopoly power will be formed. This means that with its huge financial resources, its relative bargaining power with the passengers and the other transport service providers will be strong. Under these circumstances, both the public and the transport industry will be affected. Will this tip the balance? Although Hong Kong is a free economy in which market force will automatically adjust the market power of the merged corporation, the effect of market force can only be felt after a period of time which is unknown to the citizens and the other transport service providers. Therefore, the monopoly position of the future merged corporation is still a matter of concern.

Because of the important impact the merger will inevitably have on patronage and the other transport modes, it is necessary for the two railway companies to undertake their merger study in an approach as transparent as possible. On the other hand, thorough consultation with the public and the stakeholders of the transport industry should be sought.

I hope the merger will work in a win-win manner. I look forward to the study outcome.

Madam President, I so submit. Thank you.

**MR TOMMY CHEUNG** (in Cantonese): Madam President, the Executive Council made a decision last week to ask the two railway corporations to hold

negotiations on a merger and submit a report to the Government before the end of August, so that the 400 000 minor shareholders of the MTRCL can in turn make a decision. The combined assets of the two railway corporations amount to as much as \$200 billion; 76% of the shares of the MTRCL are owned by the Government, which also wholly owns the KCRC. What is more, the combined daily passenger volume of the two railway corporation is as high as 3.5 million passenger trips, and the two corporations employ more than 14 000 staff. Therefore, care must be taken to ensure that the final arrangement must cater for the interests of all sides concerned. I totally agree to Ms Miriam LAU's amendment that a merger of the two railway corporations must accord with public interests.

One key factor determining the success or otherwise of the abovementioned objective is whether or not there is presently room for a downward adjustment of the fares of the two railway corporations. That will of course depend on whether or not the two railway corporations can redeploy their respective resources to achieve the desired synergy. The Liberal Party is however of the view that it will be both unreasonable and unrealistic for us to follow Ms LI Fung-ying's proposition in her amendment, that is, to seek to retain all employees regardless of their ranks and to look after the employment rights of all of them; such an attempt will only defeat the original purpose of a merger.

I wish to stress that the Liberal Party agrees that the rights and interests of front-line employees should be looked after as much as possible, and that basically, all front-line staff should be retained to serve the merged corporation. Since these employees are working for the respective railway systems of the two existing corporations and a number of new railway systems will be completed in the future, it will not be too difficult to achieve this goal. That is why the Liberal Party does not agree that synergy should be achieved at the expense of front-line staff or by adopting a top-heavy set-up. Such an approach will affect the morale of front-line staff and make it difficult for the two railway corporations to continue to provide quality services or strive for excellence. That will not be conducive to public interest.

However, we do have great reservations about the need to retain all senior executives and support personnel. For example, should there still be two Chairmen, two Chief Executive Officers, two Finance Directors and large numbers of senior staff? I think Members will definitely say "no". There is

certainly huge room for adjustment and saving in this regard. Actually, too many management staff may not necessarily yield the best results.

As for the setting of a fare ceiling proposed in Mr Andrew CHENG's amendment, the Liberal Party does not think that it is at all feasible. How is a ceiling to be set? Will the setting of a ceiling be marked by any subjective judgement? Will a ceiling lead only to fare reduction and make any increase impossible? If the answers are in the affirmative, the idea will never work, nor will anyone be willing to purchase the shares of the new corporation. That way, a merger is bound to fail. Business considerations aside, a fare ceiling may easily lead to a situation which is tantamount to subsidizing fares with public money. This is neither in line with public interest nor conducive to the efficient operation of railway services.

The Liberal Party of course understands very well that commuters living in New Territories East, who have to switch between the KCR and MTR to and from work every day, will very much hope to see an immediate downward adjustment of the second boarding charge. To the Liberal Party, it will of course be most satisfactory if the two railway corporations can abolish or lower the charge before any merger and synergy. However, can this be achieved at all before a merger? We are extremely doubtful, nor can we see any feasibility at all.

Finally, I wish to point out that a successful merger will largely depend on the asset discount offered by the KCRC. If the discount is too small, it will be very difficult to induce minor MTRCL shareholders to support a merger. But if the discount is too big, people may think that government assets are being sold at a very low price. It is hoped that the merger proposal submitted by the Government in the future can take account of public interest. Only this can bring forth an all-win scheme for the staff of the two railway corporations, members of the public and the Government.

With these remarks, Madam President, the Liberal Party will abstain from voting on the respective amendments of Ms LI Fung-ying and Mr Andrew CHENG, but support Ms Miriam LAU's amendment and the original motion.

Thank you, Madam President.

**MR WONG SING-CHI** (in Cantonese): Madam President, the Government has recently issued to the Legislative Council a paper on a possible merger of the two

railway corporations. In the paragraph entitled "Synergies and reduction in railway fares", the Government points out that "the merged corporation should also enjoy better bargaining powers *vis-a-vis* its suppliers". The same will of course apply to the bargains between the merged corporation and the Government.

Since the Government is now in a leading position, the two railway corporations will of course have to conduct negotiations on a merger within the parameters set down by the Government. But I am afraid that after the establishment of the merged corporation, it will not be easy for the Government to negotiate with it on the implementation of measures beneficial to passengers. The Democratic Party and I am particularly worried that after the merger, even if the Government sees a need to hold negotiations on alternative mechanisms and concessions, the new corporation, which is so powerful financially, may simply ignore it. The amendment of Mr Andrew CHENG aims precisely to urge the Government to ensure during the discussions on the merger that the new corporation will put in place a fare adjustment mechanism that is beneficial to various sides.

Another worry of mine is that, as also confirmed by the Government, there will just be one single corporation in the market after merger. It can thus be anticipated that due to the lack of competition, the merged corporation will always hold the upper hand in the negotiations with the Government on future transport infrastructure facilities. When the Government announced that it would proceed with the construction of a fourth cross-habour railway (then the Sha Tin to Central Link but now the Sha Tin to Hung Hom Link, maybe) by way of tender, its objective was precisely the introduction of competition to induce the two railway corporations to put forward an alignment and scheme that is best suited to the needs of society as a whole. And, before the proposal on a merger, when the Government replied to the Democratic Party's question in respect of the Budget in 2002, it also pointed out that if and when the fifth cross-harbour railway and a regional express rail link were to be constructed, the tender approach would also be considered. The railway policy of the Government has obviously changed by now. Competition is no longer important as opposed to the strong desire for a merger. When faced with such a problem which is sure to emerge, the Government only says that it will do the best it can to fight for the people's interests. I am extremely dissatisfied with such an answer, because the Government is the main advocate of a merger, so it is not right for it to simply say that it will do its utmost when problems appear. Since we are able to anticipate the emergence of problems several years later, why does the Government not draw up a scheme or consider possible solutions? Why does it

simply say that it will just grope its way and do its utmost to solve the problems? This is not a satisfactory approach to handling the issue. Therefore, I hope that the Government, when it really decides to go ahead with a merger and briefs the Legislative Council on this later on, can tell Members whether there is any better scheme than the approach of "doing its utmost" to deal with the lack of competition in tendering.

We are also concerned about the prospects of the Sha Tin to Central Link. After revising the proposal over and over again, the KCRC eventually submitted its latest proposal to the Legislative Council in the middle of last month. Before it was announced that the two railway corporations would hold negotiations on a merger, there was already a consensus among the Legislative Council, the Government and the KCRC that the KCRC would make known its decision on the final alignment of the Sha Tin to Central Link in June. But less than a week after the announcement on a merger, further changes have cropped up. The KCRC now says that it will again negotiate with the MTRCL on the final alignment of the Sha Tin to Central Link. The negotiations on a merger have thus added fresh uncertainties to the Sha Tin to Central Link. Will there be any changes to the basic alignment under the existing proposal? I very much hope that Secretary Dr Sarah LIAO can offer us an answer.

As initially proposed, the Sha Tin to Central Link will start from the Ma On Shan Rail and run to the urban areas direct for connection with the Hong Kong Island. But Secretary Dr Sarah LIAO said in the middle of last year that it would be more desirable to let the East Rail provide the cross-harbour link. What is the situation now? Since the Government has decided to merge the two railway corporations long ago, it should really have handled the Sha Tin to Central Link in a much better manner. The planning on the Sha Tin to Central Link has been revised over and over again, so members of the public are altogether confused. Is the Ma On Shan Rail going to provide the cross-harbour link as originally planned? Or, is the East Rail going to be used instead? Or, are there still any other alternatives? Is the KCRC going to redesign the Sha Tin to Central Link because of a possible merger? If yes, we must then say that the several revisions in the past have been largely "empty talks". This is indeed a waste of our valuable resources. We believe the Government must be held responsible for this. I therefore hope that the Government can finalize the alignment of the Sha Tin to Central Link as soon as possible, so as to allay people's anxieties.

Madam President, I so submit.

**DR TANG SIU-TONG** (in Cantonese): Madam President, as the operators of Hong Kong's largest mass transit networks, the two railway corporations as a whole carry more than a million passenger trips daily. From the perspective of long-term strategic planning of infrastructure in Hong Kong, I agree that the Government should merge the two railway corporations.

At present, the two railway corporations are operating independently and competing with each other. Each of them plans alignments and draw up blueprints beneficial to itself, and they also compete for passengers and lands for development. They lay emphasis on self-interest in route development and articulation instead of according priority to the convenience of commuters. And, the second boarding charge also adds to passengers' fare burden. In the case of some rail projects under planning, such as the Sha Tin to Central Link, the recently revised alignment may give rise to competition for passengers between the two railway corporations and also duplicated facilities in some particular sections. The competition for passengers and the resultant presence of two rail options at one single location may not necessarily be beneficial to passengers, but the social costs are very high, because adjustments to cross-harbour alignments may lead to a drastic drop in the usage of the Ma On Shan Rail, which has cost so much in construction. At present, the KCRC is wholly-owned by the Government, which is also the largest shareholder of the listed MTRCL. Therefore, any costly capital investment in railway construction will to a large extent involve wastage of public money. Options resulting from duplicated railway construction will not yield any obvious benefits and can only be described as "generosity at the expense of taxpayers". I am of the view that a merger should help reduce resource wastage resulting from duplicated railway construction caused by competition. In fact, it is only when the utilization of resources can yield better results that fares can be lowered in the long run.

The ultimate aim of a merger is to yield more benefits. In the case of public transport systems funded mainly by public money, the most important benefit should be the lessening of people's transport fare burden. The Secretary for the Environment, Transport and Works and also the Chairmen of the two railway corporations, when announcing the launching of studies on a merger, all pointed out that a merger would create room for a downward adjustment of fares and better interchange arrangements. This will be the first criterion for assessing the synergies of a merger.

Since the Asian financial turmoil, Hong Kong has been caught in deflation for 62 months in a row. Prices of daily necessities such as clothes, food and accommodation have all gone down over the past few years. But transport fares are the only exception, and they have remained high all along. A survey conducted by the Department of Economics of Lingnan University indicates that travel expenses account for 9% of an individual's overall expenditure, which is on the high side. Whenever people leave home for work or entertainment, they will inevitably take public transport. When the fares of various transport modes are generally high, people will have practically no choice. This is most unreasonable to the residents of northwestern New Territories, particularly the grass-roots people living in the public housing estates in this area. These people are allocated public housing in new towns which are far away from the urban areas where various types of jobs are available in large numbers. Unless they are prepared to bear the heavy burden of transport fares, their choices of job and even opportunities of visiting friends and seeking entertainment may well be reduced because of exorbitant transport fares. Although the economy has started to recover, there are still many unemployed people and low-income families in Hong Kong. To these families, exorbitant transport fares will only add to their already heavy burden. I maintain that the first condition of a merger should be the downward adjustment of fares, so that all people can benefit from it. Treasury revenue should not be the only concern.

A merger will actually affect many different groups of people. The interests of the two railway corporations' existing staff and the 400 000 shareholders of the MTRCL should not be ignored. The staff of the two railway corporations may fear that a merger may lead to the deletion of posts, thus breaking their "rice bowls". This is understandable. While I agree that structural rationalization and efficiency enhancement must come out of a merger, I just do not think that this should necessarily imply any layoff. Quite the contrary, given the development of several railways in Hong Kong in the future, the railway corporations should employ more staff in the long run. In addition, with the increasing integration of Hong Kong and Guangdong, which will necessitate the development of new express railways and the convergence of rail transport, the "cake" of rail operation will only expand continuously, and so will the demand for talents. Following a merger, besides streamlining its set-up and enhancing the flexible deployment of resources, the new railway corporation must also provide training to its staff to cope with the development of express railways and also enhance their ability to perform new tasks. The management



must of course come to an agreement with employees on the protection of their legitimate rights and interests.

Hong Kong is a market economy that emphasizes business integrity and fair deals. It accords equal protection to all investors, thus winning a worldwide reputation. For this reason, while there must be public consultation on a merger of the two railway corporations, the interests and views of shareholders must also be considered. Actually, whether the MTRCL will accept the terms of merger will hinge on the approval or otherwise of its small shareholders.

Madam President, lastly, I wish to add a point on the experience of Singapore. The two railway companies there are able to get their fare shares through the use of smart cards and computer systems, so passengers do not have to pay any second boarding charging when switching between the railways operated separately by the railway companies. I believe that with the basis provided by the Octopus Card, Hong Kong can solve the problem of reducing the second boarding charge in the near future. I hope that the two railway corporations can provide interchange fare concessions as soon as possible or offer other concessions to lessen the transport fare burden of members of the public.

Madam President, I so submit.

**MR ALBERT HO** (in Cantonese): Madam President, the two railway corporations finally started to discuss issues relating to a merger advocated by the Government. Certainly, the merger brings about a number of intricate considerations, so the Democratic Party will study the proposal with a positive and open mind and ask the Government a lot of questions, hoping that it will answer them in detail and provide us the relevant information, so as to allow us to decide whether or not to give our support to a merger of the two railway corporations.

We wish to reiterate several major principles, as they are our considerations. Firstly, whether the merger could achieve synergies, overall improvement in management, reduction in operating costs, as well as cost-effectiveness in planning; secondly, whether the merger will achieve

improvement in the overall mass transit system; thirdly, whether the merger will create monopolization of the mass transit system, to the detriment of competition; and fourthly, whether the merger will be conducive to the implementation of a more objective and transparent fare adjustment mechanism and a downward adjustment in fares. Of course, the most important thing is whether it will benefit the community at large. Certainly, we have to take one more thing into consideration, that is, whether the merger is the only alternative for the time being, or we have some other ways to carry out the restructuring and merger of the two corporations, instead of the mode proposed by the Government now.

We hope that the Government will state clearly the pros and cons in every aspect when it explains to the public the question of merger. After the news of inviting the two railway corporations to enter into a merger was released, some academics opined that the synergies of a merger of the two railway corporations would be inconsequential, and that would do little help to fare reduction. They were of the opinion that as railway and trains accounted for the most significant part of the expenditure of the two railway corporations, staff costs were relatively small, thus the merger would not be able to let the public see whether the charges and costs of the two railway corporations are reasonable. Furthermore, if such a sizable company runs into problems of operating efficiency, in addition to a decline in revenue from the property business of the MTRCL and the cross-boundary business of the KCRC, pressure for a fare increase will be felt. With regard to these criticisms, I hope the Government can offer some justifications and address the concerns of the academics.

Madam President, in fact, we have been doubting all along whether the merger by way of injecting KCRC's assets into the MTRCL is the optimal and the most reasonable arrangement. We believe the major attraction for most of the investors to purchase the stocks of the MTRCL is not because of the prospect of the transportation business of the MTRCL, but the estimated revenue to be generated by its property business. As soon as the KCRC becomes part of the new corporation, investors who hold the shares of the MTRCL may consider that the KCRC is a company mainly engages in the transportation business, and with the exception of the surplus from the cross-boundary business of the East Rail, other businesses are not so desirable at all. For that reason, I am concerned that unless the KCRC plans to inject its assets into the MTRCL at a substantial discount, I cannot see why minority shareholders should find the merger proposal attractive and thus vote to support the proposal.

At present, the KCRC is wholly owned by the Government, it is therefore an asset owned by the public. As a member of the public, I am certainly concerned whether or not the Government's merger proposal is supported by minority shareholders. If the assets of the KCRC are injected into the merged corporation at a substantial discount, we should bear in mind that it would cause enormous impact on public coffers. Although the KCRC does not have an ideal profit situation, its total assets stand at more than \$80 billion. If the Government sells the discounted assets at give-away prices and injects them into the merged corporation with the purpose of attracting and pushing for support of minority shareholders, we are concerned that this will cause a great controversy, or the public may consider that the Government is selling the assets of the KCRC at a depressingly low price.

I have considered another possibility of the merger, that is, whether the Government will consider buying back from the marketplace the MTRCL shares of minority shareholders and to merge the two corporations which are wholly owned by the Government before listing the merged corporation. Will this be a more practicable and reasonable approach?

Furthermore, another major concern of mine is whether or not there is room for a fare reduction. The public expect that there will be a fare reduction after the merger, but we believe that after the merger and when the merged corporation comes into operation, there will be pressure for a fare increase as the merged corporation may pursue profits. Last year, after the Government proposed a fare adjustment mechanism which enables transport fares to increase or decrease, the Chairman of the KCRC stated at one time that he might consider introducing the abovementioned mechanism to the KCRC, but the MTRCL was unconcerned about the proposed mechanism. For that reason, I believe that, in the course of discussions on the merger of the two railway corporations, although we have suggested that a basis should be provided for a more objective and transparent fare adjustment mechanism, we could anticipate that it is not easy for both parties to accept this mechanism. It is indeed extraordinarily difficult.

In that case, how can we actually achieve that goal? I hope the Government can disclose some of the information. However, I should say that the Democratic Party can hardly accept this merger proposal if the Government is unable to ensure that, after the merger, the merged corporation would adhere to the principles or policies proposed by the Government and establish a more

objective and transparent fare adjustment mechanism which is widely accepted by the public and may provide room for a fare reduction.

**PRESIDENT** (in Cantonese): Mr HO, your time is up, please sit down.

**MR ALBERT HO** (in Cantonese): Madam President, I so submit.

**PRESIDENT** (in Cantonese): Mr HO, in fact, when the President asks you to sit down, you do not have to say "I so submit". (*Laughter*)

**MR FREDERICK FUNG** (in Cantonese): Madam President, last week, the Executive Council passed the proposal of a merger of the Kowloon-Canton Railway Corporation (KCRC) and the MTR Corporation Limited (MTRCL), and immediately invited the two railway corporations to commence negotiations on a possible merger. According to the information provided by the Government, the merger proposal of the two railway corporations will attain synergies, in addition to a new fare determination mechanism providing room for fare reduction. Chairman of the MTRCL, Dr Raymond CHIEN, even said that perhaps the merger would yield a result of "one plus one equals four". However, both the Hong Kong Association for Democracy and People's Livelihood (ADPL) and I are worried very much that the result of "one plus one" is not "four" nor "four times of the result", but "four concerns".

The first concern is about the uncertainties in the overall mode of operation in future. From a pure economic perspective, a merger of the two railway corporations will bring benefits in economies of scale, and in the long run, certain synergies can be achieved in the benefit of controlling operating cost and financing. Nevertheless, at the same time, we should not neglect the financial position of the two railway corporations as well as the pressure put on the merger from railway projects which have already been finalized. According to the annual reports of the two railway corporations, although the MTRCL's total assets are valued at as much as \$102 billion, it also has liabilities as much as \$32 billion; while the KCRC has a net asset value of about \$20 billion, it has

already declared that it would borrow \$30 billion for future railway development plans. Moreover, the two railway corporations will carry out a number of railway projects in future, such as the MTRCL's Penny's Bay Rail Link project, the KCRC's Ma On Shan Rail, Tsim Sha Tsui Extension and Lok Ma Chau Spur Line, the South Hong Kong Island Line, West Hong Kong Island Line, Sha Tin to Central Link and Kowloon Southern Link. According to the estimate of the authorities, the abovementioned projects would entail a capital input as much as \$80 billion to \$100 billion. In addition to the tens of billions of dollars in total liabilities of the two railway corporations and the fact that the existing surplus of the MTRCL relies on the revenue from its property business, the ADPL and I fear that after the merger of the two railway corporations, the two-in-one mode of operation will bring about uncertainties, and the earnings would become less stable as they are susceptible to fluctuations of the property market.

Our second concern is that the future changes in railway fares would be a case of candies before bitter pills, or even unspeakable misery. Despite the authorities having expressed that in the short term, the merger of the two railway corporations will argue for an abolition of the second boarding charge and provide for the basis of a more objective and transparent fare adjustment mechanism, but both the ADPL and I are concerned that as far as the question of train fares is concerned, it is possible that the public may have to pay for the "chicken" while the two railway corporations only need to pay for the "soy sauce" after the merger. At that time, it is possible that the two railway corporations will still provide fare concessions to the public for routes where there is competition, but as the network and scale of the railway expand gradually, the costs of railway roll-out and daily maintenance will increase, and eventually the pressure of a fare hike would emerge. That is something the public is reluctant to see. In view of this, both the ADPL and I consider that the authorities should implement as soon as possible a fare adjustment mechanism which is based on a price-cap model and enables fares to increase or decrease, and at the same time strive to empower the Legislative Council as a gatekeeper for fare increase or reduction by the two railway corporations. Meanwhile, during the negotiations, the two railway corporations should perform their social responsibilities by providing a more direct fare rebate arrangement than the interchange concession in the short term, such as to reduce the fares by 10%, for this is an effective way to alleviate the burden of travelling expenses on the public.

The third concern is the emergence of a "super transportation kingdom" after the merger of the two railway corporations. Since the total patronage after the merger would account for almost 30% of territory-wide public transport users, it is even estimated that the market share of the merged corporation would rise to 45% by 2016. In addition to the fact that the Government of Hong Kong has all along made railway the nucleus of the entire transport network of Hong Kong, both the ADPL and I are concerned that after the merger, the authorities may not be able to exercise adequate regulation and checking on the everyday operation of this "super transportation kingdom". This will create a monopoly, and eventually it will make the fare rise and service quality drop, causing more losses to the public than gains. In the meantime, both the ADPL and I are concerned all the more that there would be no positive competition between this "super transportation kingdom" and other transport operators due to their limitations in terms of scale and resources, and their vitality would be gradually eroded to a state of impossible survival. For that reason, both the ADPL and I urge the Government to take into consideration the impact of the merger on the overall transport planning of Hong Kong in the course of studying the merger of the two railway corporations and actively study the enactment of a fair competition law to ensure positive interaction and competition among various public transport operators.

The fourth concern is the prospects of the employees of the two railway corporations after merger. At present, the two railway corporations have more than 10 000 staff in total, but the authorities only set down in the merger proposal that the two railway corporations should not lay off their front-line staff, implying that the jobs of a total of 4 000 support and administrative staff are in jeopardy. Therefore, they are very concerned about this. Besides, their remuneration would also be kept in line with the lower side of the staff of the two railway corporations. Both the ADPL and I are pretty much concerned about this issue and we hope that the Government can ensure that their conditions of work as well as their rights and interests would not be undermined by the merger. Furthermore, in the course of the merger negotiations, the Government should provide them with channels to reflect their opinions to the Government. Since the amendments by several Members have supplemented the inadequacy of the original motion and covered my concerns, I therefore support the amendments and the original motion.

Thank you, Madam President.

**MR CHAN KWOK-KEUNG** (in Cantonese): Madam President, the amalgamation of the two railway corporations will link up tracks of all directions, and 12 000 employees are also tightly tied in with the merger. The Vice Chairman of the Hong Kong Mass Transit Railway Staff General Association, Mr TSUI Sak-on, stated that the unions of the KCRC and MTRCL will form a concern group to fight for their rights by way of meeting with government officials to reflect views, and so on. It can be seen that the employees have finally set aside sectarian views and come together to fight for their own rights as if they are facing a mortal enemy.

As the Government intends to merge the two railway corporations, naturally, it will make a lot of promises and give the public and the employees assurances, but how can the concerns of the employees be dispelled just because of that? For that reason, I fully agree with the amendment of Ms LI Fung-ying, that is, as far as the merger is concerned, the Government should "facilitate consultation with the employees of the two railway corporations and the public and ensure that the merger will not affect the employment, conditions of work, and the rights and benefits of these employees".

In the international world, whenever there is an acquisition or merger of private enterprises, there will be waves of layoffs. Just as in the case of the acquisition of a certain corporation, within two short years after the acquisition, a total of several thousand employees were laid off. This is very much a commonplace.

The KCRC is wholly owned by the Government, so its nature is somewhat different from a private enterprise, but its mode of operation is not different from that of a private enterprise. Now that the MTRCL is a listed corporation, it is the same as a private corporation. In the minds of the employees, a merger of the two railway corporations will bring about tremendous shocks, and its outcome has been the biggest doubt all along.

Even though Secretary Dr Sarah LIAO has stressed that no front-line staff would be laid off, as long as these pledges are not fulfilled, employees will not feel at ease. Chairman of the KCRC, Mr Michael TIEN, expressed that this was a merger at the administration level, and since the two railway corporations have their own signalling systems, therefore it was impossible to cut technical staff. In other words, he implied that there might be bold and resolute layoffs of clerical and administrative personnel, in order to streamline the structure of

the two railway corporations, in pursuance of the "odd one dies" principle. If that is the case, it is hard for the labour sector to feel at ease about the merger of the two railway corporations.

In fact, even if there is no merger plan, outsourcing by the MTRCL, such as the outsourcing of the maintenance works of the Tseung Kwan O Extension, has left their staff in a state of anxiety, fearing that the corporation may outsource every job and eventually they would lose their jobs. It is reported that the MTRCL would outsource the maintenance works of its high-voltage cables, in which eventuality I am afraid the technical staff would also have to face the redundancy crisis. For this reason, even though the Government or the top management of the two railway corporations has made a number of promises, the concerns of the employees are not yet addressed. Today the Government undertakes that there will be no redundancy, but tomorrow may be another story. I consider that having it written in black and white is the most practical way.

If the Government is unable to give a full explanation and a written guarantee, I would have reservations about the merger proposal. Whether we could be convinced to accept the proposal lies in the fact that whether the Government does it in a perfunctory manner, or in a frank and honest approach.

Even though the Government has made an undertaking that there will be no layoff, but can it assure that there will be no change in the remuneration and benefits? Benefits of the staff of the two railway corporations are different, the remuneration systems are also not the same, but the merger will make them a uniform system, therefore it is hard to avoid resistance among their employees. In this respect, how should the Government deal with it? I hope the Secretary can give us a detailed answer, so as to allow us to understand the implications on the employees.

According to past experiences, no matter it is the merger of the two Municipal Councils in the past or the present day re-engineering of the Hong Kong Sports Development Board, the Government's approach to dealing with the issue of employees has been disappointing. We received countless complaints and assistance-seeking cases on those past occasions. So given the far-reaching implications this time around, I hope that the Government will not effect the merger of the two railway corporations hastily.

I so submit.



**MR ALBERT CHAN** (in Cantonese): Madam President, the merger of the two railway corporations is a prevailing trend that has become unavoidable. At present, many organizations and banks also engage in mergers. Recently, the shares of the two bus companies in Hong Kong have come under the ownership of the same big consortium. Throughout the world, railway companies of many big cities, which used to be developed by different organizations owing to historical reasons, are moving gradually towards integration to come under the ownership or co-ordination of a single organization.

Hong Kong is in an awkward position. In such a small place, the Government wholly owns two railway corporations, for in the past, the MTR Corporation (MTRC) was in fact wholly owned by the Government. It is something very bizarre indeed, and can be regarded as an anomalous product of history. It was only upon the privatization of the MTRC that some of the shares of the corporation were offered on the market. In fact, both the MTRCL and the Kowloon-Canton Railway Corporation (KCRC) are anomalous. Why? According to the relevant ordinances and their operation, these two corporations do not resemble anything at all; as the common saying goes, they can "neither be regarded as human nor ghost". On the one hand, the MTRCL claims that it should operate on prudent commercial principle striving for the best economic interest; in other words, it should be regarded as a commercial operation. But, on the other hand, it claims that it has to take care of public interest. How can a corporation assume two conflicting roles at the same time and operate on two different principles that are mutually exclusive by nature? Even with highly sophisticated skill and profound political wisdom, I do not think it is possible. Therefore, over the past years, the interest of the public has been sacrificed. Based on the principle of commercial prudence, the MTRCL continues to raise its fares to strive for profit. As for the KCRC, many problems are found in its operation, and its internal operation is in a shambles. Its poor operation has caused the public to pay higher fares. I do not intend to quote the case of the Light Rail Transit (LRT), which is running at a deficit of over a hundred million dollars per annum. I have already criticized this on several occasions and even pointed out the seven sins of the LRT.

We can thus see that the emergence of these problems should be attributed to the anomalous nature of the two corporations. Now, these two anomalous creatures are going to merge to form a new species. I really have no idea what kind of DNA mutation will take place; I worry that it will become an alien. I have said earlier that I wish the Secretary could play the role of Ripley in

defeating this alien to stop it from causing harm to society. But I do not know if she could do it.

Therefore, it is a very demanding task to turn these two anomalous corporations into a near normal entity after merger. I wish that both the Government and the public should have a clear stance, stating whether they want an economic interest-oriented organization or a public interest-oriented organization that the Government can have control over it. If we fail to identify a clear stance before this anomalous entity is allowed to come into existence, the entity that eventually earn the support of the Government will be running on commercial interest at the expense of public interest. Moreover, when members of the entity have established their power, they may strive for their own interest or remuneration to the detriment of public interest. I hope that before any decision regarding the merger is made, the criteria must be clearly spelt out. I hope the Secretary and the Government will give a clear outline in this regard, stating the nature of the entity to be set up. Do we want to establish an entity resembling an alien or do we want it to resemble Donald Duck? Which type of entity should it be? It should be spelt out clearly.

Regarding the merger, Madam President, one of my concerns is that the Government may bring down the value of the assets of the KCRC to persuade the minority shareholders of the MTRCL to accept the merger proposal. I do not know to what level the KCRC's assets value would be suppressed. But to gain the support of the minority shareholders of the MTRCL for the merger, the Government must make them think that the merger is beneficial to them. Since the Government said that the merger could only be carried out with the consent of the minority shareholders of the MTRCL, the only way to persuade these minority shareholders to accept the merger is to offer them some benefits. Where do these benefits come from? They will come neither from the Secretary nor from the KCRC Managing Board. The benefits will be paid out of the pocket of the public and all of us. The money we earned by hard toil has been given to the Government for the setting up of the KCRC. The fares paid by the people allow the KCRC to expand on a massive scale. The unreasonable cross-border fares charged on the East Rail encourage the over expansion of the KCRC. Those are our money. The Government is being generous at our expense. Why should the assets value of the KCRC be suppressed in order to achieve their political goal? I do not know whether this will turn out to be the result eventually, but I do hope that it will not. However, I am afraid my hypothesis and deduction is very much valid. How can we prevent the assets of

the people from being exploited? How can we prevent public interest from being jeopardized for the benefit of other people? This really worries me.

I think new legislation must be enacted in respect of the merger of the two railway corporations. The enactment of a new law is very important. In the past, owing to the poor drafting of the legislation governing the Western Harbour Crossing, the adjustment of its tunnel toll is completely beyond our control, and thus injuring the interest of the public. Moreover, it has made adjustment of the traffic volume of the tunnel impossible with the tunnel toll set at such a high level. Therefore, I think the drafting of the relevant new legislation should be very clear in future. Firstly, it should stipulate that public interest is of the utmost importance and that it should not be sacrificed just for the principle of commercial prudence. Secondly, transparency must be enhanced. At present, all the business of these corporations is discussed at closed meetings, and their annual reports may not have covered all the detailed information. Under these circumstances, decisions on operation are vested mainly in the hands of individuals. If the Chairman is more outspoken and open-minded, more information may be made public; but if the Chairman is more conservative, not much information will be disclosed. However, decisions related to the disclosure of information should no longer be left to individuals, and this should instead be stipulated in legislation, stating what kind of information should be made public. I think that meetings, in particular, should be open, unless issues of a commercial sensitive nature are involved.

Moreover, concerning appointments to the Managing Board, at present, the appointment of members of the managing board seems to be a small-circle affair. These appointments are arbitrary selection of cronies. However, their appointments fail to reflect any representation. More often than not, these people are members of professional bodies or someone who has a good relationship with the Government. I think it is very important to effect supervision on the two railway corporations, in particular, the managing board of the corporation eventually merged. The Legislative Council should have a role to play. I hope the new entity to be established in the future will not be an alien that will jeopardize the interest of the public. Thank you, Madam President.

**MR LEUNG YIU-CHUNG** (in Cantonese): Madam President, the two railway corporations are public utilities controlled by the Government, with a combined

patronage of some 3 million passenger trips daily. Owing to their background and immense significance, we are of the view that the merging of the two railway corporations should not be interpreted simplistically as a merger of two ordinary private companies. The two railway corporations should not aim to achieve profit maximization; rather, they should accord priority to the interests of the public. For this reason, unlike the merger of ordinary private companies, the merger of the two railway corporations should not focus solely on enlarging market share as a means of maximizing profit. We must make it a point to stress that any increased profit resulting from the effects of synergy and economies of scale after merger must be totally ploughed back into benefiting passengers. And, the first step should be fare adjustments.

Unfortunately, since the 24th of last month, when the Government announced its invitation to the two railway corporations for discussions on a merger, we have been unable to secure any definite commitment to fare reduction from either the Secretary or the senior management of the two railway corporations. The Secretary has simply emphasized that the two railway corporations must hold negotiations on a mechanism that allows both fare increases and reductions, instead of asking them to plough back all the gains of the merger into offering concessions to passengers, including immediate fare reductions. Besides, the two railway corporations have only said that following the merger, the second boarding charge for passengers interchanging at three specified interchange stations can be waived. It is such a great pity that the two railway corporations have made no promise to totally abolish the second boarding charge, and even if the second boarding charge is totally abolished, can it be said that enough has been done? Currently, only 160 000 passenger trips daily are recorded at the three specified interchange stations, representing only a mere 5% or so of the daily turnover of 3 million passenger trips. A merger of the two railway corporations not accompanied by any fare reduction will thus mean that roughly 95% of the passenger trips are not benefited. What then is the benefit of the merger for passengers? Is there any need for such a merger? I think we must realize that once the two railway corporations are merged, members of the public will have to bear the risk of monopolization in public transport and possible fare rises. Therefore, the two railway corporations must undertake to introduce a full-scale fare reduction and establish a fare adjustment mechanism allowing public participation and monitoring.

The 2003 performance announced by the MTR Corporation Limited (MTRCL) yesterday shows that its operating profit was \$715.7 million, and the

net profit was \$445 million, representing an increase of 24.34% over the corresponding figure of the previous year. Therefore, we are of the view that even after its merger with the less profitable Kowloon-Canton Railway Corporation (KCRC), there should still be room for fare reduction. Some may argue that since the profit concerned came mostly from property development and the operation of train service accounted for merely 5% of the profit, there should not be too much room for fare reduction. However, Madam President, I think we must point out that all the profits of the two railway corporations must be looked at as a whole; they must not separately analysed. The profits from property development should also be taken into account. The fact is that the regrant premiums charged for superstructure development above MTR stations is calculated without considering the alignment edge. As a result, evaluations have been lower than they should be, indirectly benefiting the MTRCL and reducing Treasury revenue. Therefore, as in the case of its core business, the profits from superstructure development must be ploughed into benefiting the public, so as to make up for society's losses in land proceeds. The most straightforward way — and, I think there is no other way — is to reduce fares.

Another cause of worry associated with a merger of the two railway corporations is the emergence of monopoly. Other public transport operators may thus be out-competed, making it difficult to achieve service improvement due to the lack of competition. Actually, in the past, in an attempt to consolidate the dominance of the two railway corporations — we venture to think — the Government might have requested the bus companies to cancel some of their routes or even hindered the fare reductions of the two bus companies. We are therefore worried that if the two railway corporations are really merged, they may resort to their market share and relationship with the Government as a means of further impeding other public transport operators. Besides, we also hope that the merger can do away with some unfair practices of the past, one example being the exorbitant fare for trips to Lo Wu. The KCRC has been stressing that the fare for trips to Lo Wu is meant to cross-subsidize other routes and services. We think that if the KCRC is really merged with the MTRCL, such an excuse should no longer be used to justify this very unusual fare. Instead, as I have just mentioned, fares should be set by taking all factors into account, not by considering any factor in isolation. What is more, as indicated by the information I have obtained, following the introduction of 24-hour clearance at other land crossings, and also because of the lower fares of buses, the passenger flow at Lo Wu seems to be dropping continuously. So, if the

KCRC still refuses to reduce the fare when new financial support is available following the merger, it will be hard for it to face the public.

There is still one more worry connected with the merger — the situation of the 12 000 employees. Admittedly, Secretary Dr Sarah LIAO has emphasized in her press release on the 24th of last month that the two railway corporations must undertake not to lay off any employees in the course of merger. But I still wish to seek clarification because the Secretary's words are worrying in two ways. First, there must be no layoff at the time of merger, but what about the time afterwards? Is layoff permitted after the merger? Madam President, I wish to ask this question because some organizations really did that in the past, one example being PCCW. PCCW did not lay off any staff at the time of merger but did so as soon as the merger was over. This is our worry. Secretary Dr Sarah LIAO also says that front-line staff will not be affected. But what is meant by front-line staff? What about other staff? The Secretary has not made this very clear. I therefore hope that the Secretary can explain very, very clearly later on at this meeting what actually "front-line staff will not be affected" means. Madam President, we must emphasize that society in general thinks that the two railway corporations should be merged. But we do also think that the merger should be based on two conditions. First, there must be reasonable fares. Besides, members of the public should be allowed to play a proper monitoring role. If not, the merger may result in monopoly or even more profiteering, much to the disadvantage of the general public.

Madam President, I so submit.

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

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): Mr LAU Kong-wah, you may now speak on the three amendments. You have up to five minutes to speak.

**MR LAU KONG-WAH** (in Cantonese): Madam President, the several amendments to the motion today are basically centred around two themes, the

protection of the employees of the two railway corporations, and the introduction of a mechanism which enables fares to increase or decrease. The DAB supports the amendment relating to employee protection. However, we have reservations about the introduction of a mechanism which enables fares to increase or decrease. There are three reasons for our reservations.

At this point in time, Mr Andrew CHENG proposes that "this Council urges the Government to ensure that the merged railway corporation will adopt a fare adjustment process which is based on a price-cap model for determining fares in the future". Last year, in the papers tabled to the Legislative Council, the Government proposed the mechanism which enables fares to increase or decrease. I put forward a number of suggestions then, but the Government has not provided any formal reply so far. At that time, we had a deep impression that colleagues of this Council have reservations about the price-cap formula " $P = W - K \times T$ " proposed by the Government, where P is the fare change, W is the change in the operator's input price, T is the operator's growth in productivity and K is a predetermined number between 0 and 1. It is obvious that the original price-cap formula proposed by the Government is tilted towards the factors relating to the operator whilst the affordability of the public is neglected. Therefore, we proposed at that time that the affordability of the public must be factored into the formula. However, has the Government actually received the message? Has the Government taken heed of what we have said? We have no idea at all. We will show our disapproval if this formula is incorporated intact into the relevant mechanism after the two railway corporations have merged.

The second reason for our reservations is that, when the Government tabled the relevant papers, it was said that the proposed fare adjustment formula would serve as a guideline for their boards in considering the fare mechanism, that is, being one of the factors for the boards to consider. If this so-called fare adjustment mechanism, which enables fares to increase or decrease and which we have discussed for a long time, is only one of the factors for the board of this merged corporation to consider after merger, not a obligatory mechanism, then an uncertainty has emerged, and it is also a so-called inconsistent act.

The third reason which has caused our reservations is also a very important reason. In fact, with regard to this mechanism which enables fares to increase or decrease, the Government could have tabled it to the Legislative Council for discussion after we put forward our views. We have mentioned that

in certain motion debates already, but why is no proposal made after such a long time? Now the Government proposes to discuss this mechanism first and then move on to the merger. I am more concerned that this is a tactic of the Government, that is, if the discussion of merger is not initiated, then the implementation of this mechanism will be remote, which is not to be seen in the foreseeable future. However, if this mechanism which enables fares to increase or decrease is discussed, then when will the merger really take place? Madam President, you have heard the projection of the Government, that is, the deflation is likely to stop by the fourth quarter. If this mechanism which enables fares to increase or decrease is implemented, I am afraid the factor we have to consider is not that the fare will decrease, but increase. Such an aspiration of the public will become just a tool for the Government to play with for the sole purpose of discussing this mechanism which enables fares to increase or decrease. I do not wish to see this happen. In other words, I really do not want to see that once this mechanism is implemented, it will start with an upward adjustment. I really do not wish this to come true.

Anyway, I have stated clearly in this motion, regardless of what will happen in future, the Government should give impetus to the two railway corporations to reduce their fares. Furthermore, with regard to the consultation on this merger, all of the reports should be made public. Thank you, Madam President.

**SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS**  
(in Cantonese): I am glad to hear many Members speak and give positive and proactive advice on the possible merger of the Kowloon-Canton Railway Corporation (KCRC) and the MTR Corporation Limited (MTRCL). In fact, as with Members, the Government also thinks that careful thoughts must be given to the issue of whether or not the two railway corporations should merge. After undertaking a detailed study on the subject, we believed the merger would benefit the community as a whole and so an important step was made to invite the two railway corporations to further discuss the proposed merger.

The major premise of merger is that it must bring an overall benefit to the community, enhanced efficiency in the operation and planning of the railways, adoption of a fare adjustment mechanism which is more objective and more transparent, a rationalization of the fare structure, greater convenience to the



public, assured stability of front-line staff and maintenance of a safe and convenient railway service. With these in mind, the Government has set down the scope for discussion by the two railway corporations which must base on this scope and submit the discussion findings at the end of this August to the Government for consideration.

When Members spoke earlier, they pointed out the conflicts that might exist in respect of the so-called overall interest to be brought by the merger of the two railway corporations to our community. As pointed out by Mr LAU Kong-wah, would the interest of the shareholders be the same as that of the public? Would the merger be in the interest of the staff? These are issues which we must consider carefully. Later on I would talk about the discussions with respect to transport, then Secretary Frederick MA will respond to Members' points on the economic benefits and other financial issues.

In his original motion, Mr LAU Kong-wah urges the Government to give impetus to the two railway corporations to reduce their fares and encourage them to co-operate in introducing interchange concessions expeditiously before the implementation of the merger plan. Many Members have put forward different ideas on this earlier and made different requests. Members have also asked what practical difficulties there are in a full-scale fare reduction. We are well aware of the expectations of Members for reduction of transport fares. So for the past year and a half, our department has been discussing with the transport operators and encourage them to make every possible attempt to reduce fares and to offer concessions taking account of their respective situations.

Since July 2002 and to date, various public transport operators have introduced more than 50 fare concessions. The two railway corporations have also introduced many fare concessions during the period, the most important of these initiatives being the MTRCL's "Ride 10 Get One Free" Scheme and the "Second Trip Discount" Scheme of the KCRC where fare savings up to 20% are offered. The two corporations have also offered interchange concession schemes together with other modes of transport such as the franchised buses and the green minibuses. During the initial period after the commissioning of the West Rail, fare concessions are introduced in the form of discounts and the West Rail also offers interchange concessions with more than 30 routes of franchised buses and minibuses. The Government will continue to encourage the two railway corporations to consider introducing interchange concession schemes and other forms of concessions. It is precisely because of the absence of an

objective fare adjustment mechanism which allows for fare increases and reductions that a full-scale fare reduction may encounter practical difficulties. The two railway corporations have made many studies on this issue.

If a merger is implemented, the two railway corporations both think that it offers an opportunity to make a fresh review of the fare levels and structure. If a synergy effect can be achieved, the two railway corporations would think that there would be room for fare reduction. Therefore, under this mechanism, we agree that the corporations may use this as a principle in their discussions on this scope. We have also learnt from the two railway corporations that the second boarding charge can be abolished after merger. In the latest press conference and in a meeting of the Panel, we have heard the Chairman and the CEO of the two railway corporations say in public that the merger might lead to a synergy effect and that there would be room for fare reduction. We would therefore discuss with the two railway corporations on matters related to the merger in this direction.

Mr Andrew CHENG mentions in his amendment the recommendation made in the Second Railway Development Study on a closer integration of the fares of the various railways. The recommendation made at the time on fares charged by the two railway corporations was focused mainly on the second boarding charges between the two railways and to co-ordinate the fares charged by the two railways with a view to maximizing the utilization of the capacities of the two railways. All these recommendations are based on the principle that the two railway corporations should maintain their rates of return and their business autonomy. The Government has been following up these recommendations with the two railway corporations. We have also followed up these recommendations in the studies conducted by us. A merger of the two railway corporations will achieve a closer integration and uniformity in this regard.

With respect to the process for fare adjustment, many Members have expressed their worries about how the Government can effectively monitor the fares of the railway corporation after merger. In this connection, I think Members are clear about my policy objective of introducing a public transport fare adjustment process which is more objective and with greater transparency. This will enable fares to increase or reduce according to changes in the economic conditions and operating costs. The setting up of this fare adjustment process will ensure that the public will not have to face any fare increases which are unjustified. It will also ensure that at times of bad economic conditions, a mechanism for fare reduction is in place and that there will be greater stability in

the operating conditions of the railway corporation. In this way, protracted disputes on fare adjustment which are futile can be prevented.

The amendment proposed by Mr Andrew CHENG urges the Government to ensure that the merged railway corporation will adopt a fare adjustment process which is based on the price-cap model for determining fares in the future. Although in last August I also put forward my views on using the price-cap model for determining fares, the interpretation given by Mr LAU Kong-wah earlier might be due to a misunderstanding of the input price change "W" in the price-cap formula. He points out that our formula has only taken account of the operating costs of the railway corporation to the neglect of the affordability of the public. As a matter of fact, "W" includes values from the Consumer Price Index which represents the prevailing affordability of the public. However, at this stage, I would still think .....

**PRESIDENT** (in Cantonese): Mr LAU, you wish to ask the Secretary to clarify the contents of her speech.

**MR LAU KONG-WAH** (in Cantonese): Right.

**PRESIDENT** (in Cantonese): Secretary, would you give way to Mr LAU's request for elucidation?

**SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS** (in Cantonese): Madam President, I think that a discussion on the fare mechanism at this moment is not necessary, for I would talk about it in the next part of my speech.

**PRESIDENT** (in Cantonese): Then please go on.

**SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS** (in Cantonese): On the issue of fare mechanism, I agree with Mr LAU Kong-wah when he says that there is no need to set it as a price-cap formula, for if there is a

fare adjustment process and mechanism which is acceptable to all and will achieve the same objective, then we should be open-minded enough to consider the proposal. What we should not do at this stage is to arrive at a final decision on how this process is to proceed. So I hope to keep a little flexibility so that we can reach some consensus during the discussions to be made in these six months.

As to the timetable for implementation of a fare adjustment process which allows fare increases or reductions, we urge the two railway corporations to submit a report to us by end August. The report should include a framework for an integrated operation agreement with draft provisions on the fare mechanism. As the implementation of this fare mechanism has a bearing on the long-term development of the railway corporation and needs to balance the interests of all parties concerned, so we will look into this very carefully.

Many other Members have expressed concern for the employment of the staff, this especially applies to the special mention made in Ms LI Fung-ying's amendment on the employment of the employees of the two railway corporations. Our position is that the two railway corporations must not lay off any front-line staff because of the merger. Our major premise is to ensure staff stability and to maintain a safe and reliable operation of rail services. These are our basic requirements. The CEOs of the two railway corporations said in the meeting of the Transport Panel last Friday that they had begun a dialogue with the staff in this regard. They have in actual fact begun such work and made very positive assurances.

The merger will serve to achieve a complementation of the advantages enjoyed by the two railway corporations respectively and enhance the competitiveness of the eventually merged railway corporation. More business opportunities will be explored. When this is coupled with the many railway projects in progress and which will be completed in a few years' time, the continued growth in business will enable the railway corporation to have a sustained demand for manpower. With respect of allocation, a bigger organization would work better. We believe the two railway corporations will do their best to safeguard the interests of their employees. This is because the interests of the employees will be beneficial to the corporations, and there is no conflict in this.

With respect to market competition, many people are worried about the possibility that the merger will lead to market monopolization. I would like to

stress that our policy is to maintain a public transportation system which is balanced and well-complemented. We also encourage healthy competition so that passengers can be given choices and limited resources put to their best uses. The modes of public transport in Hong Kong are diversified, besides the railways, there are also franchised buses, estate coaches, minibuses, taxis, trams, and so on. The diversity of these modes of transport will provide extensive choices to passengers and promote market competition.

During the discussion, many Members have raised the issue that an integration of the various modes of public transport may lead to conflicts. We can see that there has been tremendous growth in the railways over the past few years and especially after the West Rail has come into operation, passenger volume is not as great as it has been expected while the amount of investments made is huge. As for the construction of the Sha Tin to Central Link, many Members have raised the question of whether or not there will be any change to the construction plan or what considerations we should make. In the wake of a series of changes in the economic conditions and after learning the lesson from the West Rail, we will certainly give serious thoughts to the long-term transport demands of Hong Kong and the large-scale investment projects. We will look into the alignment, design and engineering aspects of these projects and the merger of the two railway corporations, and determine how we can do better. I believe Members and the public will hope that the Government will come up with some sensible and feasible plans so that the financial burden on the public and the Government will not be unreasonable. We will also think about how we can complement the vitality of other modes of public transport.

One of the major premises of the proposed merger of the two railways is that the merged corporation will be subject to proper supervision. We will enact laws to provide for such matters. The operation agreement will clearly lay down other important requirements in respect of service quality and safety. The merged corporation will not become a so-called independent kingdom, for it will have to face competition from other modes of public transport.

With the protection of public interest in mind, the Government will take part in the entire process of the discussions on the merger of the two railway corporations and we will take the lead in the KCRC side of discussions. We have already set up a co-ordination committee to facilitate and promote discussions between the two railway corporations.

I now defer to the Secretary for Financial Services and the Treasury to respond to questions in other aspects.

Thank you, Madam President.

**PRESIDENT** (in Cantonese): Mr LAU Kong-wah, do you think that certain parts of your earlier speech have been misunderstood by the Secretary and so you would like to make a clarification? (*Mr LAU Kong-wah nodded*) Please clarify only the parts of your speech which have been misunderstood.

**MR LAU KONG-WAH** (in Cantonese): Referring to my earlier comment on the formula which allows for increase or reduction in fares in the government paper, the Secretary said that I might have some misunderstanding because she said that W actually included the public's affordability. I do not understand it this way. Let me now read out again from the paper the relevant paragraph, or to be exact, one sentence only: "W is the change in the operator's input price". Obviously, it refers to the operator, not the public. So, I have not misunderstood the meaning.

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): Madam President, first of all, I am grateful to Members for giving their input on the financial aspect relating to the merger of the two railway corporations. In the press conference last week, I said that the Government was convinced that if the merger was successful, "one plus one" could be more than "two". This is because the financial consultants said in their report to the Government that the value resulting from a merger of the two corporations would be greater than that of the two corporations operating separately and the financial situation would also be more robust. Thus greater overall operational efficiency could be achieved and there would be mutual complement of advantages, exploring better prospects of growth for the corporation.

A number of Members, including Mr Andrew CHENG and Mr Albert CHAN, also reminded the Government that the Kowloon-Canton Railway Corporation (KCRC) must not be sold on a shoestring. We very much agree with this point because the KCRC belongs to the Hong Kong public. We will

definitely take into account the recommendations of the financial consultant as well as other relevant factors, conduct a prudent study and then come to a decision. Of course, we also hope to arrive at an evaluation of the value of the KCRC which is reasonable and acceptable to the Government and the MTR Corporation Limited together with its 400 000 small shareholders.

Thank you, Madam President.

**PRESIDENT** (in Cantonese): I now call upon Ms LI Fung-ying to move her amendment to the motion.

**MS LI FUNG-YING** (in Cantonese): Madam President, I move that Mr LAU Kong-wah's motion be amended, as set out on the Agenda.

**Ms LI Fung-ying moved the following amendment: (Translation)**

"To add "the employees and" after "far-reaching implications for"; to delete "public" after "in order to facilitate"; to add "with the employees of the two railway corporations and the public," after "consultation"; to add "not affect the employment, conditions of work, and the rights and benefits of these employees, and will" after "and ensure that the merger will"; and to add "of the fares" after "alleviate the burden". "

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Ms LI Fung-ying to Mr LAU Kong-wah's motion, be passed.

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

(Members raised their hands)

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

(No hands raised)

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

**PRESIDENT** (in Cantonese): Mr Andrew CHENG, as Ms LI Fung-ying's amendment has been passed, I have given you leave to revise the terms of your amendment, as set out in the paper which has been circularized to Members on 1 March. In accordance with the House Committee's recommendation which I have also accepted, when you move your revised amendment, you have up to three minutes to explain the revised terms in your amendment, but you may not repeat what you have already covered in your earlier speech. You may now move your revised amendment.

**MR ANDREW CHENG** (in Cantonese): Madam President, I move that Mr LAU Kong-wah's motion, as amended by Ms LI Fung-ying, be further amended by my revised amendment.

Madam President, I wish to speak at this juncture because the Secretary for Financial Services and the Treasury was not here in the Chamber while I spoke earlier with particular reference to the recent problem with share prices after the MTRCL's announcement of its intended merger. I have no intention to repeat my earlier remarks. However, the Secretary has in his speech raised the point that it was considered by financial consultants that "one plus one might be greater than two". In this respect, I hope the Government can in its study find out clearly the reasons leading to the immediate fall in the prices of MTRCL shares. We certainly do not wish to see "one plus one is greater than two" turn out to be "one plus one is smaller than two" subsequent to the merger of the two railway corporations as a result of the constant fall in the prices of the MTRCL shares. This is not just a problem with share prices. The Government will become a loser and, should this happen, public money will also be lost.

Thank you, Madam President.



**Mr Andrew CHENG moved the following further amendment to the motion as amended by Ms LI Fung-ying: (Translation)**

"To add "meanwhile, the Government should also ensure that the merged railway corporation will adopt a fare adjustment process which is based on a price-cap model for determining fares in the future, and that, after the merger, other public transport operators can still have healthy competition with the merged railway corporation;" after "alleviate the burden of the fares on the public;"; and to delete "expeditiously" after "to co-operate in introducing interchange concessions" and substitute with "as a first step, and then abolish interchange fares to pave the way for implementing the recommendation in the Second Railway Development Study on closer integration of the fares of various rails to benefit the public". "

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That Mr Andrew CHENG's amendment to Mr LAU Kong-wah's motion as amended by Ms LI Fung-ying, be passed.

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

(Members raised their hands)

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

(No hands raised)

Ms Miriam LAU rose to claim a division.

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

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

**PRESIDENT** (in Cantonese): Will Members please check their votes.

(Mr Bernard CHAN indicated that there was a problem with the button)

**PRESIDENT** (in Cantonese): Mr CHAN, will you please press the button once again.

(Mr Bernard CHAN still indicated that there was a problem with the button)

**PRESIDENT** (in Cantonese): Mr CHAN, can you tell me your vote?

**MR BERNARD CHAN** (in Cantonese): Madam President, do you mean I have to say what my vote is now?

**PRESIDENT** (in Cantonese): Yes. What was your vote finally? You seemed to have some problem with pressing the button just now, did you not?

**MR BERNARD CHAN** (in Cantonese): I have no problem pressing the button now.

**PRESIDENT** (in Cantonese): Have you pressed the button properly? So, there is no problem? If there are no queries, voting shall now stop and the result will be displayed.

Functional Constituencies:

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

Mr Kenneth TING, Mrs Selina CHOW, Mr HUI Cheung-ching, Mr CHAN Kwok-keung, Mr Bernard CHAN, Mrs Sophie LEUNG, Mr WONG Yung-kan, Mr Howard YOUNG, Ms Miriam LAU, Mr Abraham SHEK, Mr Tommy CHEUNG, Mr LEUNG Fu-wah, Dr LO Wing-lok and Mr LAU Ping-cheung abstained.

Geographical Constituencies and Election Committee:

Ms Cyd HO, Mr Albert HO, Mr Fred LI, Mr LEUNG Yiu-chung, Dr YEUNG Sum, Mr LAU Chin-shek, Ms Emily LAU, Mr Andrew CHENG, Mr SZETO Wah, Mr WONG Sing-chi and Mr Frederick FUNG voted for the amendment.

Mr LAU Kong-wah, Miss CHOY So-yuk and Dr TANG Siu-tong abstained.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 20 were present, six were in favour of the amendment and 14 abstained; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 15 were present, 11 were in favour of the amendment and three abstained. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the amendment was negatived.

**PRESIDENT** (in Cantonese): Members were informed by circular on 1 March that Ms Miriam LAU would withdraw her amendment if Ms LI Fung-ying's amendment was passed. Since Ms LI Fung-ying's amendment has been passed, Ms Miriam LAU has therefore withdrawn her amendment.

**PRESIDENT** (in Cantonese): Mr LAU Kong-wah, you may now reply and you have 56 seconds.

**MR LAU KONG-WAH** (in Cantonese): Madam President, as this year is a year of double springs and a leap second lunar month, the fact that the Government announces the "marriage" of the two railway corporations by way of a merger is really meaningful. I believe the Government has certain expectations, and the public also have their own expectations. Nevertheless, it seems that the expectations of the Government are bigger, because it expects that "one plus one is more than two", and even the birth of a baby is guaranteed. Moreover, this baby is expected to be fair and plump. Here is my wish: Let us hope it is so.

Thank you.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the motion moved by Mr LAU Kong-wah, as amended by Ms LI Fung-ying, be passed.

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

(Members raised their hands)

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

(No hands raised)

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

**PRESIDENT** (in Cantonese): Second motion: Restoring the public's confidence in consuming live poultry.

**RESTORING THE PUBLIC'S CONFIDENCE IN CONSUMING LIVE POULTRY**

**MR TOMMY CHEUNG** (in Cantonese): Madam President, I move that the motion as printed on the Agenda be passed ..... *(some Members were leaving the Chamber one after another)*

**PRESIDENT** (in Cantonese): Mr CHEUNG, it certainly has nothing to do with your speech. Please go on. *(Laughter)*

**MR TOMMY CHEUNG** (in Cantonese): Since the recurrence of the fatal H5N1 avian flu in Asia in early December last year, there have been outbreaks in South Korea, Taiwan, Vietnam, Japan, Thailand, China, and as faraway as in Pakistan, and there is also the H7 strain of influenza in the United States. This attack by the H5 virus has cost the largest casualties, and the span of the affected areas has also been the broadest.

The years 1997, 2001 and 2002 saw repeated attacks by the avian flu in Hong Kong. I believe Members will still remember vividly the mass slaughter of chickens back then. However, Hong Kong has managed to "remain untouched" amid outbreaks of avian flu in the Netherlands, Belgium and Germany in Europe early last year and also the extensive occurrence of the avian flu in Asia recently. This is to a very large extent attributed to the reliable preventive measures developed by us.

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

After the first outbreak of avian flu in Hong Kong in 1997, central slaughtering has been implemented for geese and ducks, and live geese and ducks are no longer available for sale in poultry stalls. Starting from 2002, the sale of quails and francolins has also been banned in the market, because these wild birds are natural virus carriers and their being crammed with poultry at the same place may result in cross-contamination. At present, live chickens exported from designated farms in the Mainland will first be segregated for quarantine by the State Administration for Entry-Exit Inspection and Quarantine, and they will

be transported out of the farms only when they are proven to be problem free. On their arrival at the Shenzhen border checkpoint, the Shenzhen Entry-Exit Inspection and Quarantine Bureau will conduct blood tests on the chickens. When they reach Lo Wu, random checks will be conducted by the Government of the Hong Kong Special Administrative Region before the chickens will be transported to the Cheung Sha Wan Poultry Wholesale Market, pending quarantine reports on the health of the chickens before they can be sold in the retail market. Last year, the Government took on board the views of the trade, and after conducting tests for one year, required local farms to vaccinate live chickens against the avian flu virus, while mainland farms have also been urged to do the same. It is generally believed that vaccination has effectively fended off the avian flu virus for Hong Kong this time around.

As for chilled poultry, all such poultry is also imported from designated slaughterhouses in the Mainland. The poultry must be healthy, and the hygiene conditions and the handling procedures at the slaughterhouses are also required to meet the standards of Hong Kong. Poultry carcasses and offal must be packed separately with bar codes affixed on them to show their origin. After working out the time for transportation and the refrigerating temperature, the poultry will be transported to Hong Kong where the chilled poultry will be handled separately from the live poultry. To restore the public's confidence in consuming imported poultry, the trade has recently proposed on its own initiative to import only chilled chicken carcasses, but not chicken offal such as chicken intestines, during this extraordinary period.

Despite the efforts made by the traders, the Government has failed to discharge its responsibilities of telling the people the "truth" and allaying public concern, so that the public will be rest assured that it is safe to consume live poultry. On the contrary, the Government has turned a blind eye to the plights of traders and sit by while they stew in their own juice. Seeing that the Government has adopted such an indifferent attitude, the trade is worried that whether the Government's purpose is to "dry up" the poultry trade in order to pave the way for central slaughtering.

Recently, Dr Thomas TSANG, Consultant of the Department of Health, has even rubbed salt into the wounds, remarking that re-assortment of the avian flu virus to become transmittable between human beings might lead to a death toll of 300 000 in Hong Kong. Fortunately, Secretary Dr YEOH later clarified that this alarmist figure was deduced from the experience of a global influenza

outbreak 36 years ago in 1968. As medical technology advances rapidly, I do not see why officials still have to use decades-old statistics to explain the problems nowadays. Do they actually intend to frighten the people?

The situation is like a cinema on fire. The fire escapes are actually enough for everyone to run away, and if everyone can keep calm, surely nothing will happen. But if the people are frightened and if they push one another and step on one another, there will be casualties. That the authorities have now decided to ban the importation of live poultry from infected areas indefinitely precisely reflects the sort of fear and irrationality when a fire broke out in a cinema. Officials must bear in mind that in the face of the avian flu, it is absolutely not the case that there is no escape for Hong Kong. We do have a quarantine system which is universally recognized as sound. The Government has also talked the trade and the people into placing trust in this system. Coupled with the view of the World Health Organization that the spread of avian flu in Asia has been stabilized and that another massive outbreak should be quite unlikely, I do not understand why the Government has to be so frightened and even raise such alarmist talk to take the lead to create panic in society?

In fact, the Liberal Party and I have urged the Administration more than once not to jump to central slaughtering in one go, because there are still many effective and yet less destructive measures at our disposal.

For example, mainland chickens and local chickens can be segregated in the wholesale market, and different cleansing days can be scheduled for different chicken stalls to avoid accumulation of chickens at a number equivalent to their sales for several days in the market. Such being the case, in the event of abnormalities with the chickens or human infections unfortunately, it would be much easier to trace the source and contain the spread. Nevertheless, the Government has refused to do so. I have also suggested the Food and Environmental Hygiene Department to follow the practice of the Housing Department in limiting the number of chicken stalls in each market to one or two or even a maximum of three. But for historical reasons, we can still find 20 to 30 stalls selling chickens in a market. Besides, the chicken stalls should be grouped together, the area of the stalls should be increased, ventilation at the market should be enhanced, and the ventilation system should be made independent of the area where chickens are sold in order to reduce the density of poultry and improve air circulation. I also hope that the authorities can retrofit segregation facilities at each chicken stall to minimize human contact with

poultry, and people who have come into contact with poultry should be required to wash their hands immediately. But the Government has not implemented any of these measures.

Moreover, as we have mentioned before, it is necessary for the authorities to review whether it remains appropriate to require local farms to provide "sentinel chickens" for the avian flu virus test. These "sentinels" are unvaccinated and therefore naturally stand a higher chance of infection. But at present, once the result shows positive avian flu infection, disregarding whether the chicken being tested are "sentinels" or not, all the chickens in the farm will have to be culled. Is it fair to the chicken farmers if chickens have to be slaughtered massively because of these "sentinel chickens" with lower immunity and resistance to virus?

The authorities have refused to even try these effective and yet more moderate measures but proposed to adopt radical measures, rashly promoting the implementation of central slaughtering, having no regard for the sacrifices of the poultry trade and making the people become panic-stricken. How would the public have the confidence to consume chicken and how would they not be in panic?

The Liberal Party has all along supported a market-led approach, and we do not encourage the Government to subsidize certain trades or operators with public coffers. Nor do we agree with government intervention in the market. In fact, the trade does not wish to rely on the financial assistance of the Government. What they hope badly to see is the resumption of the supply of fresh and chilled poultry as soon as possible, so that their normal operation can resume soon and they can then stand on their own feet. However, ignoring improvement in the situation and the fact that Hong Kong already has a quarantine system which has operated effectively and an extremely high safety coefficient, the authorities have decided to ban the importation of fresh and live poultry from the infected areas indefinitely, leaving us with no choice at all. Being the representative of the trade, I must urge the authorities to undertake to help the trade to tide over the difficulties until their business resumes normal.

However, the relief measures announced by the Secretary last week are not adequate to truly help the trade overcome the plights in terms of their depth and breadth.



Compared with 1998 and 2001 when compensations were made for the chicken culls, shop rental and parking fees were waived, and a one-off *ex gratia* payment ranging from \$24,000 to \$60,000 and low-interest loans totalling \$150,000 to \$300,000 were granted, the relief measures proposed now include only waiving shop rental and parking fees for half a month during the suspension of operation. The authorities explained that as there was no culling of chickens, the compensation would therefore be less. But let us not forget that the trade has incurred far more serious losses this time than those incurred back in 1997. It is because the supply of fresh chickens may be suspended for several months, or it may be suspended indefinitely, since the Secretary has not yet mentioned what he is going to do in future. But in the interim, operators in the trade still have to pay their workers. They have to pay for the water and electricity charges and also the licence fees, and the chickens that have not yet been sold still need feeding. Now that the ban on the importation of live poultry has come into effect for nearly one month, the cash flow problem has been surfacing gradually. I think the relief measures should also include low-interest loans, so that the trade can pay for their workers' salary.

Furthermore, I also wish to point out that the coverage of the relief measures is too narrow for they only cover live poultry. Under the present arrangement, the ban also applies to chilled poultry, and the farms are also affected. Why do the authorities not provide them with assistance? Without the supply of fresh and live poultry, shops where roast food or pot-stewed food is sold and the roast food section of restaurants are hard hit. Although the parking fees of transport operators can be waived in the wholesale market, what about the rent of their vehicles? What about truck drivers who transport chilled poultry? All these people are not covered by the relief package. The Government must understand that not only the close to 1 000 chicken stalls in the territory are affected. The livelihood of thousands of workers in the trade and their families and the tens of thousands of workers in the related trades will also be affected. I really do not wish to see that the difficulties in the poultry trade will again push up the unemployment rate which has just stabilized a bit.

Madam Deputy, in the last century, when it came to eating, people would invariably think of "eating in Guangzhou". My father came to Hong Kong from the Mainland several decades ago. He was not in the catering industry at first, but as he could not find good food (Members now understand from where I

inherited a liking for delicious food), he opened a restaurant himself. At the same time, fellow members of the trade had also worked very hard, making it possible for Hong Kong to build up the reputation as the Gourmets' Paradise. This is attributed not only to the spirit of members of the catering sector who have always striven to make improvement, but also to the fact that Hong Kong is an open city where fresh raw materials can be imported from different places, and there have been many people coming to Hong Kong for investment. The indefinite ban on the importation of live poultry has already dealt a blow to our economy. I am afraid that if the importation of fresh and chilled chicken, geese and ducks is suspended continuously, it will definitely be impossible to restore the public's confidence in consuming live poultry and hence, the position of Hong Kong as the Gourmets' Paradise may not be maintained. By then, we might have to turn the clock back to the last century when "eating in Guangzhou" was the fashion.

With these remarks, Madam Deputy, I hope Members can actively express their views and support my motion.

Thank you, Madam Deputy.

**Mr Tommy CHEUNG moved the following motion: (Translation)**

"That, as the successive outbreaks of avian flu in various parts of Asia has caused the public's confidence in consuming live poultry to sag drastically, dealing a severe blow to the livelihood of those engaged in the live poultry and other related trades, this Council urges the Government, while continuing to adopt rigorous measures to prevent the outbreak of the disease, to make every effort to restore the public's confidence in consuming live poultry, and provide compassionate measures for the affected stall or shop operators, including granting discretionary rent reduction or waiver to the tenants of stalls or shops in government premises and offering low interest loans to the trades concerned, so as to tide them over the difficult times until their normal business resumes."

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

**DEPUTY PRESIDENT** (in Cantonese): Mr WONG Yung-kan will move an amendment to this motion, as printed on the Agenda. The motion and the amendment will now be debated together in a joint debate.

I now call upon Mr WONG Yung-kan to speak and move his amendment.

**MR WONG YUNG-KAN** (in Cantonese): Madam Deputy, I move that Mr Tommy CHEUNG's motion be amended, as printed on the Agenda.

Madam Deputy, although Hong Kong has maintained zero infection during the recent wave of avian flu outbreaks in Asia, the responsible government officials have contracted the disease of over-reaction to avian flu. The many policies recently adopted by the Government targeting on the live chicken trade have tolled the bell of death for the trade. It is not irrational for the trade to roar in rage and put up resistance. Their discontent towards the Government is, in fact, understandable. The current situation is very much different from the horrible scenes during the outbreak of avian flu in Hong Kong back in 1997 when sick chickens were everywhere. Over the years, the trade has actively co-operated with the Government to improve the operation of the entire trade and the hygiene standards, and a most stringent prevention and quarantine system covering various aspects from feeding, importation, transportation, wholesale to retail has been set up. Now that the epidemic has persisted for nearly three months, and Hong Kong is still able to fend off attacks by the virus. This shows that the existing system is effective, and this system set up by Hong Kong to tackle avian flu has even won international recognition.

The present situation of the trade can really be described as being at the end of their tether. Although local chickens are still available, they are after all limited in number and many chicken vendors have been forced to suspend their operation for nearly one month already. Despite the relief measures introduced by the Government, it has not been the wish of the trade to receive assistance from the Government using public coffers, for this may cause misunderstanding among the public that they know only to ask for compensation. They only wish that the trade can resume normal operation as soon as possible. But last week, Secretary Dr YEOH Eng-kiong said that the Government had to wait at least half a year before giving consideration to resuming the importation of chickens from the Mainland. Such being the case, the trade will have to close down all its

operation anytime. Tens of thousands of people will not be able to feed themselves. So, how could this be acceptable to them?

As for the Government's proposals to import fertilized eggs and consider the policy of a central hatchery, they are simply not justifiable. According to the estimates of the trade, if chickens are to be supplied only by local farms, in order to cope with the normal daily sales volume of 80 000 live chickens, we will need to hatch 100 million fertilized eggs in Hong Kong yearly. Does Hong Kong have such a large place and so many facilities and the personnel to support such a huge hatchery business? Even if the Government is willing to provide subsidies or to set up a central hatchery through investments, once the importation of day-old chicks resumes, local chicken farmers will not in the least be interested in buying locally-hatched day-old chicks given the cost factor. In that case, the investments in the facilities at the central hatchery will go down the drain anytime. How could this encourage investment from the farmers? We really do not wish to see the stark wastage of government investment and worse still, the Audit Commission would be bringing up old scores again and taking the Government to task. So, I call on the Government to carefully reconsider the feasibility of this scheme.

The Democratic Alliance for Betterment of Hong Kong understands that public health is the primary consideration of any resumed importation of live chickens. However, when assessing the risks, it is necessary to make a judgement based on sufficient scientific justifications, rather than giving unsubstantiated comments and imposing a ban which will deal a damaging blow to the trade only because of the possible risks involved. At the end of last month during the rapid outbreak and spread of the avian flu, and when outbreaks of avian flu were reported at nine places in the neighbouring Guangdong Province, it gave no cause for much criticism to impose a temporary ban on the importation of chickens from the Mainland as a precautionary measure.

However, if we analyse the epidemic in Guangdong Province more closely, we will find that the cases are scattered mainly in small family-type chicken farms. There has been no such case in large-scale chicken farms and chicken farms supplying chickens to Hong Kong. In spite of this, the relevant authorities in the Mainland have taken a host of measures to control avian flu. For example, culling operations and compulsory vaccination within the infected areas; all chickens reared in Guangdong Province, including those in family-type farms, are required to be vaccinated; and other chicken farms within 3 km

of farms supplying chickens to Hong Kong are given priority to have their chickens vaccinated. Through effective measures, the epidemic in Guangdong Province has been contained. No new case has been reported for over 10 days after the last case of avian flu at the Safari Shenzhen where black swans were infected. The mainland authorities have also stated that the last infected area in Guangdong Province has met the country's requirements for delisting from an avian flu infected area last Saturday. In other words, after this week, there will be no avian flu infected area in Guangdong Province, and the last infected area can also be delisted on the 9th of this month the earliest in China.

Madam Deputy, Secretary Dr YEOH has consistently told us that even after the delisting of the last infected area, re-importation of live chickens from the Mainland would still carry very high risks. I do not wish to say that the Secretary is a scaremonger. We do understand that it is possible for avian flu to become endemic in Asia and its recurrence is still possible in future. We, therefore, cannot treat this matter lightly. However, we must carefully analyse this to ascertain whether the importation of live chickens will still be very dangerous after the delisting of the last affected area and whether there is still the danger of a massive outbreak anytime. Before a decision is taken, it is necessary to ascertain whether the existing preventive and control measures can guarantee that chickens exported to Hong Kong are healthy and hygienic based on concrete evidence. Only a decision taken in this way can be convincing to the public and the trade. It is undesirable to make biased arguments to mislead the people into believing that consuming live chickens is extremely risky, in order to force the trade to yield. In fact, speaking of risks, there will also be very high risks, say, when we drive and walk on the street, and the casualties involved in traffic accidents annually are also very high. Should we then tell the people not to go out or drive? In fact, the key is to formulate effective measures to minimize the risks. It is unnecessary to take extreme measures tantamount to an overkill.

By the same token, as long as the mainland chickens to be supplied to Hong Kong can meet stringent hygiene and quarantine requirements, we have no reason indeed to refuse the importation of mainland chickens for such a long time. At present, mainland chickens to be exported to Hong Kong all come from the 330 farms designated by the Entry-Exit Inspection and Quarantine Bureau in Guangdong Province. Bio-security at these farms is up to the standards of Hong Kong and is very stringent. The chickens have to be vaccinated against the H5 virus, and they have to be segregated for quarantine before they are exported to

Hong Kong. Seals are put on them throughout the transportation process to prevent unquarantined chickens from being mixed with them. Before they enter Hong Kong, blood samples will be taken from the chickens to test for the virus. It is because of these stringent surveillance and control measures that chickens from these farms are different from those reared in uncontrolled farms in some villages, and they are also different from chickens reared in Japan where chicken farms do not vaccinate their chickens and hence, it is easy for their chickens to be infected. Therefore, when zero infection is recorded at those farms supplying chickens to Hong Kong, if the Government does not believe in facts and imposes a permanent ban on their importation, it shows not only the Government's lack of faith in the quarantine and monitoring system set up by itself, a system which is universally recognized to be most stringent and sensitive. What is more, this approach of the Government, which is like "trimming the toes to suit the shoes", will even affect the survival of the entire trade.

Madam Deputy, I so submit.

**Mr WONG Yung-kan moved the following amendment: (Translation)**

"To add "and to allow the importation of quarantined healthy live poultry, day-old chicks, and chilled and frozen poultry carcasses from farms in Guangdong Province designated for export to Hong Kong from 21 days after the occurrence of the last avian flu case in the Province," after "to make every effort to restore the public's confidence in consuming live poultry,"; to delete "stall or shop" after "and provide compassionate measures for the affected"; and to add "and employees engaged in the trades concerned" after "operators"."

**DEPUTY PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the amendment moved by Mr WONG Yung-kan to Mr Tommy CHEUNG's motion be passed.

**MR FRED LI** (in Cantonese): Madam Deputy, last week, the Government announced a series of provisional measures and long-term proposals for consideration, and provided assistance to the trades affected. The original motion urges the Government to continue to adopt rigorous preventive measures. In this connection, I think the Government's past efforts and the new measures

announced to address the current incident have actually responded to this appeal specifically. Apart from acknowledging the work of the Government, we in the Democratic Party also consider that the achievements made by local farms in preventing the disease merit high recognition. So far, there have been no avian flu cases reported in chicken farms in Hong Kong and the trade should take pride in this. After the outbreak of avian flu in 1997, the concerted efforts made by the Government, the trade and the Legislative Council which has been concerned about this issue have made it possible for Hong Kong to be spared of the disaster although we are geographically located within the infected areas. However, if the Government suspends the importation of live poultry for a long period of time and refuses to provide more assistance to the trade, the livelihood of those in the trade will become very difficult.

While the Government's preventive measures merit commendation, we must then ask a question, "When should the importation of live poultry resume?" The Democratic Party is not very happy with the performance of the Government in this regard. Last week, after the Government had announced that live chickens would not be imported within a short period of time, we in the Democratic Party conducted a telephone opinion poll recently, that is, during the past few days, and interviewed 504 people. The result shows very clearly that over 60% of the respondents stated that live chickens from the Mainland should not be imported into Hong Kong over a period of time in the future. We, however, consider that the Government should expeditiously draw up measures and standards to expressly set out the circumstances under which the importation of live poultry from Guangdong Province will resume, rather than doing what it has done, that is, dropping a hint to the media at first that live poultry would be banned from importation for one year but saying later that the ban would span half a year. In fact, the Government has said different things each time, and it seems that the Government has been sending out "balloons" to probe the reaction of the public and the trade. We consider that if policies on the importation of live chicken are formulated in such a way, it would only arouse concern in the trade and breed discontent towards the Government's oscillating attitude.

As for the timing of and the criteria to be used for the importation of live poultry, day-old chicks, and chilled and frozen poultry carcasses, Mr WONG Yung-kan suggested that the Government should allow the importation of poultry from the Mainland after 21 days from the occurrence of the last avian flu case in Guangdong Province. In our opinion poll, we also asked the respondents' views on this point, and 57% of the respondents said that even though live

chickens from the Mainland would be imported to Hong Kong tomorrow or before long, they would not — I stress, would not — have the confidence to buy them. From this survey, we notice and are very worried that even if live chickens are allowed to be imported, the public's confidence in buying live chickens is still very low, and this will very likely result in the stock of chickens accumulating in the wholesale or retail market and environmental hygiene problems will then follow. From the angle of public health, this is absolutely not something that we wish to see. We in the Democratic Party suggest that an expert group be set up by the Government expeditiously. Although the Government did hold meetings with some experts last Saturday, I think the Government should set up a standing expert group which will hold meetings regularly and expeditiously in the next few months, inviting academics from local institutions, experts who have in-depth knowledge of the local agricultural industry, experts who have in-depth knowledge of the poultry industry, and also representatives of the trade and the Government to hold meetings on a regular basis when avian flu prevails, in order to assess the development of the disease and determine the date and the relevant arrangements for the resumption of the importation of live poultry. Therefore, we in the Democratic Party will abstain in the vote on the amendment. According to yesterday's newspaper reports, Mr Robert WEBSTER, an expert in animal influenza of the World Health Organization, had stated that as the disease had not yet subsided in the Mainland, there would be risks to resume the importation of poultry from the Mainland and observation for at least half a year to one year would be warranted. This is also the position of the Government. However, I think this position is not clear enough, and I hope that more scientific and objective indices can be formulated.

On the day before yesterday, Macao reached an agreement with the Mainland on the resumption of the importation of live poultry from Zhuhai from the day after tomorrow, that is, Friday. However, it must be noted that the preventive measures there have been stepped up accordingly. Eight conditions have been set out on the basis of the "Administrative Rules on Inspection and Quarantine of Live Poultry purveying for Hong Kong and Macao" and also the "inactivated vaccine programme for live poultry to be exported from Guangdong to Macao against the H5 virus and agreement on mutual monitoring". These conditions must be met before live poultry are allowed to be imported to Macao from Zhuhai. After the live poultry is imported into Macao, the poultry must be sealed and blood tests will also be enhanced for quarantine purposes. Besides, the poultry must be slaughtered on the same day of importation and



cannot — cannot — be kept in the retail market. Moreover, in Macao, only a small number of chickens from Zhuhai are allowed to be imported and the ban has not yet been lifted for chickens from Guangdong Province. Chickens imported into Macao do not only come from Zhuhai, and those from Zhuhai only take up a small share. In fact, chickens from other parts of Guangdong Province are still banned from being imported to Macao. It is not the case that the ban has been fully lifted. I have studied the eight conditions, and I believe the Government of the Hong Kong Special Administrative Region and the expert group should also make reference to these standards in assessing when the importation of live poultry can resume.

As for the Government's relief measures, in fact, since the importation of chickens from Guangdong Province to Hong Kong was banned on 30 January, the livelihood of members of the poultry trade has been hard hit. At present, the Government's relief package includes waiving 50% of the rental of live poultry stalls in the market for a period of three months and providing an *ex gratia* payment from \$5,000 to \$10,000 for fresh provision shops. We consider these measures inadequate to address the problem, particularly as the operation of the live poultry trade will be totally paralyzed during the period when the importation of live chickens from the Mainland has not yet resumed and all local live chickens have been sold.

In fact, compared with the compensation packages introduced for the last two chicken culls, the amount of compensation offered this time around is far less than before. We propose that the trade be provided with interest-free loans expeditiously and the supply of chilled and frozen poultry be resumed as soon as possible. I think this is the most feasible and quickest measure and a measure that should be adopted in order to pre-empt a "vacuum" when no chicken will be available for sale in the market. Besides, the authorities should draw up the arrangements and criteria for the eventual resumed importation of live poultry, so that the industry can envisage when their operation can resume and hence minimize the losses.

With these remarks, I support the original motion.

**MRS SELINA CHOW** (in Cantonese): Madam Deputy, I wish to point out from the outset that the poultry trade does not care any less about the health of the

public than anyone. It can even be said that it attaches more concern to it than the general public. For with the emergence of every threat of avian flu, even if no concrete cases are found, the one who bears the brunt of the threat is the poultry trade. Members of the trade, including those who run poultry farms, retail and wholesale business, as well as those who operate the chilled poultry business, all think that it is unfair that live chickens and chilled chickens are banned from importing into Hong Kong despite the zero infection here and the absence of avian flu in the some 200 chicken farms in Guangdong. This policy has pushed almost every sector of the trade to the brink of destruction. Now with the gradual lifting of the ban in the infected areas on the Mainland and the resumption of imports of live chickens in Macao, Hong Kong stands out as the only place without any signs of the ban being lifted. The Government has even gone so far as to say that it would be at least six months later that consideration would be given to resume importation of live chickens. That has caused widespread fears and repercussions in the poultry trade. If this is the case, many operators in the trade indeed may not be able to wait for that day to come before they will close down for business. It is common knowledge that people in Hong Kong like to consume live chickens and the food and catering trade is generally of the view that live chickens are an important ingredient to the food and catering trade in this Gourmets' Paradise. Doubtless there is substantial demand for live chickens in the market. This ban on importation of mainland chickens is entirely due to the recent threat of avian flu, but to date, with the recognized poultry farms in Hong Kong and Guangdong Province all recording zero infection, are there still any grounds to continue with this ban on imports? Is this policy not excessively stringent and harsh?

As for the grounds of not importing live chickens put forward by the Government, the first is that each link in the supply chain may be susceptible to infection and second, risks will increase substantially if live chickens are allowed to be in close contact with human beings. But if we look at the figures since the discovery of the H5N1 virus back in 1997, despite the few cases of discovery of this virus in the poultry population, there has been no more case in Hong Kong of humans passing on the avian flu virus to other humans. The introduction of the avian flu vaccine last year, plus various measures like the cleaning of the markets, import quarantine and raising the hygiene standard in the farms, and so on, have caused an eradication of the virus from the territory. This is the result of the close co-operation between the trade and the Government. It is also something which the Hong Kong people should be proud of. Therefore, I am in full support of the motion moved by Mr Tommy CHEUNG and the amendment

moved by Mr WONG Yung-kan, for they are not only the wish of the trade but also the fair, proper and sound arrangements. I also hope that the Secretary can arrange a meeting between members of the trade and he himself or the two related directors, that is, the Director of the Agriculture, Fisheries and Conservation Department and the Director of the Food and Environmental Hygiene Department. The items to be discussed in such a meeting would be the specific measures and the arrangements for resuming the import of chilled chickens and live chickens. In the short term, what the authorities should do are to step up regulation and to ensure that the chickens imported are healthy. In addition, the authorities should discuss with the poultry farms in Guangdong and permit the import of chickens from farms that meet the standards required. This is the direction in which we should all aim. At the same time, the authorities should formulate measures which will truly improve the environment and the operations of the retail and wholesale markets in order to prevent the infection of chickens. I think Members will agree with this idea as well.

As for the controversial issue of centralized slaughtering, I believe it would not be proper to reach a decision on this rashly, or even to adopt the idea, for recently many experts, including Dr WEBSTER of the World Health Organization, have said that centralized slaughtering is not a reliable arrangement. Members can just review the precedent of the geese and ducks trade which serves to tell us that the impact of centralized slaughtering has caused the total destruction of the trade. Before centralized slaughtering is practised on geese and ducks, the daily sales turnover of geese and ducks is as many as more than 6 000, but now there are only about 400 per day. Of course, not even one is on sale today. The poultry trade hopes that the import of live geese and ducks can resume as soon as possible like the chickens. Madam Deputy, the trade does not need government handouts. As a matter of fact, the compassionate measures are only reasonable compensation for the losses incurred on the trade due to this sudden ban on poultry import. It is really a small token. But what the trade wants is a way which it can continue to make a living. I call upon the Secretary to go in this direction with the trade in the hope of finding a way which is sound and can solve the problem as soon as possible.

Thank you, Madam Deputy.

**DR TANG SIU-TONG** (in Cantonese): Madam Deputy, following the successive outbreaks of avian flu in a number of Asian regions, the Government

of the Hong Kong Special Administrative Region has reacted swiftly by suspending the import of bird meats from a number of regions where there are outbreaks of avian flu as well as live chickens from the Mainland to intercept the disease at source by every possible means. As a result, Hong Kong has luckily escaped and become the only piece of "clean land" surrounded by avian flu. I think it is imperative for the Government to, after gaining experience from the two previous outbreaks of avian flu and learning a bitter lesson from the outbreak of SARS last year, be particularly vigilant this time by extending its safety circle and line of defence in the interest of public health and public hygiene.

Since the successive outbreaks of avian flu in our neighbouring regions, Hong Kong's live poultry and related industries have been facing the prospect of business suspension and a sharp drop in business. At present, the prospects of the industry are still uncertain, given that the Government has no plans yet resume import of live chickens from the Mainland in the short term. Undoubtedly, the plummeted public confidence in consuming live poultry and the rising prices of chicken because of its sharply reduced supply have forced a number of restaurants and food establishments to either suspend or reduce the preparation of dishes with chicken and poultry. Although public confidence in consumption of chicken will restore gradually as avian flu in our neighbours subsides, I believe public confidence in consuming chicken will, to a much larger extent, hinge on the Government's ability to take rigorous preventive measures in concrete terms. These measures include quality inspection on mainland suppliers of live chickens, quarantine and preventive measures to intercept the import of problematic live poultry, chilled and frozen bird meat, and hygiene and preventive measures for local chicken farms with respect to prevention and control, and the transportation, sales and slaughtering of live chickens.

According to standards set by the World Health Organization, export of poultry can be resumed if no chicken is found dead within 21 days after the occurrence of the last avian flu case in an infected area. This is because 21 days is long enough for the avian flu virus to be extinguished completely. At present, the Government rejects the idea of resuming import of live chickens from designated farms in Guangdong Province mainly because of its concern that it is impossible to ensure that chickens from these farms will not mix with those from outside the Province during the course of transportation. Our rigorous safety circle might be rendered completely useless should chickens from Guangdong Province be mixed with those from infected places. I understand the

Government's efforts in protecting public health and it is under tremendous pressure to achieve this. Actually, the two outbreaks of avian flu have costed Hong Kong dearly. When SARS broke out last year, a number of sectors in Hong Kong were dealt a devastating blow. In particular, tourism, retail and catering have all plunged into a recession. Thanks to the timely launch of the Individual Visit Scheme by the Central Authorities to allow mainlanders to come to Hong Kong for sightseeing and the signing of CEPA, Hong Kong came back to life within a short time to catch up with the momentum of economic revival. Yet, we might not be able to withstand another blow by avian flu.

The live poultry and other related trades have a great bearing on the livelihood of tens of thousands of people, who can hardly endure a six-month or longer period of observation and unemployment. In my opinion, the Government can consider taking certain measures to ensure that the resumption of importing live chickens into Hong Kong from the Mainland will not pose great risk to public health. Such measures may include strengthening inspection on designated chicken farms in Guangdong Province, setting up temporary quarantine stations at the boundary to keep imported live chickens for seven days, or even 21 days, before they are delivered to retail outlets in Hong Kong, and so on. The key really lies in whether or not the Government has any plans to introduce major policy changes to the importation of, and sales arrangement for, live chickens.

Following the suspension of import of live chickens from the Mainland, the Government has considered importing fertilized eggs and setting up hatcheries in Hong Kong to hatch eggs instead of importing day-old chicks from the Mainland. Besides, such options as central slaughtering, centralized sales and slaughtering of live chickens, installing slaughtering segregation facilities in retail stalls, and so on, have been proposed. I believe it is essential for the Government to state its position clearly and expeditiously on such issues as to what extent the segregation policy will be implemented, whether the local live chicken farming industry will be eliminated, and so on. It has been shown in many cases that the outbreaks of avian flu originated mainly from the contact between humans and live chickens, as well as the slaughtering process. Chicken meat actually poses little risk after suitable handling and cooking. A clear policy is essential if it plans to reduce contact between humans and chickens, so as to prevent people engaged in the industry from waiting in vain and wasting their time. Neither should chicken farmers be misled into investing in hatching

machines, for at the end of the day such investments will only be wasted and turned into frustrations. It is simply impossible for the authorities to delay formulating policies and stating its position any longer.

Given the plights of the live poultry and other related trades and the people engaged in these trades, a helping hand is greatly needed. The Government's plan to grant rent waiver and *ex gratia* payment by expending \$8.44 million will provide only limited assistance, which is merely better than nothing. I would like to reiterate that it is crucial for a clear policy direction to be formulated, negotiations with the trades be held, and the public be consulted in this direction in search of a policy and option that will be accepted by all parties concerned.

In my opinion, Madam Deputy, it is essential for Hong Kong to retain its live chicken breeding and retail trades. However, improvement should be made to the breeding, transportation and storage of chickens to reduce the chances of chicken infection. At the retail and slaughtering level, contact between the public and chickens should be minimized. As for imported live chickens and chilled chicken, inspection of the quality of the suppliers' goods and quarantine should be stepped up. As stated by me earlier, the imposition of rigorous food hygiene standards and the serious implementation of quarantine can actually give the relevant trades and the public the maximum protection.

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

**MR MICHAEL MAK** (in Cantonese): Madam Deputy, there were successive outbreaks of avian flu in a number of Asian countries earlier. As of 1 March this year, 23 and 10 cases of humans being infected with the H5N1 virus have been found in Vietnam and Thailand respectively, resulting in a total of 22 deaths. During the outbreak of avian flu in Hong Kong in 1997, a total of 18 people were infected and six of them died. Hong Kong people can be described as panic-stricken; their confidence in consuming live chicken has been badly or even completely shaken. Bearing the brunt of the blow, people engaged in the relevant trades have seen their means of living badly hit. It is a great pity that they are left in such a sorry state.

Hong Kong has suspended the importation of live chickens from the Mainland due to the successive outbreaks of avian flu in a number of places in the country. I fully appreciate the hardship faced by the people engaged in live poultry and other related trades as they can hardly maintain their living without

work. For this reason, I fully support the trades in seeking reasonable compensation and compassionate treatment from the Government. Such government measures as rent reduction or waiver for stalls and shops in government premises and low-interest loans for the trades are targeted merely on the owners. Employees are not benefited at all. I would therefore like to call for extra efforts on the part of the Government to help employees in the trades to ride out their difficulties. New measures such as emergency relief funds should be introduced to benefit all employees.

The Government is indeed obligated to help the relevant employees through various channels. However, the ban on the importation of live chickens must not be lifted hastily. The transparency of the Mainland in handling epidemics has been censured by the public for a long time. According to some overseas reports, the outbreak of avian flu on the Mainland could be traced back to early last year, only that the outbreak was kept secret. What is the true picture? Has anyone forgotten or failed to report, or delayed in reporting? I believe only mainland officials best know the answer. We can never forget the tragic experience in the outbreak of SARS last year. As the saying goes, a terrible experience may cause permanent fear. Hong Kong has suffered the most as a result of the low transparency of the Mainland's notification mechanism. Despite the announcement by the relevant mainland department that no new suspected cases of highly pathogenic avian flu have been reported since 17 February, no one can guarantee that no avian flu cases are being concealed in the interest of economic gains.

I am not suggesting we should never import live chickens from the Mainland, but it is not the most opportune moment to resume the importation of live chickens, as there is no 100% guarantee that live poultry imported from the Mainland is safe. Besides, avian flu cases have continued to be reported in our neighbouring countries. For instance, Japan discovered its third avian flu case a couple of days ago. It is evident that the H5N1 virus, like the grass which will grow again when the spring breeze blows, can never be wiped out. We must under no circumstances take chances. However good our preventive measures may be, Hong Kong will still be threatened by avian flu should there be flaws in the preventive measures taken by our neighbours. For these reasons, the public's confidence in consuming live chickens can hardly be restored even if the ban on import of live chickens be lifted immediately. I hope the trade can wait patiently. The public's confidence in consuming live chickens will naturally be restored when the conditions of our neighbours completely stabilize

and when it is felt that the lives of the public and their health are given the maximum protection.

With the successive outbreaks of avian flu in a number of Asian countries, it is fortunate that Hong Kong has remained unscathed, despite its close proximity to other infected places. Having suffered badly from the avian flu outbreak in 1997, we have continued to urge the Government to adopt effective measures to prevent the outbreak of avian flu in Hong Kong. Lady Luck is not going to bless a person, particularly Hong Kong, forever. I hope the parties concerned will not be blinded by short-lived victory. The virus will strike should there be even the smallest relaxation.

Instead of focusing on short-lived economic gains, we must be far-sighted for life is precious. We must not put the cart before the horse by putting short-lived economic and employment gains before life and health. After suffering badly from the battering of SARS last year, we can now better appreciate the maxim of "health brings wealth". Hong Kong can simply not bear the consequences of another epidemic.

As the threat of avian flu is still not completely removed, I hope every one of us can remain patient and wait a bit longer until the epidemic has really been brought under control before resuming the importation of live chickens. We must be prepared for crisis in times of peace and firmly guard every preventive barrier. Only in doing so can the lives and health of the public be protected. Thank you, Madam Deputy.

**MR CHAN KWOK-KEUNG** (in Cantonese): Madam Deputy, in the opinion of the Democratic Alliance for Betterment of Hong Kong, in order to restore the public's confidence in consuming live poultry and bring the livelihood of the people engaged in the live poultry and other related trades back to normal, adequate protection measures must be taken on the Mainland in accordance with the requirements. Moreover, the importation of live poultry, day-old chicks, and chilled and frozen poultry carcasses should be permitted as soon as possible after ensuring that rigorous measures to prevent the outbreak of the disease have continued to be adopted by the Government of the Hong Kong Special Administrative Region (SAR).



This proposal is based mainly on the following four reasons:

First, remarkable results have been achieved as a result of a number of measures formulated to prevent and curb avian flu by registered chicken suppliers and the quarantine department on the Mainland. Insofar as the effectiveness in the control of the disease is concerned, it is understood that since the outbreak of avian flu in nine areas in Guangdong Province, five have now met the requirements for lifting quarantine measures as no new cases have been detected in 21 days. It is expected that all infected areas in Guangdong Province will be removed from the list of infected areas on 6 March. No new case has been found in Guangdong Province since the last one in which a black swan in a safari park in Shenzhen was found to have died from avian flu infection. The whole of China is expected to be removed from the list on 9 March too.

Judging from the rules governing the control of the disease, the Mainland has already put in place rigorous rules requiring all levels of government to report to the Central Authorities within 24 hours in the event of an outbreak of avian flu. Late reporting will be punished.

Judging from the concrete measures taken to control avian flu, the Guangdong Provincial Government has, after the outbreak of the disease, require all reared chickens to be vaccinated. In particular, priority will be given to vaccinate chickens reared in farms situated within 3 km from farms supplying chickens to Hong Kong.

Second, the Hong Kong Government is currently considering to suspend the importation of live chickens for six months. However, no justifications and risk figures have been presented, and that can hardly convince us that the Government's decision is right. At the same time, we see that the Macao Government has decided to resume importation of live chickens from the Mainland with effect from this Friday. It is really doubtful as to whether the SAR Government has overkill in the sustained importation ban.

Third, the alternatives proposed by the Government are simply impracticable. Not only does the industry consider the Government's proposal of replacing live chickens with imported fertilized eggs infeasible, the lack of support is attributed mainly to the unclear policy, for it is not known whether the policy will be implemented on a long-term basis. If this proposal is only temporary and day-old chicks will be allowed to be imported after a short period, the money invested by chicken farmers in hatching facilities will be wasted.

Besides, there is a cost factor. The industry is of the view that the cost of rearing chickens will definitely rise should this method be adopted. This is because, apart from the extra costs incurred in hatching, the public usually prefers female chickens. However, it is impossible to tell the sex before the eggs are hatched. Therefore, if the hatching process is to take place in Hong Kong, we might find a situation in which only one in every two chickens can be sold, as a substantial number of male chickens might end up being unwanted. The cost of operating farms will naturally rise as a result of this. On the contrary, farm owners can directly purchase female day-old chicks should day-old chicks be imported instead, and costs and expenditure can thus be substantially reduced.

When it comes to feasibility, if we are to rely solely on local farms for supply of live chickens, 100 million fertilized eggs will have to be hatched in a year on the basis that 80 000 live chickens are required each day under normal circumstances. Hong Kong can simply not afford such a large place and the facilities required to perform hatching on such a massive scale. Although the Government can provide assistance, the industry has always believed that what is needed most is a government permission for them to resume business as normal. They have no wish for the Government to offer them assistance. Furthermore, the amount of the so-called assistance is simply not enough for them to tide over the difficulties caused by prolonged suspension of business.

Fourth, the Government's policy overkill is going to deal a severe blow to Hong Kong's poultry industry. As a result, many operators will be forced to wind up their business and more than 100 000 people will thus lose their rice bowls and be forced to join the unemployed ranks. All this is going to impact on Hong Kong's economic recovery and social stability. We hope the Government's decision-makers can respect science and facts, take the public's interest seriously, and refrain from breaking the rice bowls of hundreds of thousands of people.

For these reasons, we conclude that the Government should endeavour to restore the public's confidence in consuming live poultry in order to bring as early as possible the livelihood of people engaged in the live poultry and related trades back to normal and, on the basis of taking adequate preventive measures, expeditiously permit the importation of live poultry, day-old chicks, and chilled and frozen poultry carcasses.

Madam Deputy, I so submit.

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

**DR LO WING-LOK** (in Cantonese): Madam Deputy, I speak in support of government policies premised on public hygiene, which seek to protect the health of Hong Kong people. I think the policies as enforced by the Hong Kong Government now have gained the support of the public at large.

In fact, the mainstream view in the community is very clear. The community wishes to see the policies as adopted in Hong Kong to be on par with those adopted in other advanced countries. For example, when Singapore imposes an embargo on a place affected by an epidemic, the people of Hong Kong will ask immediately, "Why does Hong Kong not do the same thing?" When there is an outbreak of avian flu on the Mainland, and if the Hong Kong Government only bans imports from those provinces affected by the epidemic, the people of Hong Kong will ask right away, "Why is the ban on imports from Thailand applicable to imports from all over the country, and why is China treated differently?" The people will not say that it is because the size of Thailand is much smaller than that of China, they will only ask, "Why are some unfair policies adopted?" Therefore, it can be seen that this wish to be on par with other advanced countries is in fact the mainstream opinion of the public.

Another mainstream opinion is that in the attempt to prevent epidemics and control infectious diseases, government policies had better be strict than loose. For if the Government is to act in such a rational and professional manner that it will take action only after collecting all the evidence, then many members of the public will ask, "Will this be too late? Will this be so late that we may not even have a chance to regret it? As Hong Kong has just recovered from the SARS attack, can Hong Kong bear another epidemic outbreak?" All these are the heartfelt words from the people of Hong Kong. They can also be said to be the mainstream opinions. I therefore think that, it is fair to say that the policy adopted by the Government with respect to avian flu has the support of the people at large, or at least, the majority of the people.

Having said that, correct policies, even though supported by the majority public, may not be perfect. For even correct policies may hurt some people, and that applies especially to financial damages. Therefore, I think the Government should make restitution on behalf of the overwhelming majority of the people to those unfortunate who have been affected. That is not

compensation but restitution. Why should this be restitution? It is because the Government has done nothing wrong in the first place and what it has done accords with the wish of the overwhelming majority. As correct policies may sometimes hurt some people, so the idea of restitution is brought in. Some Honourable colleagues have said earlier that the poultry trade does not want to have this kind of restitution and even when restitution is made, that may not be sufficient. The Government can actually talk with the trade or those affected to see what their situation is, the economic losses they have suffered and to estimate the length of time they will be affected. I think that all these should be done, and done well.

Avian flu is not a problem unique to Hong Kong indeed. It may not even be a regional problem but a global one. The influenza virus is tough and resilient and it will not go away easily. So I think avian flu would continue to become a serious problem in many countries. That is why countries of the world should make use of this opportunity to join hands and find a plan of action applicable worldwide. Of course, this global plan should take into account the practical situation of each country and region before it is finalized and put into practice. Hong Kong can lay claim to be the best in the world in terms of its experience in avian flu. So I would encourage the Hong Kong Government to make the best use of its strength to help places around the world solve this problem. Now that the World Health Organization has put forward many views on this and they are very authoritative, but actually these views may have actually come from Hong Kong. I therefore think that Hong Kong should be very proud of itself in this regard and we should continue to make our contribution to world health.

As to restoring the public's confidence in consuming live poultry which is the topic of this motion debate, actually it would not be easy to restore the confidence of Hong Kong people in consuming live poultry simply by talking about or debating on it. How then can confidence be restored? That is by putting avian flu under control worldwide. Actually every country in the world knows how to handle this problem and it would not help if one country says this and another country says that, or when one region says 21 days are needed or another region says 42 days are needed. So the problem would really have to take time to resolve. Public confidence cannot be boosted simply by having some Members eating chickens or some government officials eating chickens. The people of Hong Kong are smart and as more moves are made, more discussions are held or more pressure is put, then the confidence of the people

will only sag. Therefore I must tell the people in the poultry trade that this Council really understands their feelings and knows well their predicament, but the problem will take time to solve. Regardless of how many people are making petitions or how many people are coming out to speak, the problem will have to take a longer time to solve. At this moment in time, I call upon everyone to calm down and the Government should talk with the trade to see what methods can better meet its needs.

Thank you, Madam Deputy.

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

(No Member indicated a wish to speak)

**DEPUTY PRESIDENT** (in Cantonese): Mr Tommy CHEUNG, you may now speak on Mr WONG Yung-kan's amendment. You have up to five minutes to speak.

**MR TOMMY CHEUNG** (in Cantonese): Madam Deputy, Mr WONG Yung-kan's amendment seeks mainly to call on the authorities concerned to, if no new avian flu case is recorded within 21 days after the occurrence of the last avian flu case in Guangdong Province, allow the importation of quarantined healthy live poultry, chilled and frozen poultry meat, and day-old chicks from the province in accordance with the World Health Organization (WHO) standard. The Liberal Party does not object to this proposal.

Why do we support the resumption of the importation of live poultry from Guangdong Province? The answer is very simple. It is because only several hundred designated farms in the province, regulated entirely according to our requirements, supply poultry to Hong Kong. Actually, I find the 21-day standard set by the WHO too conservative. Health officials in Hong Kong should know it very well that chickens from designated farms in Guangdong Province are as healthy as those reared locally. Perhaps they should make a personal inspection of these designated farms and ensure that they are satisfied with the hygiene conditions of these farms before giving permission to the importation of poultry. Moreover, chickens from Guangdong have to be

quarantined and segregated and, like local chickens, vaccinated. In order to allay the public's worries, the industry has accepted the 21-day limit.

Now the designated farms are not trusted and are subject to discrimination by the Government in exactly the same way other mainland farms targeted on domestic sale are treated by the mainland government. Is this policy fair to those designated farms which have indicated their willingness to spend a colossal sum of money upgrading their hygiene standards and have even started to vaccinate their chickens recently?

Last week, the Secretary raised the threshold by ignoring the WHO standard and said that he would oppose the resumption of the importation of live poultry even if the 21-day requirement was met, on the ground that the avian flu situation on the Mainland remained unstable.

Even the WHO has now agreed that the avian flu situation on the Mainland has gradually subsided. We simply cannot understand what objective and convincing justifications the Government has to substantiate its decision to ban the importation of live poultry indefinitely.

In the past month, Hong Kong relied entirely on local farms for the supply of live poultry. In addition to limited supply, the species and weight of the chickens sold did not meet the requirements of general consumers. Only restaurants would buy chickens weighing around four or five catties. Chicken vendors have kept losing money, with their business having dropped by 80% to 90% on average.

(THE PRESIDENT resumed the Chair)

A ban on the importation of live poultry will not only plunge the poultry and related trades into an abyss of difficulties, but also deal a serious blow to the catering industry. I was told by Mr Fred LI, Chairman of the Legislative Council Panel on Food Safety and Environmental Hygiene, that during its visit to Japan in January this year, the Panel was told by Members of the National Diet of Japan that they would have one less reason to visit Hong Kong should no live chicken dishes be served at restaurants as a result of the ban on the importation of live chickens into the territory.

In my opinion, the situation currently faced by members of the trade is particularly critical, for their losses are far more serious compared with the losses they incurred in the past several epidemics. Actually, the outbreak has nothing to do with negligence or sanitation on their part. Nor has they sought government compensation because they do not know how to handle the outbreak as a natural disaster. Rather it is because the Government, owing to a lack of faith in its own preventive system, is so panic that it has decided to ban the importation of live poultry indefinitely. How can the public have confidence in consuming chicken when they see that the Government dares not do anything? So far, only rent concessions and parking fee reductions have been offered as relief measures. Without the help of low-interest loans from the Government, how can employers in the trade, given such a sharp drop in business, pay wages to their employees? How can the employees maintain their living? Does the Government want to see employers wind up their business and employees lose their jobs?

I want to emphasize once again that the trade has no wish to rely on government assistance. Its biggest wish is to resume business as normal. No avian flu case has been reported for more than two weeks on the Mainland. If the importation of live poultry can be resumed a couple of days later to restore the public's confidence, no relief measures will even be required to compensate the losses of the trade. Nor will government assistance be required. Importing live poultry expeditiously can also relieve the burden on government coffers.

With these remarks, Madam President, I support Mr WONG Yung-kan's amendment. Thank you, Madam President.

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): Madam President, the recent outbreak of avian influenza in poultry in Asia is unprecedented and a cause for alarm. Since mid-December 2003, a total of 10 countries and places in the region have been affected. According to the latest situation report produced by the World Health Organization (WHO), full control has yet to be achieved in any of these countries. For all these reasons, the WHO cautioned that there is a need for all the places to maintain a high level of vigilance to ensure that there is no relaxation in our surveillance and detection efforts.

Many Members have spoken on the need to restore the public's confidence in consuming live poultry and the need to provide relief measures to those adversely affected by the suspension of imported live poultry to Hong Kong. I would like to thank Members for their views. But before I respond to Members' concerns, it would be appropriate for me to reiterate here the potential threat of avian influenza to public health.

Avian influenza virus has the propensity to reassort with other influenza virus to produce a new strain of virus that may pose serious threat to public health. There is concern from international health authorities, including the WHO, that if the H5N1 virus acquired genes from human influenza viruses, it might become readily transmissible from person to person and give rise to an influenza pandemic.

According to the WHO, the risk of having H5N1 virus to become endemic amongst poultry in the region is very high and that it would take some time before the recent outbreak situation begins to stabilize. The epidemics in poultry and possible widespread presence of the virus in the environment increase opportunities for human exposure and infection. There is a risk that the incident may lead to the emergence of a new influenza virus strain, resulting in an influenza pandemic.

Since 1998, we have put in place a very comprehensive preventive and surveillance programme to reduce the risk of avian influenza outbreaks in Hong Kong. Our current preventive measures are three-pronged: vaccination of all land-based poultry against H5 avian influenza infection, strengthened biosecurity standard at local farms to prevent the introduction of viruses to farms, and implementation of two market rest days to reduce the viral load, if any, in retail outlets. In the light of the recent avian influenza epidemics in the region, we have also implemented a series of precautionary measures to strengthen our line of defence which, amongst other things, include a temporary import suspension of all live birds (including live poultry) and poultry meat from the affected places.

So far, our preventive measures are found to be effective in achieving zero H5N1 infection in Hong Kong. However, the outbreak situation in the region strongly suggests that the problem will be recurrent for the next few years. Vaccination is not the panacea for the avian influenza problem, as it cannot eradicate the risk that any H5N1 avian influenza virus may reassort or mutate to



the extent that it may pose a threat to public health. Moreover, the H5N2 vaccine that we are using would have no effects on other types of avian influenza viruses (such as H7-type which may be highly pathogenic avian influenza viruses). The virus has been found to jump across species to affect humans. There remains a risk that the virus may reassort with other human influenza virus to produce a lethal human pandemic strain.

In order to protect public health in Hong Kong, at the height of the avian influenza epidemic now occurring in the region, we should aim to sustain zero infection in Hong Kong as far as possible.

The main theme of the motion debate is about restoring public confidence. Some Members have argued for the early resumption of imported live poultry from the Mainland on the grounds that there has been no outbreak in the registered farms approved for the supply of live poultry to Hong Kong and that all live poultry destined for export to Hong Kong would have been vaccinated in the first place. They seemed to advocate the view that the resumption of imported live poultry from the Mainland would be the best way to restore public confidence.

I cannot agree with this view. As Members would recall, it was not so long ago when the Panel on Food Safety and Environmental Hygiene unanimously passed a motion to urge the Administration to suspend temporarily the processing of all live poultry and poultry meat products imported from the Mainland. The motion was initiated at a time when there was only one confirmed case of an outbreak in Guangxi Province and two suspected cases in Henan and Hebei Provinces (Appendix 1). The circumstances have now changed substantially since then. We now have over 11 provinces in the Mainland that have been hit by the epidemic. How could a resumption of imported live poultry be justified at this point in time when the outbreak situation had deteriorated?

Madam President, if Members felt that the early resumption of imported live poultry from the Mainland is the best way to restore public confidence, then I am afraid such optimism is misplaced. There can be no better way to restore public confidence in poultry than to assure the public that this Administration is capable of dealing with the crisis situation caused by the avian influenza epidemic in the region, that this Administration has a comprehensive plan of action to pursue our ultimate objective of zero infection and that this

Administration has put in place an effective emergency response plan to deal with an outbreak situation in Hong Kong. Only by assuring the public that public health is our first and foremost priority and that we will stop at nothing to protect it and only then, we may be able to restore public confidence.

I already outlined the Administration's proposed interim measures to cope with the immediate foreseeable future when the supply of local live poultry is expected to dry up and I do not intend to repeat them here in detail. Suffice to mention, however, that according to our estimation, the existing live chicken stock, which is about 2 million, would only be able to satisfy an average daily demand of about 30 000 chickens for a maximum period of about three months.

In this connection, we have recently sought the views of academics and experts on the broad principles with regard to the risk management of avian influenza and these included, among others, the resumption of imported chilled and frozen poultry meat from approved mainland farms and the importation of fertilized eggs and development of local hatcheries to tide over the period in which there is no importation of day-old chickens.

The Administration is fully aware that there may be a need to provide a package of relief measures to the poultry farmers, wholesalers, retailers and transporters in order to help them to tide over a difficult period.

To alleviate the financial difficulties faced by the live poultry traders and transporters during the interim period, we will waive 50% of the rental charges of all live poultry stalls carrying on business in the wholesale poultry markets under the management of the Agriculture, Fisheries and Conservation Department (AFCD) and the wet markets under the management of the Food and Environmental Hygiene Department (FEHD) respectively for a period of three months. For those live poultry wholesalers and retailers who have ceased to operate their business for at least 30 consecutive days during the concessionary period, they will, subject to approval for their application by the AFCD/FEHD, be granted the relevant amount of the remaining 50% waiver in rental charges. The AFCD and the FEHD will conduct random checks to ensure compliance. Parking fees for lorries parked at designated spaces on a monthly basis for the transportation of live poultry in the AFCD wholesale poultry markets will also be waived during the concessionary period.

In addition, we will provide a \$5,000 *ex gratia* payment to licensees of fresh provision shops (FPS) selling live poultry in private premises during the concessionary period. For those FPS licensees selling live poultry in private premises who have ceased to operate their business during the concessionary period, they will be granted an additional *ex gratia* payment of \$5,000 upon approval for their application by the FEHD. The proposed amount of *ex gratia* payment is pegged against roughly three months' rental at the FEHD markets, thus this is tantamount to waiving the market rental of live poultry stalls in the FEHD markets during the three-month period. The indicative cost of the relief measures is about \$8.443 million.

The above measures are only short-term measures that could be immediately implemented to help alleviate the present financial difficulties faced by the traders. I am aware that Members, while fully in support of the short-term relief measures, have asked that we should do more to help those in dire need, particularly the employees. Recognizing such need, we are now developing various options to see whether we could provide low-interest loans, for example, and other forms of assistance such as retraining for employees, and we shall revert to the Panel as and when we have formulated our proposals.

Thank you, Madam President.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the amendment, moved by Mr WONG Yung-kan to Mr Tommy CHEUNG's motion, be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Mr Fred LI rose to claim a division.

**PRESIDENT** (in Cantonese): Mr Fred LI has claimed a division. The division bell will ring for three minutes.

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

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

Functional Constituencies:

Mr Kenneth TING, Mr HUI Cheung-ching, Mr CHAN Kwok-keung, Mrs Sophie LEUNG, Mr WONG Yung-kan, Mr Howard YOUNG, Ms Miriam LAU, Ms LI Fung-ying, Mr Tommy CHEUNG, Mr LEUNG Fu-wah and Mr LAU Ping-cheung voted for the amendment.

Mr Bernard CHAN, Mr Michael MAK and Dr LO Wing-lok voted against the amendment.

Mr CHEUNG Man-kwong, Mr SIN Chung-kai and Dr LAW Chi-kwong abstained.

Geographical Constituencies and Election Committee:

Mr LAU Kong-wah, Miss CHOY So-yuk and Dr TANG Siu-tong voted for the amendment.

Ms Audrey EU voted against the amendment.

Ms Cyd HO, Mr Albert HO, Mr Fred LI, Mr LEUNG Yiu-chung, Dr YEUNG Sum, Ms Emily LAU, Mr Andrew CHENG, Mr SZETO Wah and Mr WONG Sing-chi abstained.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 17 were present, 11 were in favour of the amendment, three against it and three abstained; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 14 were present, three were in favour of the amendment, one against it and nine abstained. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the amendment was negated.

**PRESIDENT** (in Cantonese): Mr Tommy CHEUNG, you may now reply and you have three minutes nine seconds.

**MR TOMMY CHEUNG** (in Cantonese): Madam President, the Secretary mentioned just now a motion endorsed unanimously by the Panel in January. The motion was endorsed due to two factors. First, the fact that more than 200 000 chickens had died in the markets at that time caused widespread concern that there were too many chickens in the markets. Second, as mentioned by me earlier, there was great panic among the public as a result of the remarks made by a government official, that the avian flu might transmit among humans and cause more than 300 000 deaths in Hong Kong. Coupled with the apparent sign that avian flu would not come to an end because of the detection of a number of avian flu cases in other regions and the constant emergence of new cases, the motion was thus endorsed by us. Nevertheless, the Secretary should not forget that a motion was also endorsed by the same Panel last month calling on the Government to expedite the importation of live chickens. The wordings of this motion bear a great resemblance to those of Mr WONG Yung-kan's amendment.

I hope the Secretary will understand that he has done an excellent job. Many people share the view that he needs not give us a guarantee that Hong Kong will be 100% free from avian flu. The Secretary has indicated that he understands the problems confronting the trade and is prepared to hold discussions with them. As remarked by Mrs Selina CHOW earlier, I do hope the Secretary, or the two Heads of Department, can discuss with the trade the formulation of a timetable for importing chickens. I also hope the Secretary can expeditiously find out the difficulties faced by the trade and offer them assistance.

Thank you, Madam President.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the motion moved by Mr Tommy CHEUNG, as set out on the Agenda, be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Dr LO Wing-lok rose to claim a division.

**PRESIDENT** (in Cantonese): Dr LO Wing-lok has claimed a division. The division bell will ring for three minutes.

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

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

Functional Constituencies:

Mr Kenneth TING, Mr CHEUNG Man-kwong, Mr HUI Cheung-ching, Mr CHAN Kwok-keung, Mrs Sophie LEUNG, Mr SIN Chung-kai, Mr WONG Yung-kan, Mr Howard YOUNG, Ms Miriam LAU, Dr LAW Chi-kwong, Ms LI Fung-ying, Mr Tommy CHEUNG, Mr LEUNG Fu-wah and Mr LAU Ping-cheung voted for the motion.

Mr Bernard CHAN and Dr LO Wing-lok voted against the motion.

Mr Michael MAK abstained.

Geographical Constituencies and Election Committee:

Ms Cyd HO, Mr Albert HO, Mr Fred LI, Mr LEUNG Yiu-chung, Dr YEUNG Sum, Mr LAU Kong-wah, Ms Emily LAU, Miss CHOY So-yuk, Mr Andrew CHENG, Mr SZETO Wah, Dr TANG Siu-tong, Mr WONG Sing-chi and Ms Audrey EU voted for the motion.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 17 were present, 14 were in favour of the motion, two against it and one abstained; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 14 were present and 13 were in favour of the motion. Since the question was agreed by a majority of each of the two groups of members present, she therefore declared that the motion was carried.

#### **NEXT MEETING**

**PRESIDENT** (in Cantonese): I now adjourn the Council until 2.30 pm on Wednesday, 10 March 2004.

*Adjourned accordingly at twenty-nine minutes past Eight o'clock.*

**Appendix 1**

**REQUEST FOR POST-MEETING AMENDMENTS**

**The Secretary for Health, Welfare and Food requested the following post-meeting amendment**

**Line 4, fifth paragraph, page 131 of the Confirmed version**

To amend "Henan and Hebei Provinces" as "Hunan and Hubei Provinces"  
(Translation)

(Please refer to line 7, fourth paragraph, page 4309 of this translated version)



## Appendix I

## WRITTEN ANSWER

**Written answer by the Secretary for Security to Ms Cyd HO's supplementary question to Question 1**

As regards the number of confirmed cases of triad-related offences among those students referred to in Annex 1 of the main reply, according to records as at the end of 2003, during the past three academic years, the number of primary and secondary school students convicted for involvement in triad activities is as follows:

September 2000 to August 2001

<i>Region</i>	<i>Number of persons convicted for involvement in triad activities</i>	
	<i>Primary school students</i>	<i>Secondary school students</i>
Hong Kong Island	1	12
Kowloon East	1	8
Kowloon West	0	6
New Territories North	3	16
New Territories South	0	6
Marine	0	0
Total	5	48

September 2001 to August 2002

<i>Region</i>	<i>Number of persons convicted for involvement in triad activities</i>	
	<i>Primary school students</i>	<i>Secondary school students</i>
Hong Kong Island	1	7
Kowloon East	0	4
Kowloon West	0	6
New Territories North	0	14
New Territories South	2	15
Marine	0	1
Total	3	47

**WRITTEN ANSWER — Continued**

September 2002 to August 2003

<i>Region</i>	<i>Number of persons convicted for involvement in triad activities</i>	
	<i>Primary school students</i>	<i>Secondary school students</i>
Hong Kong Island	1	4
Kowloon East	0	7
Kowloon West	0	1
New Territories North	0	9
New Territories South	0	7
Marine	0	0
Total	1	28