

# **OFFICIAL RECORD OF PROCEEDINGS**

**Wednesday, 19 May 2004**

**The Council met at half-past Two o'clock**

## **MEMBERS PRESENT:**

THE PRESIDENT

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

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

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

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

THE HONOURABLE CYD HO SAU-LAN

THE HONOURABLE ALBERT HO CHUN-YAN

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

THE HONOURABLE LEE CHEUK-YAN

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

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

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

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

THE HONOURABLE NG LEUNG-SING, J.P.

THE HONOURABLE MARGARET NG

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

THE HONOURABLE JAMES TO KUN-SUN

THE HONOURABLE CHEUNG MAN-KWONG

THE HONOURABLE CHAN KWOK-KEUNG, J.P.

THE HONOURABLE CHAN YUEN-HAN, J.P.

THE HONOURABLE BERNARD CHAN, J.P.

THE HONOURABLE CHAN KAM-LAM, J.P.

THE HONOURABLE MRS SOPHIE LEUNG LAU YAU-FUN, S.B.S., J.P.

THE HONOURABLE LEUNG YIU-CHUNG

THE HONOURABLE SIN CHUNG-KAI

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

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

THE HONOURABLE WONG YUNG-KAN

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

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

DR THE HONOURABLE YEUNG SUM

THE HONOURABLE YEUNG YIU-CHUNG, B.B.S.

THE HONOURABLE LAU CHIN-SHEK, J.P.

THE HONOURABLE LAU KONG-WAH, J.P.

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

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

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

THE HONOURABLE EMILY LAU WAI-HING, J.P.

THE HONOURABLE CHOY SO-YUK

THE HONOURABLE ANDREW CHENG KAR-FOO

THE HONOURABLE SZETO WAH

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

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

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

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

THE HONOURABLE LI FUNG-YING, J.P.

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

THE HONOURABLE TOMMY CHEUNG YU-YAN, J.P.

THE HONOURABLE MICHAEL MAK KWOK-FUNG

THE HONOURABLE ALBERT CHAN WAI-YIP

THE HONOURABLE LEUNG FU-WAH, M.H., J.P.

DR THE HONOURABLE LO WING-LOK, J.P.

THE HONOURABLE WONG SING-CHI

THE HONOURABLE FREDERICK FUNG KIN-KEE

THE HONOURABLE IP KWOK-HIM, J.P.

THE HONOURABLE LAU PING-CHEUNG

THE HONOURABLE AUDREY EU YUET-MEE, S.C., J.P.

THE HONOURABLE MA FUNG-KWOK, J.P.

**MEMBERS ABSENT:**

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

THE HONOURABLE HUI CHEUNG-CHING, J.P.

THE HONOURABLE TIMOTHY FOK TSUN-TING, S.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

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

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

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

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

**CLERKS IN ATTENDANCE:**

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

MS PAULINE NG MAN-WAH, ASSISTANT SECRETARY GENERAL

MR RAY CHAN YUM-MOU, ASSISTANT SECRETARY GENERAL

**TABLING OF PAPERS**

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

Subsidiary Legislation/Instruments	<i>L.N. No.</i>
Legal Aid (Assessment of Resources and Contributions) (Amendment) Regulation 2004 .....	83/2004
Electoral Affairs Commission (Electoral Procedure) (Legislative Council) (Amendment) Regulation 2004.....	84/2004
Food and Drugs (Composition and Labelling) (Amendment) Regulation 2004.....	85/2004
Medical Laboratory Technologists (Registration and Disciplinary Procedure) (Amendment) Regulation 2004.....	86/2004
Occupational Therapists (Registration and Disciplinary Procedure) (Amendment) Regulation 2004.....	87/2004
Optometrists (Registration and Disciplinary Procedure) (Amendment) Regulation 2004 .....	88/2004
Physiotherapists (Registration and Disciplinary Procedure) (Amendment) Regulation 2004 .....	89/2004
Radiographers (Registration and Disciplinary Procedure) (Amendment) Regulation 2004 .....	90/2004
Airport Authority Ordinance (Map of Restricted Area) Order .....	91/2004
Hong Kong Airport (Control of Obstructions) (Exemption) (Amendment) Order 2004 .....	92/2004
Prisons (Amendment) Order 2004.....	93/2004

Rules of the District Court (Amendment) Rules 2004 ...	94/2004
Hong Kong Science and Technology Parks Corporation Ordinance (Amendment of Schedule 1) Notice 2004.....	95/2004
Import and Export Ordinance (Specification of Ending Date under Section 42) Notice 2004.....	96/2004
Import and Export (Registration) Regulations (Specification of Ending Date under Regulation 15) Notice 2004.....	97/2004
Telecommunications (Amendment) Ordinance 2003 (30 of 2003) (Commencement) Notice 2004 .....	98/2004
Legal Aid Ordinance — Resolution of the Legislative Council (L.N. 45 of 2004) (Commencement) Notice 2004.....	99/2004

## Other Papers

- No. 85 — Report by the Trustee of the Correctional Services  
Children's Education Trust for the period from  
1st September 2002 to 31st August 2003
- No. 86 — The Government Minute in response to the Report No. 41  
of the Public Accounts Committee dated February 2004
- No. 87 — Annual Report 2002-2003, containing Statement of  
Accounts and Auditors' Report, of the Hospital Authority
- No. 88 — Report and Statement of Accounts of the Samaritan Fund,  
together with the Director of Audit's Report, for the year  
ended 31 March 2003

Second Report of the Legislative Council Select Committee on Building  
Problems of Public Housing Units

**ADDRESSES**

**PRESIDENT** (in Cantonese): Addresses. The Chief Secretary for Administration will address the Council on the Government Minute in response to the Report No. 41 of the Public Accounts Committee dated February 2004.

**The Government Minute in response to the Report No. 41 of the Public Accounts Committee dated February 2004**

**CHIEF SECRETARY FOR ADMINISTRATION:** President, laid on the table today is the Government Minute responding to Report No. 41 of the Public Accounts Committee (PAC).

The PAC report records the Committee's observations on the Accounts of the Government for the year ended 31 March 2003. It deals with the Administration's response to cases in two previous PAC Reports No. 38 and 39. In addition, it examines five of the six subjects in the Director of Audit's Report No. 41 which the PAC has chosen for this purpose. The Administration is grateful for the time and effort of the PAC.

I would like to respond to some of the comments made by Dr the Honourable Eric LI, Chairman of the PAC, who spoke on 25 February when tabling the PAC's Report.

The Chairman stressed the need for the Administration to take expeditious action in implementing the PAC's recommendations. He cited as an example the proposed relocation of the General Post Office (GPO) in Central to make the point that had the Administration relocated the GPO before the site was re-zoned, it would have been possible for the site to be sold and to bring substantial revenue to the Government.

On the general issue, let me say that I welcome the constructive spirit based on which the comments and observations were made, and that we have always used our best endeavours for early implementation of the PAC's recommendations. Our efforts are clearly laid before Members — in the Government Minute which is submitted regularly to the Legislative Council.



Members will understand, however, that the implementation of some of these recommendations may involve many difficult manoeuvres, and hence takes longer to conclude. In all cases though, we do keep Members informed with detailed explanation of such difficulties, as appropriate and necessary.

In respect of the particular case of the GPO, we note the PAC's concern that had the Administration promptly carried out the relocation exercise in early 1999 as recommended by the Committee, the GPO site might have been released for redevelopment during more favourable market conditions. However, it has to be appreciated that the relocation and reprovisioning of the GPO involve the identification of a replacement site and the construction of a replacement facility. A detailed appraisal is needed to find out how best to meet the projected increase in demand for future postal service. We also need to ensure optimal land use of the site for the reprovisioning project. These tasks involve many departments and bureaux, and it would not be reasonable to expect to accomplish them within one year, between the time which the PAC's recommendation was made in 1999 and the changes to the town plan made in 2000 which imposed a height restriction on the redevelopment of the GPO site.

In the event, plans for the relocation were crystallized in 2002, a cost-benefit analysis was then undertaken to re-examine the economic case for the relocation exercise. This study concluded that taking into account the reprovisioning costs and the land value of the sites involved, the costs far outweigh the benefits. This was also the reason why the Administration decided not to proceed with the project.

The PAC was informed of this decision in May 2003, together with the reasons and details of the cost-benefit analysis. I note that there is no disagreement on the reasons for the decision.

We welcome the recommendations of the PAC on the improvement of the management of public markets. To improve environmental hygiene and the operating environment of public markets, the Food and Environmental Hygiene Department (FEHD) will continue to carry out improvement works in selected markets where necessary, and organize promotional activities to enhance patronage. Furthermore, the FEHD will identify those markets with serious and insurmountable viability problems with a view to eventual closure. We shall consult the relevant District Councils and affected stallholders before taking a decision on any market closure plans.

On the costs for operating the markets, land cost and depreciation of market buildings have not previously been taken into account because such information is not readily available. The Administration is now conducting an exercise to assess the value of government buildings, including the market buildings. When the exercise is completed, the FEHD should be able to include depreciation of market buildings in future costing exercises.

We note the PAC's concern about the basis for measuring market stall vacancy rate (MSVR). The Administration has completed the review on ways to better express the MSVR. The FEHD will in future present two overall MSVRs, namely, a gross MSVR which covers all vacant stalls, including those set aside for redevelopment, improvement works, resite commitments or other designated purposes, and a net MSVR which excludes these. This arrangement should help to address the concerns of the PAC on the need for better information, and should give readers an indication of the volume of stalls which is unavailable for letting.

The FEHD will continue to do its best to reduce the vacancy rate of its public markets. However, the occupancy rate of public markets is influenced by a host of other factors. Some of which, such as economic situation, shopping habits of the public, competition from retail outlets in the neighbourhood, are beyond the control of the Department.

The FEHD will continue to conduct daily checks to ensure that public market stalls are in compliance with the active trading requirements, and will take follow-up actions, including termination of tenancy agreements, where necessary.

With respect to the provision of noise barriers for mitigating road traffic noise, the Administration accepts the Director of Audit's recommendation, and will adopt an incremental approach in the provision of such facilities for new roads, such that the installation works will tie in with the programme of the planned developments which they are intended to protect. The works departments will also allow sufficient time in their works contract implementation plans for meeting all the relevant statutory requirements and procedures, such as those relating to various Environmental Permit conditions.

On the PAC's concern about the Buildings Department's (BD) effort to tackle unauthorized building works, I wish to assure Members that the

Government is committed to ensuring that all buildings are safe. The BD has brought into operation a number of improvement measures to further enhance its enforcement capability.

The BD has enhanced its monitoring system at both operation and management levels to better track the progress of enforcement actions against unauthorized building works, removal of dangerous signboards, and follow-up actions to complaint cases. The computer system, Buildings Condition Information System (BCIS), is being put to good use as an integral part of the monitoring system.

The Administration has deployed additional resources and set performance targets for the clearance of outstanding removal orders in respect of unauthorized building works. Our aim is to clear by March 2005 all outstanding removal orders issued before 1991, 75% between 1991 and 1995, 50% between 1996 and 1998, and 35% in 1999. We also aim to clear by March 2005, 80% of the removal orders issued in 2000, 75% in 2001, 52% in 2002 and 40% in 2003. Since 1 April this year, the BD has published on its website the above performance targets, together with the extent of clearance of removal orders and ageing analysis of the outstanding cases to enhance public accountability.

Besides, the Administration has deployed additional resources to speed up follow-up actions on outstanding complaint cases. For those complaint cases in the BCIS without the "initial action date", the BD has deployed additional resources to enter all relevant data into the BCIS, and will complete all outstanding "initial actions" by June this year. All follow-up actions, once completed, will be recorded into the computer system.

On prosecution, the BD has stepped up efforts against owners who fail to comply with statutory removal orders. We have made good progress so far. We are confident that we will be able to instigate 1 000 prosecutions this year. We also expect to meet the target of instigating 2 000 prosecutions next year.

The less-than-satisfactory progress made in enforcing the removal of some of the unauthorized building works as highlighted in the Audit Report also reflects a general lack of building care culture amongst building owners. The Housing, Planning and Lands Bureau has recently carried out a public consultation exercise on building management and maintenance, with a view to achieving a greater community consensus on owners' responsibility to properly

manage and maintain their properties. We will analyse the views collected to propose measures to arrest the urban decay problem and improve our built environment.

Turning to the provision of public secondary school places, the 145 vacant classrooms represent 1.4% of all classrooms available in public secondary schools in Hong Kong. The Education and Manpower Bureau, having ascertained the situation of 50 of those schools, has confirmed that the vacant classrooms have indeed been put to beneficial use for students. That said, we will continue to keep a vigilant eye on the utilization of classrooms by schools to ensure optimum use of resources, and to enhance the effectiveness of learning and teaching activities.

The curriculum of Secondary Six and Seven is designed for the prime purpose of preparing students for tertiary education. It may not be the most appropriate articulation path for the less academically inclined students. In recent years, we have expanded and diversified post-secondary education opportunities for Secondary Five graduates to suit individual needs and interests. It is neither appropriate nor educationally sound, as a matter of policy, to expand Secondary Six enrolment to admit students with low grade points, that is below 10, knowing that these students are unlikely to do well in the Hong Kong Advanced Level Examination. Nevertheless, noting that the situation may differ from school to school, the Education and Manpower Bureau will continue to allow schools to exercise their professional judgement in admission decisions, and whether or not to over-enrol after taking into account their own circumstances, such as the availability of various facilities.

On the purchase of places from caput schools, the Administration has agreed to consider reducing the number of places bought from schools with a substantial number of unfilled places. The Education and Manpower Bureau has started discussion with the Caput Schools Council and is working with the nine caput schools on the way forward, having regard to the overall demand and supply for school places in individual districts.

We welcome the Director of Audit's recommendations that based on the principles of prudent financial management and effective use of resources, appropriate measures should be taken to enhance the transparency of the funding methodology adopted by the University Grants Committee (UGC), and to ensure the best use of public funds in the higher education sector. In the coming one or two years, the UGC will take progressive steps to develop an improved costing

and funding methodology for the UGC sector, in consultation with the Administration and institutions where necessary. The UGC will also enhance the transparency of its funding methodology as appropriate.

The Administration, the UGC and the UGC-funded institutions are also following up those other matters identified by the Audit Commission and the Committee, including issues related to the Research Assessment Exercise and individual research projects, the funding of self-financing activities, and the refund of government rents and rates to educational institutions.

Finally, I wish to echo Dr the Honourable Eric LI's remarks that the PAC plays an important role in safeguarding public interests by continuing to prod for the delivery of high-quality public service in an efficient and cost-effective manner. The Administration looks forward to receiving its constructive comments and sound advice. As always, we shall respond positively and promptly.

Thank you.

**PRESIDENT** (in Cantonese): Ms Miriam LAU will address the Council on the Second Report of the Legislative Council Select Committee on Building Problems of Public Housing Units.

### **Second Report of the Legislative Council Select Committee on Building Problems of Public Housing Units**

**MS MIRIAM LAU** (in Cantonese): Madam President, as Chairman of the Select Committee on Building Problems of Public Housing Units (the Select Committee), I now present the Second Report to the Legislative Council on behalf of the Select Committee.

On 22 January 2003, the Select Committee tabled at the Legislative Council its First Report, which gives a detailed analysis of the policies and system regarding the production of public housing, and the findings of the investigation into the incidents at Yuen Chau Kok in Sha Tin, Shek Yam and Tung Chung. As new evidence in relation to the Tin Chung Court incident in

Tin Shui Wai was obtained during the drafting of the First Report and a number of criminal cases involving the Tin Chung Court incident were in the course of hearing at the Court of First Instance, the Select Committee decided to table its First Report on the other three incidents first.

After the First Report was tabled at this Council, the Select Committee had convened 10 meetings to examine the new information obtained in relation to the Tin Chung Court incident, including the transcript of the summing-up delivered by the Judge of the Court of First Instance and the transcriptions of the video interviews conducted by the Independent Commission Against Corruption (ICAC) with five of the accused. I have to point out that the findings and observations of the Select Committee were based on the evidence obtained by the Select Committee. As regards the transcript of the summing-up delivered by the Judge and the transcriptions of the video interviews conducted by the ICAC with the accused which had been submitted to the Court, the Select Committee only made reference to certain evidence with particular illustrative or corroborative value. In order to ensure fair and reasonable treatment for all persons and organizations, the Select Committee had forwarded the draft of its findings to the witnesses and organizations concerned for their comments before finalizing its conclusions.

Laid on the table before Members is the Second Report of the Select Committee which comprises three volumes. Volume I of the Report sets out the findings, conclusions and recommendations of the Select Committee, while the other two volumes are the verbatim transcripts of the relevant public hearings.

Although criminality is involved in the Tin Chung Court incident, the Select Committee found in the course of investigation a more fundamental problem, namely, the existence of flaws in the system of the Housing Department (HD).

The Tin Chung Court project was an outsourced project of the HD, which was carried out in the mid-1990s when the HD implemented reforms to its management structure. At that time, the senior managers of the HD were eager to adapt their functions to business management but their responsibility over project management was confusing. Even though some members of the HD's senior management considered that the Liaison Team responsible for supervising outsourced projects should have the responsibility to ensure the quality of works, unfortunately, this message was not clearly passed down to the HD's front-line

professionals. As a result, the monitoring of the quality of the Tin Chung Court project all rested with the appointed consultant architect.

Madam President, to private projects, such arrangement may not have any problem, for private works are subject to the regulation of the Buildings Ordinance. However, the Tin Chung Court project was a project of the HD, which was thus not subject to the Buildings Ordinance. The HD should have the responsibility to monitor the quality of works as that of the Building Authority. I must emphasize that while the HD may contract out the management of a project, it cannot contract out the monitoring of the project at the same time. Unfortunately, the HD entrusted the management and monitoring of the entire Tin Chung Court project to the consultant architect, who failed to monitor the services provided by its sub-consultants. In addition, the site staff lacked the knowledge and experience required for the types of piles to be used. All these factors enabled the contractor concerned to take advantage of the flexibility provided in the contract to use various calculation methods and procedures that were favourable to the contractor itself in the design and implementation of works, seeking to meet the contractual provisions and requirements in form only. Systemic flaws, together with human errors, opened up for law-breakers. As a result, the Hong Kong Housing Authority had to spend over \$150 million on the remedial and strengthening works for the Tin Chung Court project. This incident had also aroused great public concern over the quality of public housing.

The Select Committee noted that following these four incidents, the HD has carried out a series of structural, management and operational reforms and implemented a number of remedial measures proposed by the Select Committee in its First Report, with a view to improving the building quality of public housing. The Select Committee urges the HD to learn from the experience and to ensure that both in-house and outsourced projects meet safety and quality standards.

Madam President, as Chairman of the Select Committee, I must point out that during our investigation into the Tin Chung Court incident, the HD did not co-operate with the Select Committee in an open and positive manner as expected of it. In this connection, the Select Committee would like to express its regret and disappointment. The public concern over the Tin Chung Court incident has revolved around the problem of uneven settlement of buildings. For this

reason, from the establishment of the Select Committee in February 2001 to the completion of the preliminary hearings on the Tin Chung Court incident in December 2001, the Select Committee had focused on the piling design and whether human negligence was involved in the works. The Tin Chung Court incident is different from the Yuen Chau Kok incident in Sha Tin. At that time, the Select Committee was not aware of the existence of short pilings at Tin Chung Court, and there was no information indicating that the problem of Tin Chung Court was related to short pilings. The Select Committee was disappointed that the HD actually learnt from an internal inquiry in November 2001 that many piles at Tin Chung Court were shorter than their recorded lengths, but the HD failed to provide such key information to the Select Committee on its own initiative. It was not until October 2002 that the HD provided the relevant information upon the request of the Select Committee, which learnt of such internal inquiry through other channels. Given this passive attitude of the HD, the Select Committee was unable to focus on the core matters in the beginning of its investigation. Undoubtedly, the work progress of the Select Committee was thus delayed. I call on the Administration to be more open and active in co-operating with any select committees to be appointed by the Legislative Council in future.

Finally, on behalf of the Select Committee, I wish to thank all witnesses for attending the hearings, all government departments, judicial authorities, organizations and parties for providing information and the Legislative Council Secretariat for their assistance in the course of investigation.

With these remarks, Madam President, I submit to this Council the Second Report of the Select Committee.

## **ORAL ANSWERS TO QUESTIONS**

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

### **Helping Business Programme**

1. **MR JAMES TIEN** (in Cantonese): *Madam President, regarding the Helping Business Programme (the Programme) launched by the Government in 1996, will the Government inform this Council:*



- (a) *of the respective numbers of helping business initiatives studied and implemented so far, broken down by trade;*
- (b) *whether it has assessed the effectiveness of the above initiatives, and whether there were initiatives not utilized by the industries; if there were, of the initiatives involved; and*
- (c) *of the annual expenditure of the above Programme, and whether it has assessed the effectiveness of the Programme for the operation of the commerce and industry sectors; if it has, of the assessment results; if not, the reasons for that?*

**FINANCIAL SECRETARY** (in Cantonese): Madam President, with respect to Mr James TIEN's question:

- (a) Since the Government launched the Programme in 1996, different government agencies have completed 109 helping business studies and reviews, and implemented 415 improvement measures under the Programme. The figures on these studies and measures in various trade categories are set out at the Annex to the reply.
- (b) Before implementing the proposed improvement measures, different government agencies will consult extensively the relevant trade on the improvement measures identified in the helping business studies. The measures will only be implemented after we have secured consensus or majority support from the trade. The concerned government agencies will also keep in touch with the trade representatives and chambers to obtain their feedback on the effectiveness of the improvement measures and if necessary, recommend and implement further measures. So far, we are not aware of cases in which implemented improvement measures have subsequently been not utilized upon request by the industries.
- (c) The Commerce and Industry Branch of the Commerce, Industry and Technology Bureau has 10 full-time staff members responsible for implementing the Programme. It has included a provision of up to \$12.5 million in the 2004-05 estimates for funding studies and other study-related activities under the Programme.

The Programme aims to cut government red tape, streamline procedures and improve services so as to facilitate business. In assessing the effectiveness of the Programme, the main considerations include whether the recommended improvement measures are accepted by the concerned Policy Bureaux and departments, and whether these measures can achieve the abovementioned aims of the Programme. The Programme was taken forward under the steer of the then Business Advisory Group (BAG) which comprised representatives from different trades. All the improvement measures were implemented with the support of the BAG and the relevant trade.

As indicated in the Annex, we have implemented over 400 improvement measures for a number of different trades. Notable examples include the implementation of the Open Bond System to provide a more flexible operating environment which has significantly reduced the running costs for the dutiable commodity trade; and the introduction of licences with a validity period of up to seven years for the hotel and guesthouse trades. The latter has considerably reduced the licence fees and removed the cumbersome procedures associated with annual licence renewals. We believe these improvement measures have facilitated the operation of the business sectors concerned.

Of course, the work of improving the business environment is ongoing and there is always room for further improvement. In this regard, I already established at the beginning of this year the Economic and Employment Council (EEC) and a Subgroup on Business Facilitation (Subgroup) under the Council. Membership comprises representatives of the political, business, labour and academic sectors. We believe the new mechanism will enable us to obtain more systematically views of different sectors on how to facilitate business and assist government agencies in implementing various improvement measures. The Finance Committee also gave approval last week for setting up an Economic Analysis and Business Facilitation Unit under the Financial Secretary's Office by merging the existing Economic Analysis Division in the Financial Services and the Treasury Bureau and the division responsible for business facilitation work in the Commerce, Industry and

Technology Bureau. This newly established unit is intended to support the work of EEC and further develop the Programme.

## Annex

<i>Trade</i>	<i>Helping Business Studies and Reviews Completed</i>	<i>Improvement Measures Implemented</i>
Lands, Buildings, Works and Fire Services	30	159
Food and Beverage, and Entertainment and Leisure	19	96
Marine and Transport	11	58
Trade and Industry	11	56
Social, Medical and Health Services	8	8
Education, Labour and Employment	6	13
Others (such as improvement measures to facilitate business operations in general)	24	25
Total	109	415

**MR JAMES TIEN** (in Cantonese): *Madam President, first, I would like to thank the Financial Secretary, for the Government has done a lot of work to improve the business environment in recent years. However, the business community is of the view that the 415 improvement measures implemented as stated in the Annex are mostly small favours, which can be done without amending the legislation or subsidiary legislation by the Legislative Council and are not business improvement measures originally expected by us. May I ask whether those laws which are of concern to the business community will be reviewed by, for example, summarizing the existing legislation and drawing up new legislation to replace several pieces of legislation? Now that a new Subgroup has been established under the EEC to facilitate business, may I ask whether the point raised by me just now will be addressed by reviewing all the legislation relating to the business environment or repealing some legislation, in addition to the measures stated in the Annex?*

**FINANCIAL SECRETARY** (in Cantonese): Madam President, in fact, as Mr James TIEN has just mentioned, the establishment of the Subgroup under the EEC mainly aims to consider how the existing legislation relating to the business

environment and the compliance cost can be reviewed again from the users' perspective. We hope that through this review, what can be simplified will be simplified and what can be repealed will be repealed, so as to facilitate business and reduce the operating costs.

**MR JASPER TSANG** (in Cantonese): *Madam President, the trades listed in the Annex to the main reply do not include all major trades in Hong Kong. For example, the financial services sector represented by Mr Henry WU is very important, but it is not found in the Annex. I notice that the Financial Secretary had said in part (b) of his main reply that different government agencies would consult the relevant trades before implementing the proposed improvement measures. On the contrary, can the improvement proposals suggested by the trades be brought to the attention of the Government? Will the BAG and the Subgroup neglect or oversee some trades?*

**FINANCIAL SECRETARY** (in Cantonese): Madam President, I would like to thank Mr Jasper TSANG for his supplementary question. In my reply to Mr James TIEN's supplementary earlier, I said that the Subgroup would, from the perspective of users, review again whether the existing legislation can be simplified or repealed. Of course we welcome opinions from the business community. It is more effective to review from the perspective of users rather than that of the Government, because the business community knows better than the Government the legislation that requires compliance by the trades and the relevant cost. For this reason, the business community is welcomed to provide their opinions in this regard. Certainly, we will carefully consider their opinions.

**MR JASPER TSANG** (in Cantonese): *Madam President, the Financial Secretary has not answered whether the BAG has neglected some trades in that some important trades are not represented.*

**FINANCIAL SECRETARY** (in Cantonese): Madam President, as regards the financial services sector, I believe insofar as compliance with existing legislation is concerned, the BAG may not necessarily have the greatest expertise, because the financial sector involves stocks, bonds and various financial services trades. Therefore, at present, the monitoring role is mainly taken up by the Securities

and Futures Commission (SFC). However, we will certainly be pleased to consider recommendations from all sides. According to our existing records, the measures implemented have not yet covered the financial services trades.

**MS EMILY LAU** (in Cantonese): *Madam President, the Financial Secretary mentioned the EEC and the Subgroup in his main reply. I am a member of both the EEC and the Subgroup. The Subgroup convened its first meeting on 30 April. Its terms of reference include the creation of employment opportunities in addition to business facilitation. Madam President, I would like to ask the Financial Secretary this: After the review of the Programme as mentioned in Mr James TIEN's question, will there be an increase or a decrease in the employment opportunities after implementing these measures in the conclusion of the Government? Madam President, from a broader perspective, when the system runs smooth, the number of jobs may decrease; but when the overall business environment becomes better, there will be more employment opportunities. Does the Financial Secretary have any such information to share with the community?*

**FINANCIAL SECRETARY** (in Cantonese): Madam President, when I read this question of Mr James TIEN, I already expected that there will be one supplementary question asking whether we have quantified the economic growth after the introduction of these 400-odd improvement measures or whether there is actually an increase or decrease in the employment opportunities. Regrettably, I must say that quantification is impossible because every time after an improvement measure is implemented, we are unable to find out whether the expansion or shrinkage of a company is a result of such improvement measures. For this reason, we do not have such information.

**MR HOWARD YOUNG** (in Cantonese): *Madam President, Mr James TIEN asked about the effectiveness of this Programme. "Effectiveness" is about how much is contributed and how much is obtained in return. The Financial Secretary said just now that it was unable to quantify the employment situation, but does the Financial Secretary at least know that in the industries concerned, for example, in the hotel industry, whether the benefits obtained after the procedures are streamlined and the costs reduced certainly exceed the manpower and resources injected by the Government for the implementation of this Programme? This can help us evaluate the effectiveness of this Programme.*

**FINANCIAL SECRETARY** (in Cantonese): Madam President, our main task is to find out how improvements can be made to facilitate business operation in the business community. Under the market-oriented principle of the SAR Government, I believe business facilitation can boost economic growth and thus create more employment opportunities. In fact, I do not quite understand Mr YOUNG's supplementary question. Is it a must for us to evaluate the cost-effectiveness? Shall we do something only when it is profit-making? Our main task is to review the legislation and regulatory procedures to identify the obsolete, overlapping or unnecessary ones, so that we can give them up. We have not thought about whether the operational costs will be reduced if we give them up. I expect the answer to be affirmative. That is, the costs should not be any higher than before.

**MR HENRY WU** (in Cantonese): *Madam President, Mr Jasper TSANG has raised questions mainly concerning the financial services industry, in particular, the securities sector. It is said in the main reply that the Programme cuts government red tape, streamlines procedures and improves services so as to help the business community. Mr TSANG has noticed, and as also admitted by the Financial Secretary, that the trades listed do not include the financial services industry. In fact, the Financial Secretary knows only too well that the financial services industry is a very important industry. May I ask the Financial Secretary whether the financial services industry will formally be included? If so, how can the objective of cutting government red tape be achieved? The SFC has plenty of red tape. If the Financial Secretary runs a small and medium brokerage firm, he will know how improvements can be made.*

**FINANCIAL SECRETARY** (in Cantonese): Madam President, as regards the financial services industry, we are, of course, very concerned about whether the existing regulations can achieve a proper balance. In performing our international obligations, including combating money laundering and various other obligations, Hong Kong has to meet the standard of a quality market, so as to encourage foreign investors, whether from the Mainland or overseas, to invest, go public or raise funds in Hong Kong, and to build up the confidence of other financial sectors. In addition, we have to strike a balance in business facilitation. For this reason, the EEC welcomes the financial services industry to suggest ways of business facilitation for our further consideration.

**MR HENRY WU** (in Cantonese): *Madam President, the Financial Secretary has not answered my supplementary question. In fact, his reply is very general and brief. I asked him whether he knew that there were many cumbersome regulatory procedures and whether he would make any improvement, not about striking a balance. At present, there are many imbalanced situations.*

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

**FINANCIAL SECRETARY** (in Cantonese): Madam President, concerning whether certain regulations are cumbersome or whether they are necessary, the Government has the duty to achieve a balance. To strike a balance, we have to help business on one hand and we also have the duty to impose proper regulations on the other hand, so as to maintain the standard of a quality market in Hong Kong.

**DR RAYMOND HO** (in Cantonese): *Madam President, the Financial Secretary said that it was unable to quantify business improvements. I can tell the Financial Secretary that in the construction industry with over 300 000 employees, an industry badly affected by unemployment, and may be the hardest hit industry, quantification is possible. Last year, its unemployment rate was 16.9%. Now it is over 20%, while the overall unemployment rate has dropped from 8.7% to 7.2%. In this connection, will the Financial Secretary tell us whether the EEC and the Subgroup have completely neglected this very industry which is in serious plights? Will he provide the details of those 159 implemented improvement measures specifically for this industry after the meeting?*

**FINANCIAL SECRETARY** (in Cantonese): Madam President, I believe Dr HO will certainly recall that I was once the Chairman of the Construction Industry Review Committee. So, I do have certain understanding of the various problems faced by the construction industry, even though I may not be an expert in this area. Therefore, in the Subgroup under the EEC, building construction is certainly a focus of discussion. Yet, I would also like to respond to the

question raised by several Members earlier about whether more employment opportunities will be created after the implementation of the helping business measures. For example, the construction of a building might originally require 20 permits, and now it requires 10 only. In that case, the staff responsible for the processing of permits will have less work to do. However, this measure will facilitate the development of the entire industry, thus creating more employment opportunities. We are now looking at it from this perspective. The more the regulation, the more cumbersome and repetitive the procedures are, and this can create more employment opportunities since more people are needed to do the work. Nevertheless, we consider that streamlining the procedures to revitalize the industry can give more room for the industries to develop and create more employment opportunities. This is a positive and constructive approach.

**DR RAYMOND HO** (in Cantonese): *The Financial Secretary has not answered whether he will provide the details of those 159 improvement measures after the meeting.*

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

**PRESIDENT** (in Cantonese): We have spent over 18 minutes on this question. Last supplementary question.

**MRS SOPHIE LEUNG** (in Cantonese): *Madam President, as the subject of the main question is helping business, I think it should be replied by the Secretary for Commerce, Industry and Technology. But since the Financial Secretary has specially come to this Council to give a reply, I think his efforts are very much welcomed.*

*Part (b) of the main question asked whether the Government had assessed the effectiveness of the initiatives. I believe the greatest effectiveness — as also mentioned by many Members earlier who had almost come to the point — is how to boost the economic dynamics. Today, two newspaper editorials mentioned*



*that Macao is "progressing at high speed". Will the Financial Secretary tell us what we should do? This is from a perspective of economic dynamics. Part (b) seems to be only asking about the improvements required in the relevant industries. Can the Financial Secretary also examine whether, in the context of business facilitation, we need to consider from a broader perspective and see how we can develop a more dynamic economy and create more employment opportunities?*

**FINANCIAL SECRETARY** (in Cantonese): Madam President, this is actually two different subject matters at different levels. Helping business is only a task at the low to medium level. Our task is to review how we can facilitate the business environment for industries, so as to reduce the costs. As regards the supplementary question just raised by Mrs Sophie LEUNG, it is a more macroscopic question at a high level. We will further discuss this in the EEC. The EEC was established because we profoundly believe that on the principle of a market-oriented economy, we should start from revitalizing the economy to provide more opportunities for economic development and employment in Hong Kong. So, this will, of course, be among my first and foremost tasks.

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

### **Comprehensive Building Rehabilitation Programme for Old Public Housing Estates**

2. **MR FREDERICK FUNG** (in Cantonese): *Madam President, the Hong Kong Housing Authority (HA) intends to implement a comprehensive building rehabilitation programme for old public housing estates (public housing) of Hong Kong. In this connection, will the Government inform this Council whether it knows:*

- (a) the details of the above programme, including the names of estates and the number of tenants affected as well as the expenditure involved, and so on; and whether the programme will replace the existing public housing redevelopment programme; if it will, of the reasons for that;*

- (b) *the measures to assist those tenants who will be affected and have to be temporarily transferred to other flats; and*
- (c) *whether the rent of the rehabilitated public housing flats will be increased?*

**SECRETARY FOR HOUSING, PLANNING AND LANDS** (in Cantonese):

Madam President, the HA launched the Comprehensive Redevelopment Programme in 1988 to improve the living environment of tenants in old and ageing public housing estates through large-scale redevelopment. At present, only three last redevelopment projects, namely Lower Ngau Tau Kok Estate, Shek Kip Mei Estate and Wong Chuk Hang Estate, are still in progress. They are scheduled for completion by 2008-09.

The "White Paper on Long Term Housing Strategy in Hong Kong", promulgated after extensive consultation in 1998, has set out the strategy for redeveloping aged public housing estates after completion of the Comprehensive Redevelopment Programme. In future, redevelopment will be carried out as required having regard to the actual conditions of individual estates. To ensure the best use of resources, redevelopment will be undertaken only when an estate is no longer safe structurally or has become uneconomic to maintain. In fact, many aged housing estates are still structurally sound and need not be demolished and redeveloped. Nonetheless, in view of the fact that regular repair and maintenance cannot fundamentally solve the problems arising from ageing, such as water seepage in the balcony, rusting of water pipes, wear and tear of concrete, and so on, the Housing Department (HD) is exploring ways to upgrade or maintain aged estates comprehensively in order to improve tenants' living environment. Building rehabilitation is one of the options being explored in dealing with aged estates.

Building rehabilitation refers to tailor-made and thorough renovation of individual aged housing estates having regard to their actual conditions. Through rehabilitation, the living environment of tenants will be enhanced and the serviceable lifespan of the estate can be extended, hence making the best use of resources. The HD is exploring the feasibility of this concept from a macro perspective. Issues which need to be considered include the technical feasibility of customizing large-scale renovation works for individual aged estates, comparative costs of different options, effectiveness in extending the serviceable

lifespan of an estate, long-term cost-effectiveness as well as the administrative arrangements involved if rehabilitation is undertaken.

There are a number of fundamental issues inherent in the concept of building rehabilitation that need to be resolved, in particular the technical aspect. We are still ascertaining the feasibility of the concept, and if feasible, the scale and manner of implementation and the time required.

For the reasons mentioned above, we are unable to provide information on the estates to be covered by building rehabilitation, the number of tenants affected and the estimated costs which may be incurred. It is also premature to consider issues like rehousing arrangements for affected tenants and rental levels of the flats after rehabilitation at this stage.

**MR FREDERICK FUNG** (in Cantonese): *Madam President, I find the Secretary's main reply surprising because the HD and the HA made an official announcement on this in April. Furthermore, at the end of April, representatives of the ADPL, together with tenants' representatives, met with senior officials of the HD, who informed us of the whole plan in the meeting, that is, to demolish the balconies, toilets and kitchens of the buildings in housing estates over 30 years old and replace them with new ones, just like replacing a set of dentures with a new set. However, the tenants have to move out for one year and they can move back to their original units after one year or remain in the unit that they have moved into, but the rent will be increased. We were told about these very clearly but now, the Secretary is suddenly telling us that nothing whatsoever has been decided, that he knows nothing and that everything is still under consideration. Is it the case that the previous announcement was wrong and the information conveyed to us by the senior officials of the department concerned was wrong, or the Secretary has not been informed of the latest developments?*

*The publicized information has aroused concern among tenants living in public housing estates over 30 years old, including those in So Uk Estate, Oi Man Estate, Ma Tau Wei Estate, Choi Hung Estate, Ping Shek Estate as well as many others. They have to move out for a year and the rent has to be increased. What are they supposed to do?*

**PRESIDENT** (in Cantonese): Mr FUNG, you have already asked your supplementary.

**MR FREDERICK FUNG** (in Cantonese): *I would like to ask the Secretary how he is going to deal with this.*

**PRESIDENT** (in Cantonese): Please sit down first.

**SECRETARY FOR HOUSING, PLANNING AND LANDS** (in Cantonese): Madam President, in fact, I have clearly pointed out in the main reply that our Comprehensive Redevelopment Programme is well planned and was launched in 1988. This programme has not yet been completed and several housing estates, namely Lower Ngau Tau Kok Estate, Shek Kip Mei Estate and Wong Chuk Hang Estate, are still being redeveloped. These redevelopment projects will all be completed in 2008-09.

As to what our future direction will be, we conducted an extensive consultation in 1998 and promulgated a White Paper on Long Term Housing Strategy in Hong Kong, which set out, *inter alia*, our future strategy. As I have said earlier, this plan is a new concept and as it is a new concept, we may come up with some new ideas on how to deal with problems relating to housing estates. We have to consider from various angles whether these ideas are feasible and take into account some general factors, and it is also necessary to consult the initial views of the stakeholders. Since we were often criticized for working behind closed doors, we conducted consultations and gave briefings on these preliminary ideas. Therefore, we do have some ideas on how to go about this but it does not mean that we will definitely take this course of action. This is still a very, very preliminary idea. We can only regard it as a preliminary conceptual phase before policy formation and we will consult members of the public and tenants on certain issues in this phase to see if these issues really constitute problems, and if there is problem, what the solutions are. Therefore, as I have also said in the main reply, there are still many unresolved issues as far as this idea is concerned and it is necessary to continue with the studies.

**MR FREDERICK FUNG** (in Cantonese): *Madam President, I am sorry, but I think the Secretary did not answer the supplementary that I have just asked. I talked about some very specific proposals made by some senior officials of the HD, for example, tenants have to move out for a year, the rent will be increased,*

*and so on. However, the Secretary was very vague in the third, fourth and fifth paragraphs of his main reply, saying that everything is still unknown or undecided. Yet, these messages were conveyed in person by the officials to tenants, and this is truly worrying. When will rehabilitation be necessary for the housing estates where the tenants reside? If they have to move out for a year, where can they live? What about the rent? The officials have already raised these matters but according to the reply given by the Secretary today, it seems to retract what was said before. Therefore, in the supplementary asked by me just now, I would like to know how the Secretary will face such situation. The subordinates of the Secretary have said one thing but the Secretary has said another. The tenants are very worried after listening to them.*

**PRESIDENT** (in Cantonese): You have asked your follow-up question, have you not?

**MR FREDERICK FUNG** (in Cantonese): *In fact, I have already asked it but I do not think the Secretary has answered it.*

**PRESIDENT** (in Cantonese): In that case, please sit down first, so that the Secretary can answer your question.

**SECRETARY FOR HOUSING, PLANNING AND LANDS** (in Cantonese): Madam President, I think all the information and ideas are an interactive process. Therefore, if there is an announcement to be made, it should be made by me. Formal documents or formal notices should be issued through the HA or via our framework after thorough discussions among all parties, but all these processes have not yet taken place. Madam President, in dealing with every matter, we attach great importance to the process and we also have our procedures. A number of Members here are also members of the HA. We know that we have to carry out such work, so we will of course brief members of the public at the initial stage and should they have any question, I think we have the duty to explain to them what this is all about according to our understanding, but they should not consider that a decision. If there is any misunderstanding, I wish to state solemnly here that we have not made any decision. If anyone has put a

question to us, we will give them our views on their question in view of the circumstances at that time, but this does not mean that we have made any decision. I have already made this clear in the main reply.

**MISS CHAN YUEN-HAN** (in Cantonese): *Madam President, Secretary Michael SUEN said just now that three housing estates are being redeveloped and many people already know about that. However, we also know that some public housing estates have a history of some 30 or 40 years and the living environment and conditions are in fact very poor. What the Secretary said earlier gave me the impression that he is conducting consultation. I wish to ask the Secretary this: If the remarks made by Mr Frederick FUNG earlier do not count, then who have you actually consulted? In which housing estates has consultation been conducted? I hope the Secretary can explain this more clearly because I feel very concerned on hearing what he has said. It seems that the Secretary has a set of plans but when we asked him, he said that there was nothing and that consultation was still being conducted. Mr Frederick FUNG said earlier that the Secretary seemed to be consulting his views but the Secretary said that he did not. In that case, may I ask the Secretary who he is consulting now? At which level? In which housing estates?*

**SECRETARY FOR HOUSING, PLANNING AND LANDS** (in Cantonese): *Madam President, this cannot be considered formal consultation. We are only making visits to some residents in the districts concerned to see what their views are on some of the ideas. At present, there are in fact many problems that remain unresolved and we can conduct a public consultation only when we are confident of solving the problems. Otherwise, we would be presenting a set of proposals with major unresolved issues in it. This type of consultation is far from comprehensive. I wish to state clearly that this is a new idea under consideration and we feel that we have to listen to more views from other people on this idea. A genuine consultation process will be launched only if we are confident of formulating a plan capable of solving all problems.*

**MR FRED LI** (in Cantonese): *Madam President, in that case, let us not ask about this very, very, very preliminary plan. In the second paragraph of the main reply, the Secretary said that "many aged housing estates are still structurally sound and need not be demolished and redeveloped." My*

*supplementary is: Since there are more than a dozen of aged housing estates over 30 years old in the territory, has the HD ever assessed the serviceable lifespan of each such housing estate? If the buildings in these estates are structurally sound, how many more years can they actually last? If no redevelopment is necessary, does it mean that redevelopment will never be necessary in future, not even after 50 years? The Secretary has to give tenants an answer and only in this way will they feel more at ease. Since the rehabilitation plan is so preliminary and as the Secretary should be in possession of such information, I hope the Secretary can make known the information on how many more years those buildings over 30 years old will still be inhabitable if they are not redeveloped?*

**SECRETARY FOR HOUSING, PLANNING AND LANDS** (in Cantonese):

Madam President, I think all of us understand that we are talking about concrete buildings. Concerning buildings with structural problems, after the Comprehensive Redevelopment Programme was announced in 1988, unsafe buildings and buildings that had to be redeveloped for various reasons have been dealt with properly. I can say here that the other buildings are safe as long as we continue to repair and maintain them properly. As regards their serviceable lifespan, this of course depends on whether the repair and maintenance are effective. Therefore, I have said in the main reply that it is necessary to examine if the money is well spent when using resources because sometimes repair and maintenance can be carried out indefinitely and at a point of time, the cost of repair and maintenance may even be greater than the cost of redevelopment. At that point, we have to consider other factors in society. However, I can say that up to now, we have responsible personnel carrying out the relevant repair and maintenance for, say, cases of apparent water seepage. Therefore, if we can continue with these efforts, basically all housing estates are safe and this point is beyond doubt. But at a certain stage, we will have to consider if redevelopment or rehabilitation is better than merely carrying out repair and maintenance. This is the new idea that we must embrace in developing this new concept, that is, to see how a better balance can be struck.

**MR CHAN KAM-LAM** (in Cantonese): *Madam President, the issues surrounding the rehabilitation programme have indeed led to a great deal of repercussions at the district level. The Secretary did not give an answer to parts (b) and (c) of the main question today. In fact, recently there have been people seeking the views of tenants on the issues raised in these two parts of the question,*

*that is, whether tenants are willing to move out and then return to their original flats, or whether they will be willing to accept higher rents after the buildings are rehabilitated. This has aroused great resentment among tenants. I heard the Secretary say that this programme is only at a conceptual stage and no decision has been made. In order to dispel doubts and allay concern among tenants, I wonder if the Secretary can reiterate this briefly? We have made enquiries with officials and their reply was that the plan was still at a very preliminary stage. Could the Secretary reiterate that this matter is indeed at a very preliminary stage, so that the tenants do not have to worry about this?*

**SECRETARY FOR HOUSING, PLANNING AND LANDS** (in Cantonese):

Madam President, I am very sorry that when our colleagues initially gauged views in this regard, they were not as circumspect as Members are and have caused a lot of misunderstanding among tenants. This is very regrettable. When I go back, perhaps I will review our practices in detail with reference to the resultant problems.

In response to the supplementary raised by Mr CHAN Kam-lam just now, I can clarify here that as I have said in the main reply, this is a new concept under consideration to deal with ageing housing estates. That means it is just an idea and we are still thinking about it. Many issues have to be solved but we have not been able to do so yet. However, we also wish to listen to the views of the tenants concerned on certain aspects. I must admit here that perhaps we have not been sufficiently circumspect in our consideration and have therefore caused some misunderstanding among tenants. In this connection, I can reiterate that if we come across the same situation next time, we will handle it more carefully.

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

**MR IP KWOK-HIM** (in Cantonese): *Madam President, the informal consultation process mentioned by the Secretary earlier has really made Members feel worn out from too much running around, and I also had to go to these housing estates to explain to the tenants. This issue has aroused concern among tenants because in the process, the Secretary did not explain clearly the issues concerning rehabilitation or redevelopment. Parts (b) and (c) of the*



*main reply raised some specific questions on the role played by tenants, whether the rents will be raised, rehousing arrangements, and so on. Regardless of whether rehabilitation or redevelopment is planned, I wish to ask the Secretary whether the tenants' views will be respected should they make it clear that they are opposed to rehabilitation? If they consider rehabilitation unnecessary and that redevelopment should be adopted as the solution, will the Bureau listen to the heartfelt wishes of tenants clearly?*

**SECRETARY FOR HOUSING, PLANNING AND LANDS** (in Cantonese):

Madam President, I have stated clearly in the second paragraph of the main reply that in 1998, we promulgated a white paper setting out the strategy in this regard, that is, we will no longer redevelop housing estates on a large scale but will consider whether repair and maintenance should continue only when the buildings are no longer safe structurally or have become uneconomic to maintain. However, I wish to point out that in a housing estate, not all the buildings will have the same problems in repair and maintenance. The repair and maintenance problems for some of the blocks may be more serious because they face the sea and are prone to the erosive actions of sea water whereas those situated more distant from the sea will not have this problem. Therefore, we cannot assume that redevelopment is always necessary. We wish to stress that we will take into account the actual circumstances and will continue to do so. However, what are the conditions of each of these housing estates? I have already said that they are safe and do not have any problem. But if individual buildings have particular problems, we will deal with these problems specifically.

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

**Rural Schools**

3. **MR LAU WONG-FAT** (in Cantonese): *Madam President, will the Government inform this Council:*

- (a) *of the respective current numbers of rural schools which are still in operation and those which have been closed throughout the territory;*

- (b) *whether the premises of the rural schools which have been closed have been put to other uses; if so, of the respective numbers of school premises left vacant and those put to other uses; and*
- (c) *of the policy for disposing of the premises and land of the rural schools which have been closed?*

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

- (a) The Education and Manpower Bureau does not have a strict definition of rural schools. Nor are there schools specifically registered as rural schools. Traditionally, rural schools refer to small primary schools in rural areas of the New Territories, which have usually been established as a result of initiatives taken by the local villagers, to provide basic education for village children. These schools were mostly built in the early 1950s when primary education was not universal. The facilities of these rural schools are sub-standard compared to the standard school designs developed in the last decade. Many of them only have a few classrooms; some are still operating combined classes (that is, putting students of two or more class levels in the same class).

Based on the above understanding and according to the Bureau's record, 26 rural schools have ceased operation since 1997. There are 77 rural schools currently in operation.

- (b) According to the information supplied by the Lands Department, of the rural school premises that have ceased operation, 19 are vacant, seven have been or will be converted for other purposes, for example, for village office or recreational purposes and so on.
- (c) According to the information supplied by the Lands Department, if the premises of closed rural schools are situated on private land, land owners can decide on the use of the premises and land concerned as long as the use complies with the land use planning and lease conditions.

If the vacant rural school premises are situated on government land, the Lands Department will dispose of the lands concerned under the prevailing land administration practices, that is, the long term land disposal will be in accordance with the development plans. To make optimum use of land pending permanent disposal, temporary allocation or lease by short-term tenancy will be arranged with reference to the needs and situation in the district.

**MR LAU WONG-FAT** (in Cantonese): *Madam President, the land on which rural schools were built had actually been donated by local villagers or donated in the name of "tso/tong" specifically for education purposes. At present, most of the land donated for education purposes has either been left unused or has been converted for other uses and has therefore deviated from the original intention of the donors. Has the Government considered returning such land to the donors or their descendants for fairness sake?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam President, I believe this is a legal issue. While there are terms and conditions attached to the donation, the conditions and situation may subsequently change and on the question of whether the land can be recovered, I believe this may have to be resolved by law.

**MR TAM YIU-CHUNG** (in Cantonese): *Madam President, among the 77 rural schools mentioned in the Secretary's main reply, how many of them are subsidized by the Government? In view of the low birth rate and ageing population, has the Government considered helping the gradual merging of these rural schools, so as to resolve the problems of student enrolment and teaching staff?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam President, those 77 rural schools are all subsidized by the Government. As to whether we should help them merge, the most important factor is the students' interest. It is most important to consider whether the students can receive quality education in their districts. But as I said, these rural schools are substandard in terms of their facilities when compared to the schools built in recent years.

**MR TAM YIU-CHUNG** (in Cantonese): *Madam President, it seems that the Secretary has not replied whether the Government would consider assisting these rural schools to merge. I wonder if I have not made myself clear.*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): We will definitely discuss this with the schools. This year, 31 schools have indicated that they would not be allocated with Primary One places. We are doing our best to help them merge.

**MR CHEUNG MAN-KWONG** (in Cantonese): *Madam President, the actual change in the conditions is that the use of the land is no longer consistent with the original intention of the donors. Some villagers donated their land for education purposes, but as the schools are closed now, the purpose of their donation can no longer be served. If the land on which rural schools are built originally belonged to the villagers but was subsequently transferred to the Government only for education purpose, will the Government reconsider implementing a new policy whereby such land which originally belonged to the villagers can be returned to them or their descendants after the rural schools have been closed?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam President, I have already answered this question. Like giving somebody a gift, although the gift may be given out with strings attached and even though the current situation has changed, I believe whether the gift can be recovered involves legal issues.

**MR CHEUNG MAN-KWONG** (in Cantonese): *Madam President, it is not villagers' original purpose of land donation that has been changed. The original purpose of such donation is for education but now, the schools are no longer there and so, the purpose of land donation is changed. Under such circumstance, will the land in question be returned to the original owners or their descendants? It is the Government that has changed because the Government had used other people's land to run schools and now, the schools are gone.*

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

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): The Government will definitely consider this issue under reasonable circumstances.

**MR ANDREW WONG** (in Cantonese): *Madam President, I think it would be more appropriate for the Secretary for Housing, Planning and Lands to answer this question. This issue did not arise only after 1997, and it existed before 1997. Many of these rural primary schools are dilapidated and doomed. Some of the lands on which these rural schools are built are government land; some are donated while some are a mixture of both. In some cases, the land belongs to the Government but the use of villagers' private land is required to access such land. How many such rural schools are there in all these years? Perhaps we should not use 1997 as the dividing line. We should start from 1970. At the beginning of the '70s when the development of new towns just commenced, there were already these problems. How many rural schools have been closed? What are the lands used for? What is the original status of the lands in question? If the Secretary for Housing, Planning and Lands does not have the information today, can he reply in writing, so that we can have comprehensive information before we discuss this issue?*

**PRESIDENT** (in Cantonese): Which Secretary will reply? *(Laughter)* Secretary for Education and Manpower.

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): We said 1997 because the year 1997 is clearly stated in our record. We know that a total of 26 rural schools have ceased operation since 1997. We also clearly know whether the ownership of the lands where these 26 rural schools were built is vested in the Government or private individuals. Currently, 77 rural schools are still in operation.

**MR ANDREW WONG** (in Cantonese): *Madam President, the Secretary has not answered my supplementary question. My supplementary question is whether the Government can provide a written reply on the number of rural*

*schools which have ceased operation since the '70s. Regarding those rural schools which have been closed and those which are still in operation, what is the original status of the land concerned? Can information in this aspect be provided so that we can explore this issue with comprehensive information?*

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

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): I can only clarify again that it may be difficult to trace the previous records since the previous records may not be complete. We have made it very clear that we do not have a definition of rural schools, and there is no school registering as a rural school. So, traditionally, although we all know what a rural school is, there is actually no strict definition specifying what a rural school is. Therefore, I believe there are some difficulties in this aspect.

**MR ANDREW WONG** (in Cantonese): *Madam President, I am sorry. I was asking whether the Secretary for Housing, Planning and Lands could give us an answer. My supplementary question is put to the Government. Although it is stated that the Secretary for Education and Manpower alone would reply, could the two Secretaries co-ordinate with each other and give a joint reply?*

**PRESIDENT** (in Cantonese): Mr Andrew WONG, I have actually done what you have requested by asking which Secretary would answer your question and they decided that the Secretary for Education and Manpower should give a reply. Therefore, I am not going to ask them to make another decision.

**MS CYD HO** (in Cantonese): *Madam President, part (c) of the main reply stated that the land owner can decide on the use of the premises and land concerned. If the sponsoring body has ceased the operation of the school which means that the school no longer exists, the land in question will be handled by the Permanent Secretary for Education and Manpower. How will the Permanent Secretary handle these lands then? Should they be returned to the family or descendants of the donor?*

**PRESIDENT** (in Cantonese): Ms Cyd HO, in fact, several Members have already asked the supplementary question that you just raised, only that you had asked in it in another way. I feel that even if you go on asking, it seems that you will not be able to obtain a good answer, or perhaps an answer to your satisfaction. Besides, you asked how the relevant land would be dealt with if a rural school is left vacant. It is a hypothetical question, and it is difficult for me to allow you to ask it this way.

**MS CYD HO** (in Cantonese): *Madam President, please allow me to clarify my question. When a donee has become the owner by accepting the land donation, even though the donee is sponsoring the operation of a school, when the school ceased operation and does not exist, it is not hypothetical but something that will happen. In that case, how will the Permanent Secretary deal with the land? I think the Secretary has to tell us a direction or perhaps tell us when a review will be carried out. Will the Secretary please give us an answer?*

**PRESIDENT** (in Cantonese): Secretary, if you wish to repeat what you have said, I will allow you to do so.

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam President, perhaps let me make some clarifications here. If a school is in operation, the Education and Manpower Bureau will be responsible for its management and supervision. But if a school has ceased operation, the land and the premises concerned will be handled by the Lands Department rather than by the Education and Manpower Bureau. In terms of the ownership, therefore, the Education and Manpower Bureau has no decision-making power. But as far as I know, if the land is privately-owned, the land and the premises will be returned to the private owner; in the event of government land, it will be dealt with by the Lands Department, not the Education and Manpower Bureau.

**MR ANDREW WONG** (in Cantonese): *Madam President, to be more specific, Shatin Government Primary School has now become a special school and Leung Shuen Wan Government Primary School is going to cease operation soon. What will Leung Shuen Wan Government Primary School be used for?*

**PRESIDENT** (in Cantonese): Which Secretary would give a reply? Secretary for Education and Manpower.

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): I may have to give a written reply to Mr WONG in this regard. (Appendix II)

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

### **West Kowloon Cultural District Development Project**

4. **MR WONG SING-CHI** (in Cantonese): *Madam President, a number of mandatory requirements have been stipulated in the Invitation For Proposals for the development of the West Kowloon Cultural District (WKCD), including the provision of a "canopy" covering at least 55% of the Development Area. However, an official of the Territory Development Department revealed last month that the provision of the canopy or not would ultimately depend on whether its construction cost, as quoted in the received proposals, was too high, hence making it financially not viable. Regarding the development project, will the Government inform this Council:*

- (a) *whether it has formulated contingency plans to tackle the scenario that construction of the canopy involves great technical difficulties or is too costly; if so, of the details of the plans; if not, the reasons for that;*
- (b) *whether it has assessed, in case it is eventually decided that the canopy will not be provided, if the land earmarked for commercial uses can be sold in divided lots by auctions, with a view to generating more revenue; if so, of the assessment results; and*
- (c) *whether, in view of the recent improvement in its financial position, it will consider dropping the approach of awarding the construction and operation of the entire project to a single developer, and providing the relevant cultural facilities with government funding; if so, of the progress of its consideration; if not, the reasons for that?*



**SECRETARY FOR HOUSING, PLANNING AND LANDS** (in Cantonese):  
Madam President, my response to the three parts of Mr WONG Sing-chi's question is as follows:

- (a) The canopy is a key feature of the winning design of the open competition on concept plan for the development of the WKCD. The canopy links up the various arts and cultural facilities in the development area and will also become a new and distinct architectural icon of Hong Kong and a tourist attraction. Besides, the canopy has many advantages and serves many useful purposes. It will create an open and comfortable environment for the outdoor arts and cultural facilities and rest areas, so that enjoyment of those facilities by the public would not be affected by weather conditions. That is why the Government has included the canopy as a mandatory requirement in its Invitation For Proposals. The Invitation For Proposals also states that any proposal which does not meet all the mandatory requirements will not be considered.

The Government has conducted an assessment of the design of the canopy and consulted the professional bodies. The Government considers that technically speaking there are no particular problems in constructing the canopy. Interested potential proponents have not indicated to the Government that constructing the canopy would give rise to great technical difficulties. As to the actual construction cost of the canopy, we need to study proponents' proposals before we can assess the construction cost of the canopy and the overall financial plan of the proposals. At this stage, the Government does not consider that the design of the canopy and its financial aspects would affect the viability of the development project. In view of the above consideration, the Government considers that there is no need to make any contingency plans.

- (b) Part (b) of Mr WONG Sing-chi's question is a hypothetical question. I would like to reaffirm here that the canopy design is a distinctive and major feature of the integrated design of the WKCD development. The Government does not consider that the design of the canopy and its financial aspects will affect the viability of the project. Proponents must include the canopy design in their proposals, otherwise they will not be considered by the Government.

- (c) Although the Government is currently in a slightly better fiscal position comparing with that six months ago, the Government is still faced with a huge deficit which according to the latest Medium Range Forecast as included in the 2004-05 Budget will only be removed in its entirety by financial year 2008-2009. Under the circumstances, the prospect of securing public funds of the size required for providing these facilities without adversely affecting the achievement of the government fiscal objectives is remote. As stated by the Chief Secretary for Administration in his reply to an oral question raised in the Legislative Council in November last year, dividing the project into smaller packages and inviting tenders would first require the Government to draw up a master layout plan based on uncertain assumptions of what would be commercially viable. At the same time, the Government has to tender out different construction contracts. The facilities will be designed and built by different contractors, making it very difficult for the different designs to match with each other. The Government would also have to allocate substantial resources to project management and, in due course, venue operation on a long term basis. This approach is not in line with the Government's policy in promoting serving the community by using the private sector. The opportunity to make use of the private sector's financial and professional strength to develop the WKCD as a self-financing project and deliver high standard arts and cultural and commercial facilities would be lost. The Government is therefore taking forward this cultural project in a single package through the Invitation For Proposals.

**MR WONG SING-CHI** (in Cantonese): *Madam President, the Secretary said in part (b) of the main reply that my question was a hypothetical one. However, this hypothetical question from me is based on the fact that a Project Manager of the Territory Development Department had told us clearly at a meeting of the Panel on Planning, Lands and Works that if the canopy would be too costly to build, the canopy might not be built, that is, they might consider not constructing the canopy. Although we had a different understanding at that time, it is obvious that he had made these remarks. The Secretary did not respond to my*

*question in this respect, but it is not a hypothetical question, for it is about something which has been taken into consideration by government departments. May I ask whether you have discussed with the developers this scenario? Or has the developer expressed in the meeting that they could drop the construction of the canopy and that even if the construction of the canopy was to be dropped, they would still be interested in submitting another tender or participating in another project? Has any government official, including Secretaries of Departments, Directors of Bureaux or even other government officials exchanged views with these developers or real estate developers and proposed that if the construction cost of the canopy would be unreasonable or too costly, then the construction of the canopy could be dropped and the project could be studied again? Have these issues been actually discussed? Moreover, has any developer put forward concrete views to suggest that if the construction of the canopy would have to be dropped, they would provide some other alternative proposals? Has the Government done anything in this connection?*

**SECRETARY FOR HOUSING, PLANNING AND LANDS** (in Cantonese): Madam President, absolutely not. To the best of my knowledge, neither the Secretaries of Departments, myself nor my colleagues have done that. In fact, I have already made it clear in the main reply that it was a mandatory requirement in the Invitation For Proposals. Therefore, any proposal which does not meet this requirement will absolutely not be considered.

**MISS CHAN YUEN-HAN** (in Cantonese): *Madam President, in today's Q&A session, the same Secretary, in answering a similar question, has reversed what had been said by his subordinates. I had also attended the meeting of the Panel on Planning, Lands and Works, and the relevant official told us straightforwardly that the canopy was dispensable, which shocked all of us who attended the meeting. We suspect that very often, the Government, on public occasions, such as when the Housing Department conducted consultation as pointed out earlier.....*

**PRESIDENT** (in Cantonese): Miss CHAN Yuen-han, this is not the time for debate. Please raise your supplementary directly.

**MISS CHAN YUEN-HAN** (in Cantonese): *Madam President, it is because I have many doubts about it. May I ask the Secretary whether his subordinates have adopted a clandestine approach in that they had already discussed with the developers the exclusion of the canopy and they therefore said in the relevant meeting of the Legislative Council that it was "dispensable"? What has actually happened?*

**SECRETARY FOR HOUSING, PLANNING AND LANDS** (in Cantonese): Madam President, I have taken note of such report and we have looked into the matter. It is, in fact, very simple. It was just a slip of tongue, and he said something that he was not supposed to say. Today, I wish to make a solemn statement here. In fact, we have principles to base on, and regarding all of our tenders, we have been speaking and acting along the same lines. The Chief Secretary for Administration has given replies to questions raised by Members on this issue for many times. I have also given a reply to an oral question and at several meetings of the relevant Panel. Here, I hope I will not give the wrong answer. Here, let me make a solemn statement again: This is a mandatory requirement, and any tender which does not meet this requirement will not be considered.

**MS EMILY LAU** (in Cantonese): *Madam President, since the question of the canopy is highly controversial, may I ask the Secretary whether he has received views from various sectors of society that it will be extremely unwise for Hong Kong to be so obstinate in insisting on the construction of a canopy? For example, it is likely that many problems would emerge in respect of funding and future maintenance. Has the Secretary ever received these views?*

**SECRETARY FOR HOUSING, PLANNING AND LANDS** (in Cantonese): Madam President, I seldom discuss this issue with other people, and no one has ever expressed to me the concern raised by Ms LAU just now. However, as I mentioned in my main reply, the Government had conducted an assessment of the design of the canopy and consulted the professional bodies, and we considered that technically speaking there were no particular problems in constructing the canopy. Moreover, interested potential proponents have not

indicated to the Government that constructing the canopy would give rise to great technical difficulties.

**MR HENRY WU** (in Cantonese): *The Secretary mentioned in part (a) of the main reply that the Government had conducted an assessment of the design of the canopy and consulted the professional bodies, and the Government considered that technically speaking there were no particular problems in constructing the canopy. But as far as such an immense project is concerned, when the Government presents us with the papers on the project, very often, we have to consider issues relating to future maintenance or recurrent expenditure apart from the construction cost. I would like to ask the Secretary this: Besides consulting the professional bodies on the time of construction as mentioned in the paper, have you also consulted these professional bodies on the maintenance, the lifespan and costs as mentioned by Ms Emily LAU? If so, what are their replies? If not, what is the reason for not conducting consultation?*

**SECRETARY FOR HOUSING, PLANNING AND LANDS** (in Cantonese): Madam President, as far as I understand it, the issues mentioned by Mr WU just now were also included when we consulted their views. With regard to the cost, different people have different estimate. As I said just now, we can assess such issues as the construction cost only after we have received the proponents' proposals. Nevertheless, the proponents would be requested to make the overall co-ordination and financial arrangement in line with the requirements in this respect and in other areas, so as to make it a self-financing project. We will go ahead with the project if the proposal can show to be self-financing and at the same time meet our requirements. The Chief Secretary for Administration has indicated on various occasions that we would rather give up the relevant proposal if it cannot meet the requirements.

**MR WONG SING-CHI** (in Cantonese): *Madam President, the Secretary has explained it very clearly, and I think I have not got it wrong this time. He said that the relevant proposal will be given up if the tender cannot meet the Government's requirements. However, the Government has not mentioned what it will do after giving up the proposal. May I ask the Secretary whether he has considered what to do afterwards? If not, why not? The Secretary has*

*said that the site has been left unoccupied for so many years and he did not wish to leave it unoccupied continuously. You would give it up if it cannot meet your requirements, but you have no concrete plan after giving up the proposal. In that case, will this site be left unoccupied continuously? Does the Government still consider that reasonable?*

**SECRETARY FOR HOUSING, PLANNING AND LANDS** (in Cantonese): Madam President, we already have a plan in mind, but we do not wish to speculate the outcome. At the initial stage, 11 consortiums have shown interest in the project, but we have to wait until next month before we will know the exact number of proposals received. Under the circumstance, we have to study actively the proposals received. In case there is evidence to prove that an unsatisfactory scenario has emerged, we will have to face the problem squarely. We will then decide how to deal with the problem depending on the circumstances.

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

### **Trusts Set up to Prevent Conflict of Interest**

5. **MS EMILY LAU** (in Cantonese): *Madam President, for the prevention of conflict of interests, the Chief Executive and some principal officials under the accountability system (POs) have set up "family trusts" to manage their assets. A major difference between this kind of trusts and "blind trusts" is that the settlor, beneficiaries and trustee of a "family trust" can have kinship relations, while the trustee of a "blind trust" has to be an independent person, who is not required to, and will not, report to the settlor and beneficiaries the details of the trust's investments and specific assets. In this connection, will the executive authorities inform this Council:*

- (a) *in terms of the effectiveness in preventing conflict of interests, how placing the assets of the Chief Executive and POs in a "family trust" compares with placing them in a "blind trust", as well as the rationale for the conclusions drawn therefrom;*

- (b) *of the measures to ensure that the setting up of "family trusts" can prevent the Chief Executive and POs from having conflict of interests in discharging official duties; and*
- (c) *whether they will reconsider requiring that the trusts set up by the Chief Executive and POs to prevent conflict of interests have to be "blind trusts"; if so, of the details of the relevant requirements; if not, the reasons for that?*

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Madam President, upon introducing the accountability system, we adopted the Code for Principal Officials under the Accountability System (the Code). The Code stipulates that POs are required:

- (i) to ensure that no actual or potential conflict arises between their public duties and their private interests [Clause 1.2(7) of the Code];
- (ii) to avoid putting themselves in a position where they might arouse any suspicion of dishonesty, unfairness or conflict of interest [Clause 5.1 of the Code]; and
- (iii) to refrain from handling cases with actual or potential conflict of interest [Clause 5.3 of the Code].

In addition, Chapter 5 of the Code stipulates detailed requirements on prevention of conflict of interest on the part of POs. Clause 5.7 of the Code provides that the Chief Executive may as necessary require POs to take appropriate measures to avoid any conflict of interest.

Under the present declaration of interests system, POs are required to file annual declarations on their investments and interests as specified. Such declarations are made available for public inspection upon request. This enables the public to have information on the investments and interests held by POs. Similar declarations are also made by the Chief Executive.

Furthermore, Clause 5.4 of the Code stipulates that POs shall report to the Chief Executive any private interests that might influence, or appear to influence, their judgement in the performance of their duties.

The questions put by the Honourable Emily LAU are mainly concerned about the management of assets through trust to avoid conflict of interest. My response is as follows:

Regarding parts (a) and (b) of the main question, generally speaking, a trust is a legal relationship created when a person (the "settlor") places assets under the name and control of another person (the "trustee") for the benefit of the beneficiaries (who may include the settlor and the trustee). The trustee is responsible for managing or disposing of the assets in the trust in accordance with the terms of the Trust Deed. The trustee can be a person or a company.

"Family trusts" generally refer to trusts which are set up for the benefit of the settlor's spouse, children and other family members. The settlor could be one of the beneficiaries. In Hong Kong legislation, there are no specific provisions on what constitutes a "family trust".

As regards "blind trusts", there are no specific provisions on what constitutes a "blind trust" in Hong Kong legislation. Nor are there any provisions relating to the setting up, operation or management of a "blind trust". "Blind trusts" generally refer to trusts where the settlor leaves all matters concerning the investment, management and disposal of the trust assets entirely in the hands of the trustee, and the trustee must act in accordance with the terms of the Trust Deed. It is an essential term of the Trust Deed of a "blind trust" that at no time and in no manner shall the trustee seek or accept, directly or indirectly, any advice, direction or instruction from the settlor in connection with the trust assets or the management, disposition or investment thereof.

If the settlor of a "family trust" leaves all matters concerning the investment, management and disposal of the trust assets entirely in the hands of the trustee, and the settlor must not be involved, directly or indirectly, in the investment, management and disposal of the trust assets, the effectiveness of a "family trust", in terms of avoidance of conflict of interest, is no different from that of a "blind trust".

The Chief Executive and the POs concerned put their assets in a trust in order to avoid conflict of interest. For this purpose, the crucial point is whether or not the trustee is able to act independently in connection with the management of the trust assets. So long as the Chief Executive and the POs concerned are not in any way involved in the management of the trust, and they have declared



their assets in accordance with the present declaration of interests system, conflict of interest will be avoided.

The investments and interests of the Chief Executive and POs are made available for public inspection. They are subject to the scrutiny of the public, the media and the Legislative Council.

As regards part (c) of the main question, different measures can be taken to avoid conflict of interest on the part of the Chief Executive and POs. The setting up of "blind trusts" to manage their assets is only one way of doing so. We consider that as long as conflict of interest can be effectively avoided, it is not necessary to require the Chief Executive and POs to set up "blind trusts" to manage their assets.

Hong Kong is a highly transparent society. As I have said just now, the investments and interests declared by the Chief Executive and POs are made available for public inspection, and are subject to the scrutiny of the media, the public and the Legislative Council. Thus far, conflict of interest has not arisen from the trust arrangements made by the Chief Executive and the POs concerned. We do not consider it necessary to change the present arrangements.

**MS EMILY LAU** (in Cantonese): *Madam President, the reply of the Secretary mentioned that there were no specific provisions in Hong Kong legislation which defined what family trusts or blind trusts were. His reply used the word "if" — he could use "if" in his reply, but we cannot use "if" in raising our questions — Madam President, the Secretary said that if those relevant persons involved in a family trust have no part to play in the process, then in fact it could achieve the same effect as a blind trust. Then, the Secretary also pointed out that everything would be fine so long as the Chief Executive and other POs were not involved in the management. Yet, in my main question, I was asking what was the present situation? In reality, do the Chief Executive and the POs have any part to play? We can see that family trusts are set up in some cases. We do not know what kind of trusts has been set up by the Secretary, or whether they are handed over to banks for management. We want to know whether they have been involved and how this is regulated. If this is not stipulated in the legislation and no such provisions are found, on what basis can we exercise monitoring over them? Should we write this down clearly in the legislation for the Chief Executive, the Directors of Bureaux and the Secretaries of Departments to follow?*

**PRESIDENT** (in Cantonese): Ms Emily LAU, the Rules of Procedure provide that Honourable Members cannot raise hypothetical questions. Therefore, it is not me who do not allow you to raise such questions, just that I have to enforce the requirements laid down in the Rules of Procedure.

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Madam President, the word "if" in my earlier reply was not hypothetical. I could not make assumptions insofar as legislation is concerned. I said that the legislation on family trusts and blind trusts were based on the common law, not the laws of Hong Kong or the written law. But they do have their legal basis. For certain family trusts, the settlors are absolutely not allowed to play any part in investment decisions. In such cases, they are equivalent to blind trusts. I just wanted to say that. When we are implementing the accountability system for principal officials and when the forms and information on the declaration of interests are made available to the public, the most important policy objective is to enable the public to monitor whether there is any conflict of interests between the work of the team of POs and their respective personal interests. This system is formulated as an extension to the declaration of interests system for senior officials before July 2002. Over the years, this system had been subject to the scrutiny of the Legislative Council, the mass media and the public and has worked well, and during the past two years, we have continued to implement this arrangement according to this tradition.

**MS EMILY LAU** (in Cantonese): *The Secretary has not answered my supplementary question. He said that everything would be fine so long as the Chief Executive and the POs were not involved in the management of the assets in their trusts and so, I asked him whether they were not involved. But he did not give me an answer. Some people have entrusted their fathers with the management of the trusts. Can this be considered as no involvement from them?*

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Madam President, let me further explain this. The Chief Executive, Secretary Henry TANG and Secretary Frederick MA are not involved in the investment decisions of their own assets. They have entrusted their businesses to either trust companies or their family members. They are not involved in the investment decisions.

**MR NG LEUNG-SING** (in Cantonese): *Madam President, in the third paragraph of the main reply, the Secretary mentioned that the Chief Executive would make similar declarations of interests; investments and interests owned by the Chief Executive and POs could be made public and be available for inspection. I would like to ask, does this include global investments and interests? Would it be like the case of the Honourable Emily LAU, that assets deposited in the Swiss Bank would also be required to be made public under such circumstances?*

**MS EMILY LAU** (in Cantonese): *I would like to clarify because what he mentioned was wrong information. How should this be handled? Raising a question on a wrong basis, can this be allowed?*

**PRESIDENT** (in Cantonese): Do not be excited. Let us take it easy and slowly. You should have a chance to clarify because he mentioned some of your assets in Switzerland. Perhaps you can say something about that.

**MS EMILY LAU** (in Cantonese): *I do not have any money in the Swiss Bank.*

**PRESIDENT** (in Cantonese): Secretary for Constitutional Affairs.

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Well .....

**PRESIDENT** (in Cantonese): Secretary for Constitutional Affairs, please sit down first. Mr James TO.

**MR JAMES TO** (in Cantonese): *Mr NG Leung-sing's question is related to the last part of what he quoted just now, that is, did Ms Emily LAU have a trust or any asset in Switzerland. Is this question still a supplementary question? Or, should you, Madam President, ask Mr NG Leung-sing to amend certain parts of his question and raise it again?*

**PRESIDENT** (in Cantonese): I think Mr NG Leung-sing's supplementary question is about whether the foreign investments and interests of the Chief Executive and POs should be declared. As regards his sudden insertion of an example for illustration, I can see no effect on the original supplementary question. Mr NG Leung-sing, do you also want to clarify?

**MR NG LEUNG-SING** (in Cantonese): *I hope colleagues in this Council can understand my question more clearly. Now let me repeat it. Because the declaration of interests mentioned by the Chief Executive here means the investments and interests owned, and I have wanted to ask whether this included global interests and investments. I quoted the mass media report that Ms Emily LAU had assets in a bank in Switzerland. It is because of this that I incidentally quoted this information in this Council so as to let the Secretary know what is meant by global interests. Is it necessary to state them here? Is it necessary to make a declaration?*

**MR JAMES TO** (in Cantonese): *Point of order.*

**PRESIDENT** (in Cantonese): Please wait. Members should raise their questions one by one. Ms Emily LAU, please raise your question first.

**MS EMILY LAU** (in Cantonese): *I have clarified it already, but he still said the same thing. What does this mean?*

**PRESIDENT** (in Cantonese): Ms Emily LAU.

**MS EMILY LAU** (in Cantonese): *Does the Rules of Procedure allow this?*

**PRESIDENT** (in Cantonese): Have you finished? If so, please sit down so that I can answer you.

Mr NG Leung-sing mentioned what the newspapers reported. He was not saying that Ms Emily LAU definitely has interests somewhere. So, my ruling is: Many Members had quoted newspaper reports when raising supplementary questions, and officials are not required to confirm or comment on such reports. They do not have to prove whether the reports are true or false. Since I cannot stop other Members from quoting newspaper reports, I cannot deter Mr NG Leung-sing from quoting what appeared on the newspapers either. Moreover, you have already clarified. According to what you said, the report was false, and the issue is resolved.

**MS EMILY LAU** (in Cantonese): *But he did make such comments.*

**PRESIDENT** (in Cantonese): Newspaper reports. Did you get that clearly? Ms LAU, he has said that those were newspaper reports. The newspapers had reported on this, and he was only repeating those reports. How can you say that he is criticizing you?

**MS EMILY LAU** (in Cantonese): *This is ridiculous!*

**PRESIDENT** (in Cantonese): Mr James TO.

**MR JAMES TO** (in Cantonese): *In the past, we have included some issues reported on the newspapers into our questions, but the Legislative Council Secretariat, under your direction, advised that some basic proofs must be provided. If it is a quote, maybe Mr NG Leung-sing could immediately find out the newspaper report. Then, I would call it fair, and then your ruling just now was fair. If not, it may turn out that what has been quoted may not have existed, and this would be unfair to colleagues or the government official who has to reply.*

**PRESIDENT** (in Cantonese): Yes. As you have just said, if what was reported in the newspapers has been included in a question handed in by a Member, staff

of the Secretariat would have asked him to provide proof. But during the period when supplementary questions are raised — I do not know if you heard just now that I was saying supplementary questions — when raising supplementary questions, many Members in this Council would on such occasion quote that the newspapers have reported this and that. Sometimes, those reports are not even accurate. Does it mean that whenever you come across such cases, I should just stop you from mentioning? Then, our Question time would become longer and longer. Therefore, when supplementary questions are raised and Members mention newspaper reports, I never ask you to present the reports concerned for me to have a look, because time does not allow that. Hence, this is fair.

With regard to this question, I would also have to start the timing again to show that I am just. Now let us start again. I would not spend further time on this point. I have made my ruling. If you are not satisfied, you can .....

**MS EMILY LAU** (in Cantonese): *As clarification has already been made, can he withdraw what he said?*

**PRESIDENT** (in Cantonese): Are you willing to withdraw? I am not compelling him to, nor am I asking him to, I am only giving him a choice. Mr NG Leung-sing.

**MR NG LEUNG-SING** (in Cantonese): *I believe the Hong Kong public, or the majority of the people, have heard what has been reported in the newspapers, but if you ask me to provide this report immediately during the Question time, I believe I can do so later. I will abide by the President's ruling and I respect that.*

**PRESIDENT** (in Cantonese): I rule that Question time should continue. I do not reckon I should compel any Member to withdraw the remarks, because I do not think Mr NG Leung-sing intended to defame any Member. He was merely behaving just like what you have been doing very often, mentioning certain reports in the press. So, since I have allowed other people to do so, I cannot ask Mr NG Leung-sing to withdraw that part of his supplementary question.

Now I would ask the Clerk to the Council to start logging the time from the start of this question. I guess it was about 11 minutes ago, but this may not be an exact time. Can we go back 11 minutes? We cannot go back. Alright, I understand this. I will control the time myself.

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Madam President, let me answer Mr NG Leung-sing's supplementary question. The declaration of interests made by the Chief Executive is basically the same as those made by other Members of the Executive Council. The information we require our colleagues to declare include landed properties, real estate properties, proprietorships or partnerships of companies or directorship, and share capital exceeding 1% issued by any listed or unlisted companies. Any gifts, benefits, money, sponsorship or any material gains received by POs and their spouses, and by POs in their official capacity from any organizations, individuals, governments other than the Hong Kong Government, have to be declared as well. Apart from these items, they must also declare whether they have any political affiliation. Information on the interest declaration made by the Chief Executive is available at the Secretariat of the Executive Council. He has already made a full declaration in all these aspects.

**MR NG LEUNG-SING** (in Cantonese): *Madam President, he did not reply whether global interests were included.*

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Madam President, if Mr NG Leung-sing takes a look at the Chief Executive's declaration of interests, he will know that it has included overseas real estate property owned by his spouse. We will ensure that full declaration is made in this regard in strict accordance with the tradition and rules which have been established over the years.

**MR JAMES TO** (in Cantonese): *Madam President, the Secretary just answered that, as a matter of fact, the Chief Executive had not been involved in some investment decisions of his family trust. However, in the ninth paragraph of the main reply, it was said that if the settlor of a family trust leaves the trust assets in*

*the hands of the trustee, and the settlor must not be involved directly or indirectly in the management, then the effectiveness of a family trust, in terms of avoidance of conflict of interest, was no different from that of a blind trust. I would like to ask whether it is in fact expressly written in the family trust of the Chief Executive, as said in the eighth paragraph of the main reply, that the settlor must not be involved in any manner, directly or indirectly, or to give instructions?*

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Madam President, as far as I understand, the shares of the Chief Executive in Orient Overseas Container Line (OOCL) are now managed by the trust of the TUNG family. And the Chief Executive does not have any voting right in the shareholders' meetings of the Company insofar as his shares are concerned.

**MR JAMES TO** (in Cantonese): *The Secretary has not answered my supplementary question. My question was, as a matter of fact, were there terms in the trust which stipulated that he must not be involved, but not whether he had actually been involved. If he can be involved, but he just opts not to be involved, then this is another thing.*

**PRESIDENT** (in Cantonese): Secretary for Constitutional Affairs, do you have information in this regard at hand?

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Madam President, it has been declared that some 80 million shares of OOCL have already been put under the custody and management of the TUNG Family Trust, and the Chief Executive is not involved in it. As for the detailed arrangements made by his family, I do not have the relevant information. However, according to what has been disclosed for public inspection and monitoring, the Chief Executive has already handed over his shares in OOCL to the Trust for management, and he does not have the voting right. I believe this already provides sufficient information for the public to understand the situation and exercise monitoring.



**MR JAMES TO** (in Cantonese): *I wonder if the Government can provide us with a written reply? Because actually the question is still not answered.*

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

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Madam President, I think I have already answered the question as far as possible according to the information that has been made public. However, if it is Mr James TO's intention to seek further information in raising this supplementary question, the only thing I can do is to refer this supplementary question to my colleagues in the Chief Executive's Office and see whether they can provide any further information. I believe the information which has been declared openly is already sufficient for monitoring by the public.

**MR HOWARD YOUNG** (in Cantonese): *Madam President, among countries which require accountability officials to make declaration of interests, the United States, I guess, should be the most experienced because an accountability system has always been practised in that country. Once a person is elected to the office of the President of the United States, he will become an official.*

*According to what the Secretary had just said, it seems that there are several methods, including blind trusts, family trusts, and so on. And it seems that there are some other ways which may not have any legal basis. I would like to ask the Secretary whether he has made reference to the practices adopted by countries which have all along practised this system? In such countries, whether these methods are all acceptable, and whether all these countries are of the opinion that these trusts have already provided the public with the best protection?*

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Madam President, when we designed the accountability system for principal officials, we of course had made reference to the practices under different systems. However, different practices are adopted by different places in handling the declaration of interests of their senior officials. For example, I know that in the United States, ministerial officials are required to set up blind trusts. But in

Hong Kong, we have opted to base the decisions on the needs as dictated by the circumstances. We shall decide which type of trusts is most suitable and effective in accordance with the judgement of the Chief Executive on the responsibilities and job portfolios of the POs, and then corresponding arrangements will follow. As in the cases of Secretary Frederick MA and Financial Secretary Henry TANG that we have mentioned earlier, we have already made arrangements which should be the most appropriate and effective. We think that such arrangements have worked well.

**MR ANDREW WONG** (in Cantonese): *Madam President, the crux of the problem lies in the assets to be declared under the present system. Let us take the case of Mr TUNG as an example: Mr TUNG has left his assets, that is his shares in the OOCL, entirely in the hands of the TUNG Family Trust. If he has a large number of shares and if it is said that he is not involved in the management of the Trust, does it mean that he is not involved in the management of the business of the OOCL owned by the Trust, or does it mean that he is not involved in the decision of the Trust to use these assets owned by him to acquire other assets, such as selling part of the shares or shareholding for acquiring other assets? Very often, it is impossible for others to see clearly that he is not involved. Under such circumstances, is it necessary for a blind trust to be established, so that he will not have the chance to be involved even in the disposal of his assets? Otherwise, any change in any business of the OOCL should fall within the scope of the declaration system .....*

**PRESIDENT** (in Cantonese): Mr Andrew WONG, I know you must be very knowledgeable in this aspect, but this is not the time for a debate. Can you just raise your supplementary question .....

**MR ANDREW WONG** (in Cantonese): *Madam President, here comes the question now. (Laughter) Is it that the assets owned by officials to be declared under the present declaration system do not just refer to the shares, but all the businesses that can be affected by the shareholding and so, any change that takes place should also be included in the declaration?*

**PRESIDENT** (in Cantonese): Should such information be declared as well?  
Secretary for Constitutional Affairs.

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Madam President, the most straightforward explanation and answer are, first of all, insofar as his shares are concerned, the Chief Executive does not have any voting right; secondly, he is not involved in the management of the TUNG Family Trust; and thirdly, he is not involved in the management of the business of the OOCL.

**PRESIDENT** (in Cantonese): It is difficult to say how many minutes have been spent on this question (*laughter*) because the earlier discussion on the Rules of Procedures has taken up quite a long time. Anyway, this is the last supplementary question.

**MR ALBERT HO** (in Cantonese): *Madam President, in fact, the purpose of the entire trust system is to ensure that people in power, or the settlors, cannot be involved in the decision-making process. This is the most important point. In overseas countries, many trustees have to be independent professionals, instead of family members, because family members have to avoid possible conflicts of interests as well. Now, as we allow the setting up of family trusts, we are actually creating rather than avoiding possible conflicts of interests. How can you tell us that the setting up of family trusts can avoid possible conflicts of interests, but not creating them? This is because, as family members, they have to avoid possible conflicts of interests as well.*

*My supplementary question is, since family members have to avoid possible conflicts of interests themselves, but now we ask them to act as trustees.....*

**PRESIDENT** (in Cantonese): I see, Mr Albert HO. But what you have said seems to be your opinions, not a supplementary question. Can you try to raise your supplementary question?

**MR ALBERT HO** (in Cantonese): *Does the Secretary agree that family trusts completely go against the principle of avoiding possible conflicts of interests and that it absolutely cannot achieve any purpose and is actually creating possible conflicts of interest? Is the Secretary willing to make amendments to rule out the setting up of family trust, and learn from overseas countries by adopting blind trusts, so that everything can be managed by the professionals?*

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Madam President, in fact, the trust system is premised on some very important principles in the common law which has worked well. We make use of the trustees and the trust system to handle the relevant assets of our POs and other colleagues. These arrangements are made in the hope that the assets, the properties and investments owned by our colleagues could be open for public monitoring, so as to ensure that they would not be subject to any conflicts of interests in discharging their duties. We have confidence in this system because firstly, this system has been implemented for years, and secondly, the system has its foundation built upon the fact that Hong Kong is an open society where the rule of law prevails. The extent of openness and open examination in society of Hong Kong is well known to all. I believe that in this society, nothing can be covered up as a permanent secret. Should there be any wrongdoings, they will be brought to light sooner or later. And we in the SAR Government will strictly enforce our well-established systems.

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

### **Sale of Duty-not-paid Cigarettes**

6. **MR MICHAEL MAK** (in Cantonese): *Madam President, I have recently received many complaints about the rampant selling of duty-not-paid cigarettes (commonly known as "illicit cigarettes") overtly on busy streets by lawless elements. In this connection, will the Government inform this Council:*

- (a) *of the respective numbers of persons arrested, prosecuted and convicted for buying or selling illicit cigarettes, with a breakdown of the persons convicted by the penalty imposed on them, the number of non-Hong Kong residents convicted for selling illicit cigarettes,*

*broken down by the types of travel documents they held, and the quantity of illicit cigarettes seized at retail level, in each of the past five years;*

- (b) of the current black spots where illicit cigarettes are sold; and*
- (c) whether it has reviewed the reasons for the relevant departments' failure to curb illicit-cigarette trading activities so far, and whether it has formulated measures to step up efforts in combating such activities, such as enhancing the exchange of intelligence with law enforcement agencies on the Mainland?*

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

- (a) The Customs and Excise Department (C&ED) started to use computers in 2002 to record information on persons arrested, prosecuted and convicted for buying or selling duty-not-paid cigarettes. Therefore, we can only provide figures dating from 2002. In 2002 and 2003, the numbers of persons arrested for buying or selling duty-not-paid cigarettes were 1 646 and 2 610 respectively, while the numbers of persons prosecuted were 1 598 and 2 563 and the numbers of persons convicted were 1 465 and 2 478. The relevant details are given in Annex 1 attached to this reply, which has been distributed to Members. Since we have already provided a lot of information to Members, will Members please refer to the information on your desks.

Most of the persons convicted were fined and imprisoned. A breakdown of the penalties imposed is given in Annex 2.

Non-Hong Kong residents accounted for 45% and 72% of the persons convicted for selling duty-not-paid cigarettes in 2002 and 2003 respectively. The majority of these persons were mainlanders and as indicated by the figures for the first three months of 2004, most of these mainlanders held a two-way permit with "endorsement for visiting relatives". The relevant details are given in Annex 3 and Annex 4.

The quantity of duty-not-paid cigarettes seized by the C&ED at retail level ranged from 9.53 million sticks to 41.61 million sticks in each of the past five years (1999 to 2003). The figures are given in Annex 5.

- (b) At present, there are 23 black spots in Hong Kong where duty-not-paid cigarettes are sold, with four on Hong Kong Island, 13 in Kowloon and six in the New Territories. The districts in which there are black spots are shown in Annex 6.
- (c) The Government is deeply concerned about the trading and smuggling of duty-not-paid cigarettes, and regularly reviews the effectiveness of the efforts in combating such activities.

In February 2003, the C&ED set up a Revenue and General Investigation Bureau through internal restructuring, pooling the resources in the Department for cracking down on various kinds of illicit cigarette (including duty-not-paid cigarette) activities. A set of comprehensive and consistent operational strategies have since been developed to enhance the Department's operational capability in combating such activities.

The Revenue and General Investigation Bureau under the C&ED works closely with the police. They carry out joint operations against various kinds of illicit cigarette activities from time to time. In 2003 alone, 12 such joint operations were conducted.

As regards strategies, the C&ED has formulated and introduced specific measures against the selling of duty-not-paid cigarettes. The Department now conducts intensive focal raids on black spots where duty-not-paid cigarettes are sold, and takes intelligence-based action to curb the supply of duty-not-paid cigarettes at source.

The C&ED's enforcement actions have forced most of the people engaging in selling duty-not-paid cigarettes to operate in a more hidden manner, such as adopting a more mobile mode of operation and carrying a smaller amount of duty-not-paid cigarettes for sale so

as to reduce loss in case they are arrested by C&ED officers. At present, hawkers selling duty-not-paid cigarettes no longer station at fixed spots but are scattered at different places. This reflects that the enforcement actions have been fairly effective.

The C&ED maintains close co-operation with its mainland counterparts to keep a close watch on the cigarette smuggling syndicates, and focus on crackdowns at source on smuggling of cigarettes into Hong Kong from the Mainland. Apart from enhancing the exchange of intelligence, the two sides jointly conduct regular investigations into such smuggling activities so as to raise the effectiveness of enforcement actions. The two sides also hold regular bilateral meetings, such as the Annual Review Meetings between the Guangdong Sub-Administration of the People's Republic of China Customs General Administration and the Hong Kong C&ED, and the Guangdong and Hong Kong Liaison Officers' Meetings to discuss strategies and actions to combat cross-boundary smuggling activities.

In order to strengthen cross-boundary co-operation, the C&ED is going to host the first Asia-Pacific Anti-illicit Cigarette Contact Point Meeting in mid-June, so as to map out, in collaboration with its counterparts in the Asia-Pacific Region, strategies for combating trans-national cigarette smuggling activities.

Apart from taking law enforcement action against persons who buy or sell duty-not-paid cigarettes, the C&ED reminds members of the public through press releases and briefings that buying duty-not-paid cigarettes is a criminal offence, and appeals to them not to buy such cigarettes.

Our figures show that the numbers of persons arrested, prosecuted and convicted for buying or selling duty-not-paid cigarettes in 2003 were higher than those in 2002 by 59%, 60% and 69% respectively. We also notice that a larger proportion of persons convicted in 2003 were given heavier penalties such as imprisonment. In 2003, 14.43 million sticks of duty-not-paid cigarettes, with duty potential of \$11.6 million were seized by the C&ED at retail level alone. If the number of illicit cigarettes seized by the C&ED in clampdowns

of smuggling and distribution activities is included, the seizure in 2003 alone will total 152 million sticks with duty potential of \$122 million.

## Annex 1

Number of persons arrested, prosecuted,  
and convicted for buying/selling duty-not-paid cigarettes

<i>Year</i>	<i>Number of Persons Arrested</i>			<i>Number of Persons Prosecuted</i>			<i>Number of Persons Convicted</i>		
	<i>For Selling</i>	<i>For Buying</i>	<i>Total</i>	<i>For Selling</i>	<i>For Buying</i>	<i>Total</i>	<i>For Selling</i>	<i>For Buying</i>	<i>Total</i>
2002	1 444	202	1 646	1 406	192	1 598	1 284	181	1 465
2003	2 486	124	2 610 (+59%)	2 448	115	2 563 (+60%)	2 371	107	2 478 (+69%)
2004 (January to March)	428	78	506	424	78	502	418	77	495

Note: Figures in brackets represent the increase in 2003 over 2002.

## Annex 2

Breakdown of penalties imposed on persons  
convicted for buying/selling duty-not-paid cigarettes

<i>Year</i>	<i>Imposition of fine</i>	<i>Imprisonment</i>	<i>Imposition of fine and imprisonment</i>	<i>Community service order</i>	<i>Community service order and fine</i>	<i>Bound over</i>	<i>Others</i>	<i>Total</i>
2002	629 (43%)	619 (42%)	19 (1%)	31 (2%)	3 (0.2%)	6 (0.4%)	158 (11%)	1 465 (100%)
2003	547 (22%)	1 529 (62%)	41 (2%)	14 (0.6%)	3 (0.1%)	4 (0.2%)	340 (14%)	2 478 (100%)
2004 (January to March)	131 (26%)	341 (69%)	4 (0.8%)	1 (0.2%)	0 (0%)	0 (0%)	18 (4%)	495 (100%)



## Annex 3

Number of Hong Kong residents and non-Hong Kong residents  
convicted for selling duty-not-paid cigarettes

	2002	2003	2004 (January to March)
(1) Number of local residents holding Hong Kong Identity Cards	710	665	73
(2) Number of non-Hong Kong residents	574	1 706	345
- Mainlanders	466 (81%)	1 662 (97%)	338 (98%)
- Non-mainlanders	108 (19%)	44 (3%)	7 (2%)
(3) Total	1 284	2 371	418

## Annex 4

Number of Hong Kong residents and non-Hong Kong residents  
convicted for selling duty-not-paid cigarettes between January and March 2004

	2004 (January to March)
(1) Number of local residents holding Hong Kong Identity Cards	73
(2) Number of non-Hong Kong residents	345
(i) Holding mainland two-way permit	338 (98%)
- Endorsement for visiting relative	286
- Endorsement for business visit	33
- Endorsement for individual visit	6
- Endorsement for sightseeing	5
- No specific endorsement	8
(ii) Holding non-mainland travel documents for visit to Hong Kong	7 (2%)
(3) Total	418

## Annex 5

Quantity of duty-not-paid cigarettes seized  
by the Customs and Excise Department at retail level

	1999	2000	2001	2002	2003	2004 (January to March)
Quantity of illicit cigarettes seized (in million sticks)	30.24	41.61	14.77	9.53	14.43	3.34

Locations of black spots where duty-not-paid cigarettes are sold

- Hong Kong Island: Causeway Bay (1), Chai Wan (1), Shau Kei Wan (1) and Wan Chai (1).
- Kowloon: Cheung Sha Wan (1), Sham Shui Po (2), Tai Kok Tsui (1), Mong Kok (3), Yau Ma Tei (2), Ngan Tau Kok (1), Kwun Tong (2) and Yau Tong (1).
- New Territories: Tuen Mun (1), Yuen Long (1), Tai Po (1), Sha Tin (1) and Tsuen Wan (1).

**MR MICHAEL MAK** (in Cantonese): *Madam President, the Secretary has given a detailed reply; however, we still do not understand the reason why the peddling of duty-not-paid cigarettes cannot be stamped out. A possible reason is that the number of smokers has over the past few years remained at the same level, and there has even been an upward trend. May I ask the Secretary whether efforts will be stepped up to tackle the problem at root? I do not know whether the problem is attributable to the introduction of the Individual Visit Scheme last year which has led to a substantial increase in the number of non-Hong Kong residents engaging in the peddling of duty-not-paid cigarettes, or is it attributable to the inadequacy or even failure of our anti-smoking measures. May I ask the Secretary what measures should be implemented to tackle the problem at root?*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): Madam President, I thank Mr MAK for his question. In 2002 and 2003, the numbers of two-way permit holders prosecuted for offences related to duty-not-paid cigarettes were 356 and 1 505 respectively. In 2003, two of them were visiting Hong Kong under the Individual Visit Scheme. As we all know, the Individual Visit Scheme has been launched not long ago and in 2003, two peddlers of duty-not-paid cigarettes were visitors under the Individual Visit Scheme. This shows that the number of people who came to Hong Kong under the Individual Visit Scheme and committed offences related to duty-not-paid cigarettes accounts for a very small percentage. Travellers under the Individual Visit Scheme who are convicted for selling duty-not-paid cigarette offences on the street in Hong Kong will not be granted two-way permit to Hong Kong, including the permit under the Individual Visit Scheme, for a period of two years after they have served their penalty terms in Hong Kong and returned to the

Mainland. In other words, we hope that this will deter visitors under the Individual Visit Scheme from committing these offences during their stay in Hong Kong.

**MRS SELINA CHOW** (in Cantonese): *Madam President, as far as we know, the selling of duty-not-paid cigarettes is not subject to regulation, and besides these duty-not-paid cigarettes are often made from substandard ingredients which are hazardous to health. While smoking is already hazardous to health, the ingredients contained in duty-not-paid cigarettes may do even greater damage to health. The proliferation of duty-not-paid cigarettes will result in losses of public money, and certainly, the trade will also suffer losses. In view of this, will the Secretary consider capitalizing on the strength or resources of the trade to assist the Government in publicizing the hazardous effects of duty-not-paid cigarettes to human health, so that the Government can save public money and does not need to undertake work in this respect, and it can ask the trade to allocate some resources to help the Government protect the public coffers?*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): Madam President, the Government has channelled enormous resources for combating duty-not-paid cigarettes. We certainly welcome assistance from all sides in this respect. However, we have to be cautious if we are going to make use of the resources of the trade, for the trade, in offering assistance to us in this respect, may have their ultimate objectives. Therefore, we have to exercise caution in doing so. However, I can assure Mrs Selina CHOW that the Government has injected huge resources into this area of work and that we attach great importance to combating activities related to duty-not-paid cigarettes.

**MR CHAN KWOK-KEUNG** (in Cantonese): *Madam President, may I ask the Secretary whether most of the Hong Kong people involved in the peddling of duty-not-paid cigarettes are drug addicts, and whether persons engaging in the peddling of such cigarettes are controlled by drug trafficking syndicates?*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): Madam President, Mr CHAN asked whether persons involved in the

peddling of duty-not-paid cigarettes are drug traffickers. We do not have information indicating that this is the case, and we are not aware of any involvement from drug trafficking syndicates.

**MR SIN CHUNG-KAI** (in Cantonese): *Madam President, part of my supplementary question is similar to that of Mrs Selina CHOW. May I ask the Secretary whether investigations have been conducted to find out the number of contraband cigarettes among the duty-not-paid cigarettes seized?*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): Madam President, colleagues of the C&ED have the relevant information. I would like to reply to Mr SIN's question in writing. (Appendix III)

**MR JASPER TSANG** (in Cantonese): *Madam President, according to Annex 6 provided by the Government, there are 23 black spots in the territory where duty-not-paid cigarettes are sold. Among these black spots, nine are located in West Kowloon, which represent 39.13% of the total number of black spots. That is to say, about 40% of the black spots are located in West Kowloon. It is mentioned in the main reply that intensive focal raids on black spots were conducted and that this had forced peddlers of duty-not-paid cigarettes to scatter at different places. Are these black spots for the peddling of duty-not-paid cigarettes still concentrated in West Kowloon despite repeated raids? If this is the case, have the Authorities implemented focused measures to combat such peddling activities in the district?*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): Madam President, concerning the problem of black spots, peddlers of duty-not-paid cigarettes are much more resourceful now. Very often, they solicit customers and talk them into buying illicit cigarettes using telephones, instead of hawking at a certain place. They have many ways to sell those cigarettes, such as taking telephone orders. I have seen some footage showing

that they will hide the cigarettes under drain covers. The ways used by them to commit these offences are wide ranging. However, colleagues of the C&ED have worked very hard to combat these activities. I think those so-called black spots can change anytime with great flexibility. But in order to reply to Mr Michael MAK's question, the C&ED has provided as much information as possible on the districts where activities related to duty-not-paid cigarettes are usually found. Nevertheless, I can tell Mr TSANG that these locations can change frequently, and as they operate by taking telephone orders, it is difficult for us to confirm that those calls were definitely made from West Kowloon or Hong Kong Island. So, their operation is highly flexible.

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

**MISS CHAN YUEN-HAN** (in Cantonese): *Madam President, part (c) of the main reply mentioned cross-boundary co-operation with the Mainland. Obviously, the reply provided by the Government is related to big syndicates. But as shown by the detailed breakdowns provided to us, among the number of Hong Kong residents and non-Hong Kong residents convicted for smuggling duty-not-paid cigarettes, in the years 2003 and 2004, mainlanders obviously accounted for a larger proportion. My question is: When the Government discusses with the Mainland this issue, that is, the peddling of duty-not-paid cigarettes by mainlanders coming to Hong Kong individually for business or visiting relatives, how do the liaison or communication networks between Hong Kong and the Mainland operate? Part (c) of the main reply refers to smuggling syndicates and these cases are much larger in scale, but I am now referring to those visitors coming to Hong Kong as tourists or for visiting relatives. How can we prevent these visitors from committing such offences?*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): Madam President, no doubt it is more difficult to catch those peddlers of duty-not-paid cigarettes who came to Hong Kong individually. However, colleagues of the C&ED are very competent; they rely on intelligence or undercover operations to identify locations where offenders conducted such

activities. Then they will target action on these places, in addition to actions targeting at syndicates. Although it is more difficult to arrest those persons who committed the offence in smaller groups, colleagues of the C&ED will handle these cases in the same manner. As far as I know, although these peddling activities may not necessarily involve big criminal syndicates, they are in one way or another organized. For example, in some cases, the peddlers obtained the cigarettes from premises upstairs and sold them on the streets, and they would gather at the same place at night to deliver the cigarettes and share the proceeds. In fact, there are many different methods. Colleagues of the C&ED have done their level best to combat these activities. They have worked very hard to combat the peddling of duty-not-paid cigarettes by syndicates, big or small, or by individuals not in an organized manner.

**MISS CHAN YUEN-HAN** (in Cantonese): *Madam President, I was asking about cross-boundary co-operation with the Mainland. In addition to the actions taken by us, is there any cross-boundary co-operation targeting at cigarette smugglers coming to Hong Kong individually? We can see that the relevant figures are not small, and some of them came to Hong Kong to visit their relatives or for business. Is there cross-boundary co-operation focusing on these smuggling offences committed by visitors coming to Hong Kong individually?*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): Madam President, most of the intelligence gathered by colleagues of the C&ED related to big syndicates. As for individual offenders, colleagues of the C&ED will liaise more closely with colleagues at boundary checkpoints to gather intelligence. For example, if a mainlander is found to have come to the territory frequently, carrying with him large baggage, I think they will pay more attention to that person. Actions against these illegal activities will be taken based on the intelligence collected. In other words, colleagues of the C&ED are aware that many mainlanders will come to Hong Kong to take part in these illegal activities, so they will be more vigilant. Moreover, as I have mentioned earlier, we have some deterrent measures in place. If they come to Hong Kong

and engage in such illegal activities, they will be punished and will not be allowed to come here again.

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

## **WRITTEN ANSWERS TO QUESTIONS**

### **Counterfeiting of Currency with Computers**

7. **MR AMBROSE LAU** (in Chinese): *Madam President, will the Government inform this Council:*

- (a) *of the number of detected criminal cases involving non-organized counterfeiting of currency with computer equipment in domestic premises over the past three years, broken down by age of suspects;*
- (b) *how the number of such criminal cases in the first four months of this year compares to that of the same period last year, and whether there is a trend of drastic increase; and*
- (c) *whether it has plans to enhance the education and publicity activities to advise young people not to commit such crimes; if so, of the details; if not, whether it will consider implementing the relevant plans?*

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

- (a) From 2001 to 2003, the police detected five cases of non-organized counterfeiting of currency using computer equipment in domestic premises. A total of 14 persons were arrested, among whom four were secondary school students. Other arrested persons were aged between 20 and 48.
- (b) In the first four months of both 2003 and 2004, no cases involving such criminal activities were found by the police.

- (c) The police have long been reminding the public not to commit illegal acts, including currency counterfeiting, through various channels. For instance, on 17 March 2004, a police representative attended a seminar on currency counterfeiting at the invitation of the University of Hong Kong, and promoted the message that youths should not commit such crimes. The police would continue their anti-crime education and publicity efforts as appropriate.

### **Process Review Panel of Securities and Futures Commission**

8. **MR HENRY WU** (in Chinese): *Madam President, the Process Review Panel (PRP) of the Securities and Futures Commission (SFC) was established in November 2000 with the aim of providing adequate checks and balances to ensure that the SFC exercises its regulatory powers in a fair and consistent manner. In this connection, will the Government inform this Council whether it knows the following about the PRP in each of the years since its establishment:*

- (a) *the number of meetings held;*
- (b) *the manner in which cases were reviewed, the number of such cases and their percentage among the total number of cases in the areas concerned;*
- (c) *the number and details of problematic cases requiring follow-up;*
- (d) *the impacts of the procedures of the problematic cases found by the PRP to be requiring improvements on the original ruling on those cases; and*
- (e) *whether reviews have been conducted on the operation of the PRP to achieve its aim of providing adequate checks and balances on the measures of the SFC; if so, of the results; if not, the reasons for that?*

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



- (a) The PRP is an independent panel established by the Chief Executive in November 2000 to review the internal operational procedures of the SFC and to determine whether the SFC has followed its internal procedures, including procedures for ensuring consistency and fairness. For better execution, the PRP has set up two working groups, namely, the Working Group on Licensing, Intermediaries Supervision and Investment Products and the Working Group on Corporate Finance and Enforcement. The number of meetings held by the PRP and its working groups from November 2000 to December 2003 are as follows:

<i>No. of meetings</i>	<i>November 2000 to December 2001</i>	<i>2002</i>	<i>2003</i>
Panel Meetings	7	4	4
Working Group Meetings	12	4	6
Total	19	8	10

- (b) In accordance with its terms of reference, the PRP may select any completed SFC cases for review. The SFC provides the PRP with monthly reports on all cases completed within that month. The working groups then select individual cases from these monthly reports for review. The working groups would ensure that cases of different nature and length of processing time would be covered. Apart from checking the file records against the standard procedures laid down in the operation manuals of the SFC, the working groups also assess the adequacy of the manuals from the perspectives of fairness and reasonableness.

For each case reviewed, a case report which summarizes the findings and observations together with, where applicable, the recommendations for improvements is prepared. These case reports are discussed at the meetings of the working groups where members may give additional comments. The consolidated views of the working groups are then presented at the PRP meetings for comments and endorsement. Subject to the endorsement of the PRP, the observations and recommendations are conveyed to the SFC for consideration and necessary action.

The PRP welcomes views from the public in identifying relevant matters for review. It listens to the securities industry for suggestions relating to the procedures and processes of the SFC.

The PRP reviewed 43 completed cases in 2001, 48 completed cases in 2002 and 51 completed cases in 2003. A table showing the percentage of cases reviewed by the PRP among the completed cases of the SFC from 2001 to 2003 is as follows:

	2001	2002	2003
No. of SFC completed cases <sup>Note</sup>	10 490	7 644	12 537
No. of SFC completed cases reviewed by the PRP	43	48	51
Percentage of cases reviewed by the PRP among the SFC completed cases	0.4%	0.6%	0.4%

Note Information provided by the SFC

- (c) In its 2001, 2002 and 2003 annual reports, the PRP made recommendations for improvement in connection with 57 cases. Details of the PRP's review and recommendations are set out in the annual reports of the PRP. As a standard practice, all PRP annual reports are published<sup>1</sup> and distributed to Members for reference. Members are invited to refer to these reports for details.
- (d) According to its terms of reference, the PRP reviews and advises the SFC on the adequacy of the SFC's internal procedures and operational guidelines governing the action taken and operational decisions made by the SFC and its staff in the performance of the SFC's regulatory functions. The PRP only focuses on process. The role of the PRP is not to judge the merits of a particular case, as there are existing avenues for this purpose. These include the Securities and Futures Appeals Tribunal which hears appeals against the SFC's decisions, scrutiny by The Ombudsman and the Independent Commission Against Corruption (ICAC), as well as judicial review of the SFC's decisions. As the PRP does not review merits, it will not vary the decisions of the SFC on a particular case.

<sup>1</sup> The PRP published on 13 May 2002 its first Annual Report covering the period from 1 November 2000 to December 2001. The second report covering the year of 2002 was published on 13 May 2003. The report covering the year of 2003 was published on 14 May 2004.

- (e) Since its inception, the SFC has been subject to various checks and balances designed to ensure fairness and observance of due process. These include statutory rights of appeal, judicial review and scrutiny by The Ombudsman and the ICAC. But these checks and balances are only applied in specific cases, and the SFC is constrained by statutory secrecy obligations in divulging information to the public. The purpose of establishing the PRP is to overcome this constraint and enhance the transparency and public accountability of the SFC. With the publication of PRP annual reports which set out its findings, observations and recommendations together with the SFC's response to the recommendations, we believe that the aim of establishing the PRP, that is, to enhance transparency and public accountability of the SFC, has been achieved.

### **Low-floor Buses**

9. **MR ALBERT CHAN** (in Chinese): *Madam President, I have recently received a number of complaints alleging that most of the bus trips to and from Tin Shui Wai are not serviced by wheelchair accessible buses with low-floor, and wheelchair users often have to wait for more than 30 minutes for such buses. In this connection, will the Government inform this Council:*

- (a) of the respective current numbers of low-floor buses in the franchised bus companies' fleets;*
- (b) of the total number of low-floor buses at present servicing Tin Shui Wai routes, their daily frequencies and such frequencies expressed as a percentage of the relevant total; and*
- (c) whether it has requested the franchised bus companies to bring in more low-floor buses; if it has, of the details of the request; if not, the reasons for that?*

**SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS** (in Chinese): Madam President, the numbers of wheelchair accessible low-floor buses in the franchised bus companies' fleets are set out below:

<i>Franchised Bus Company</i>	<i>No. of wheelchair accessible buses</i>	<i>Percentage of wheelchair accessible buses in the fleet</i>
Kowloon Motor Bus Company (1933) Limited	1 494	36%
Citybus Limited (Hong Kong Island and cross harbour routes) (CTB(F1))	61	8%*
Citybus Limited (Airport and North Lantau bus routes)	74	45%
New World First Bus Services Limited	565	79%
Long Win Bus Company Limited	136	94%
New Lantau Bus Company (1973) Limited (NLB)	12	16%

\* The majority of CTB(F1)'s buses were purchased before 1997 when low-floor wheelchair accessible bus was not available in the market.

The total number of wheelchair accessible low-floor buses serving Tin Shui Wai bus routes is 216, representing about 62% of the buses serving in the area. The number of trips operated by these low-floor buses is 2 321 per day which accounts for about 66% of the total number of daily trips of all bus services in the Tin Shui Wai area.

The deployment of wheelchair accessible buses on different bus routes is mainly based on the suggestions from the organizations representing people with disabilities. The Transport Department (TD) has regular meetings with these organizations and provides them with tables showing the deployment of wheelchair accessible buses on individual bus routes for dissemination to people with disabilities to facilitate their planning of journeys.

The TD has encouraged franchised bus companies to use wheelchair accessible buses to enhance the access of people with disabilities to bus services. In response to the TD's encouragement, all franchised bus companies except NLB agreed in 2001 that all the new buses to be purchased would be wheelchair accessible. As regards NLB, almost all of its services are on the Lantau Island and deployment of wheelchair accessible buses is not suitable for most of its routes due to constraints of the terrain. However, NLB has planned to purchase wheelchair accessible buses for deployment on routes where the terrain permits. In the next four years, franchised bus companies plan to purchase about 200 new wheelchair accessible buses each year.

**Assessment Methods for Chinese Language and English Language Subjects in HKCEE**

10. **DR RAYMOND HO** (in Chinese): *Madam President, it has been reported that the Hong Kong Examinations and Assessment Authority (HKEAA) is going to revamp the assessment methods for the Chinese Language and English Language subjects in the Hong Kong Certificate of Education Examination (HKCEE). The reforms include replacing the "norm-referencing" (commonly known as "drawing curves") approach with the "standards-referencing" approach, which can only reflect the changes in individual candidates' own level of academic performance in the subject concerned but not their performance in comparison with other candidates; adding an oral test and a listening test to the Chinese Language examination while abolishing the test in prescribed text; as well as increasing the weighting of candidates' school-based assessment (SBA) in their HKCEE grades of the relevant subjects. In this connection, will the Government inform this Council:*

- (a) of the countries that have adopted the "standards-referencing" approach and how the candidates assessed in that way can find out the academic standard they have attained compared to other candidates;*
- (b) of the measures in place to ensure students' knowledge of modern and traditional classics following the abolition of the test in prescribed text; and*
- (c) given the differences between the standards of students' performance in different schools, how the HKEAA will ensure that, in implementing the above measure of increasing the weighting of candidates' SBA, such assessment results can reflect the academic performance of school candidates, and whether this measure will also be applicable to private candidates; if so, of the details of such application?*

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

- (a) A number of jurisdictions have adopted a standards-referenced approach to assessment of the kind proposed for Hong Kong. Some examples of standards-based approaches include the Higher School Certificate Examination for grade 12 students as used since 2001 in New South Wales, Australia; the International Baccalaureate Programme; the National Assessment of Educational Progress (NAEP) in the United States, and the OECD's Programme for International Student Assessment (PISA).

Under the approach being considered for Hong Kong, there will be no less information than is currently made available on how well a student has performed relative to other students. The current approach to scoring student responses to examination questions and to assessing school-based work will continue. The key additional information that will be available under a standards-referenced approach is that when student grades/levels are reported, they will be accompanied by descriptions of what a particular grade/level implies about the performance of students awarded this grade/level. Such description will provide students and parents, teachers and schools, educational institutions and employers with more explicit information on what the students have learnt and can do.

- (b) The newly revised Secondary Chinese Language Curriculum has been implemented in Secondary One since 2002. The newly revised curriculum no longer specifies prescribed texts, giving much room to open learning materials. As a result, the part on examining prescribed texts in the Chinese Language examination will be abolished from the 2007 HKCEE onwards.

The newly revised curriculum has already specified the following:

- "to nurture students' aesthetic sense and mould their temperament" as one of its aims;
- "to nurture students' aesthetic sense, attitude and abilities" as learning target of "literature", one of the nine strands of learning; and

- "to recognize renowned literary authors and works" and "to comprehend simple pieces of classical Chinese" as requirements among the Suggested Learning Objectives.

To achieve the above, students have to learn from masterpieces of literary works, which are primarily traditional and modern classics. In other words, the students will acquire knowledge of the traditional and modern classics regardless of whether there are prescribed texts. Furthermore, allowing teachers the flexibility to select learning materials in line with the above would benefit the students more. What is important is how to ensure such flexibility is exercised in line with the said direction during implementation. We therefore have worked on the following:

- emphasizing that the learning materials shall be exemplar models and mainly literary works, such being the selection principles;
  - requesting textbook publishers to follow the above principles in selecting learning materials for textbooks, during textbook review.
  - providing schools with 600 reference learning passages, including quite a number of traditional and modern classics, and most of the prescribed texts in the previous curricula which are masterpieces.
  - working closely with the HKEAA, which is responsible for developing the public examination papers, to ensure the alignment between curriculum and assessment.
- (c) The HKEAA has taken special measures to maintain the consistency of awarding SBA scores on the same standard across schools, namely the issue of SBA guidelines to schools, and the adoption of different moderation modes to adjust SBA scores across schools (for example, statistical moderation, inspection of samples and school visits); and has accumulated experience in including SBA in some existing HKCEE and Hong Kong Advanced Level Examination (HKALE) subjects, which have different weighting for the SBA component.

The HKEAA is considering making special arrangement for private candidates in the Chinese Language and English Language examinations of the 2007 HKCEE, as they will have no SBA scores. The initial proposal under consideration is to adjust the scores of the other examination papers proportionally to come up with a total subject score. This is the same approach as finalized for Integrated Humanities, starting from 2005 HKCEE and History, Chinese History with effect from 2006.

### **Control of Obscene and Indecent Newspapers and Magazines**

11. **MR LAU KONG-WAH** (in Chinese): *Madam President, regarding the control of obscene and indecent newspapers and magazines, will the Government inform this Council:*

- (a) *of the number of complaints received in the past three years by the relevant authorities about the covers or contents of newspapers and magazines, together with a breakdown by the subjects of complaint;*
- (b) *how the relevant authorities have followed up these complaints, and the penalties imposed on those persons in charge of the newspapers and magazines found guilty; and*
- (c) *whether the operation and effectiveness of the Control of Obscene and Indecent Articles Ordinance (the Ordinance) (Cap. 390) have been reviewed, particularly whether the Ordinance can handle the practice of conveying an erotic flavour on the covers of magazines targeted at young people?*

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

- (a) In the past three years, the Television and Entertainment Licensing Authority (TELA) received a total of 5 449 complaints about the covers or contents of newspapers and magazines, involving 756 articles. A breakdown is shown below:



	2001		2002		2003	
	<i>No. of complaints</i>	<i>No. of articles involved</i>	<i>No. of complaints</i>	<i>No. of articles involved</i>	<i>No. of complaints</i>	<i>No. of articles involved</i>
Newspaper	206	140	525	140	272	166
Magazine	202	77	2 519 <sup>1</sup>	92	1 725 <sup>2</sup>	141
Total	408	217	3 044	232	1 997	307

<sup>1</sup> Including 1 149 complaints which were about the cover or content of the same magazine.

<sup>2</sup> Including 799 complaints which were about the cover or content of the same magazine.

- (b) Upon receipt of such complaints, the TELA will make reference to the standards adopted by the Obscene Articles Tribunal (the Tribunal). Those that are considered likely to be classified as Class II (Indecent) or Class III (Obscene) articles under the Ordinance will be referred to the Tribunal for classification. Prosecutions against persons who illegally publish the articles (including newspapers and magazines) will be instituted according to the classification of the Tribunal. In the past three years, the number of successful prosecutions instituted by the TELA against newspapers and magazines for breaching the Ordinance (including cases resulting from public complaints and routine monitoring conducted by the TELA) were 15 in 2001, 92 in 2002 and 17 in 2003 respectively. Penalties imposed by the Court were fines ranging from \$1,500 to \$50,000.
- (c) We have closely monitored the operation of the Ordinance. Since 2001, additional resources have been allocated to the TELA for strengthening enforcement actions as well as publicity and public education efforts. Since then, problems pertaining to publication of obscene and indecent articles have substantially improved. We are of the view that the existing Ordinance has provided for effective control over various types of articles. The Court has also handed down heavier penalties on newspaper and magazine publishers who repeatedly defy the law. Regarding publications targeted at young people, the TELA will strengthen the related monitoring and control. It will also enhance publicity and education, so as to provide guidance to youngsters to choose healthy publications.

**Use of Football Betting Duty to Sponsor Development of Local Football**

12. **MR FREDERICK FUNG** (in Chinese): *Madam President, will the Government inform this Council whether it has promised that after the authorization of football betting, it will allocate a portion of the football betting duty collected to sponsor the development of local football; if it has, of the amount of funds allocated to date, the allocation timetable and other funding details?*

**SECRETARY FOR HOME AFFAIRS** (in Chinese): Madam President, my reply to the question is as follows:

The Public Finance Ordinance provides that moneys raised or received for the purposes of the Government shall form part of the general revenue and that no expenditure shall be charged on the general revenue except as provided by or under the Ordinance or any other enactment. We do not consider that there is any relationship between authorization of football betting and the development of local football activities. The development of local football activities should therefore be funded by public expenditure allocated for sports development and should not be tied to the proceeds from football betting.

**Breakdown of Mobile Telecommunications Networks**

13. **MR FRED LI** (in Chinese): *Madam President, it was reported that during the procession held on 1 July last year, various mobile telecommunications networks had broken down because many mobile phone users made voice communications and sent short text messages at the same time. In this connection, will the Government inform this Council:*

- (a) *whether it has reviewed the above situation; if so, of the results;*
- (b) *as an organization intends to hold a procession on 1 July this year, of the contingency measures it will take to avoid the recurrence of such situation; and*

- (c) *whether it will monitor the network load of various mobile telecommunications networks during the peak transmission periods of voice communications and short text messages (for example, during Chinese New Year, Christmas and New Year Eve, and so on), and of the co-ordination measures it will take to reduce the inconvenience of network congestion to users?*

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

- (a) The mobile networks in some areas in Wan Chai, Admiralty and Central experienced congestion at times when a procession took place on 1 July last year. This was caused by many mobile phone users in close proximity using their mobile phones at the same time. As a result, those mobile phone users might have to make several call attempts before their calls could be successfully connected, but there was no breakdown of mobile networks during those times. Thereafter, the Office of the Telecommunications Authority (OFTA) immediately approached the mobile network operators to review the situation.

Currently, all mobile network operators have already installed additional equipment to enhance their network capacity in busy areas on a long-term basis. With the enhanced capacity, their networks could cope with twice or three times the normal call traffic that may occur during special circumstances. Nevertheless, for the procession on 1 July last year, data provided by the mobile network operators revealed that in the busiest hour in parts of Causeway Bay, some mobile networks recorded call attempts of seven to nine times that of the normal number of call attempts in those areas. As such, despite the enhancement of network capacity in busy areas undertaken by the network operators, network congestion still occurred.

- (b) The OFTA has been working closely with the mobile network operators to monitor mobile network usage. It has also been

co-ordinating with the mobile network operators on possible measures to ease mobile network congestion during peak hours, including the installation of temporary network equipment.

Nonetheless, as mobile networks will always have a certain limit in capacity, there will still be some occasions when the networks cannot cope with upsurge of telephone traffic, for example, special festivities.

The OFTA also advises the public to remain patient when the mobile networks experience congestion and to make call attempts again after a while. Repeated call attempts within a short timeframe will add burden to the mobile networks.

- (c) The OFTA has been working closely with the mobile network operators to monitor mobile network usage. It has also been co-ordinating with the mobile network operators on possible measures to ease mobile network congestion, especially during periods of heavy mobile communications.

### **Functions and Powers of Office of The Ombudsman**

14. **MS EMILY LAU** (in Chinese): *Madam President, it has been reported that following her reappointment in March this year, The Ombudsman stated that she planned to explore the possibility of expanding the functions and powers of the Office of The Ombudsman during her five-year term. In this connection, will the executive authorities inform this Council whether:*

- (a) *they have reviewed the functions and powers of the Office; if so, of the outcome of review; and*
- (b) *they will consider amending The Ombudsman Ordinance (Cap. 397) to expand the functions and powers of the Office; if so, whether relevant monitoring measures will also be put in place to prevent the Office from abusing its powers?*

**CHIEF SECRETARY FOR ADMINISTRATION** (in Chinese): Madam President, The Ombudsman (Amendment) Ordinance 2001 which came into operation in December 2001 vested new powers in The Ombudsman, enabled the Office of The Ombudsman to further improve its operational efficiency and reinforced its independent status. The Ombudsman was reappointed in March this year for a term of five years until March 2009. Up to now, the Administration has not received from The Ombudsman any proposal for review or suggestions concerning the functions and powers of the Office. We also do not have any plan in hand to review the functions and powers of the Office.

When The Ombudsman submits a proposal concerning the review of The Ombudsman Ordinance (Cap. 397), the Administration will no doubt thoroughly examine the details of the proposal and assess the justifications. The Administration will also consider the need and the scope for any legislative amendment as and when appropriate.

### **Workplace English Training**

15. **MR AMBROSE LAU** (in Chinese): *Madam President, regarding Workplace English Training, will the Government inform this Council:*

- (a) *of the total number of applications received since the launching of the Funding Scheme for Workplace English Training in 2000; among these applications, the number of those approved and the total amount of grants involved;*
- (b) *whether it has collected feedback from various sectors on the effectiveness of the Scheme; if so, of the feedback collected and the criteria adopted by the authorities for assessing the effectiveness of the Scheme;*
- (c) *as the Scheme will cease receiving applications from individual employees or from companies on behalf of their employees for grants to attend English training courses offered in the market with*

*effect from 1 January 2005 or until all the remaining funds have been earmarked for the applications, whichever occurs earlier, whether the authorities have plans to extend the above application deadline; if not, whether they will introduce a new funding scheme to replace the one in question; and*

- (d) *of the plans to raise the English standard of the employees in tourism and retail industries?*

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

- (a) As at end April 2004, the Funding Scheme for Workplace English Training has received about 49 500 applications. Discounting those duplicated, drop-out and withdrawn applications, there are around 22 300 applications. Of these, more than 17 000 applicants have already completed their training courses and attained their relevant benchmarks. The amount of grants reimbursed was around \$29 million. Another 3 500 applicants are still undergoing their English training, and \$8.2 million of fund has been earmarked for their applications. The remaining applications are still under processing.
- (b) At the end of 2000, Hong Kong Institute of Asia-Pacific Studies of The Chinese University of Hong Kong was engaged to conduct a survey to measure the effectiveness of the Funding Scheme. The findings show that over 80% of the respondents found the Funding Scheme helpful in their study of English training courses. Over the past four years, the Funding Scheme has received 1 245 Company Applications, involving a total of 12 500 employees. These organizations are enterprises of different scales from various industries, such as Banking and Finance, Insurance, Retailing, Catering, Public Utilities, Transport, Hotel and Tourism,

Communications and Information Technology, and so on. This shows that the Funding Scheme has been well received by the industries. The Government considers the Funding Scheme successful based on the total number of over 17 000 applicants who have attained the benchmarks and obtained grants from the Funding Scheme in the past four years.

- (c) The Funding Scheme for Workplace English Training will stop receiving applications made by individual employees or by companies on behalf of their employees for grants to attend English training courses offered in the market from 1 January 2005 or until all the remaining funds have been earmarked for applications, whichever is earlier. Subject to the availability of funds allocated to the Funding Scheme and any future review by the Standing Committee on Language Education and Research, the Funding Scheme will continue to accept applications from companies that wish to commission course providers to organize in-house English training courses for their employees in 2005 and after. The \$5 billion Continuing Education Fund (CEF) launched by the Government in June 2002 is also providing subsidies for English training. Eligible adults aged from 18 to 60 who attend recognized English training courses under the CEF may apply for a maximum subsidy of \$10,000, regardless of their employment status. The changes to the Funding Scheme for Workplace English Training will not deprive working adults of their chance to obtain subsidies for English training.
- (d) The Workplace English Campaign will continue to promote the importance of workplace English and from 2004 onwards, the promotion of the Campaign will focus more on encouraging employers to adopt the Hong Kong Workplace English Benchmarks. A detailed framework of promotion activities is still under planning. Besides, people who wish to improve their English standards may continue to obtain subsidies from CEF to attend English training courses. The Workplace English Campaign will continue to apply

across a broad range of enterprises and industries, including those tourism and retail sectors.

### **Complaints About Beauty Products**

16. **MR LAU KONG-WAH** (in Chinese): *Madam President, will the Government inform this Council:*

- (a) *the number of complaints about beauty products that the relevant government departments and the Consumer Council received in each of the past two years, together with a breakdown by the subjects of complaint, as well as the percentage of those which involved beauty products with claims of slimming effect; and*
- (b) *how these authorities have followed up the complaints, and whether they have ordered the sellers to recall questionable products?*

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

- (a) Between 2002 and April 2004, the number of complaints about beauty products (including those claiming to have slimming effect) received by the Department of Health (DH), the Customs and Excise Department (C&ED) and the Consumer Council are as follows:
  - (i) *Complaints received by the DH*

Most of the complaints about beauty products received by the DH were related to the undesirable side effects of the products, others were about the efficacy and quality of the products.



The number of complaints about beauty products received by the DH is as follows:

<i>No. of complaints about beauty products</i>			<i>No. of cases involving slimming products out of the total no. of complaints received (% of total complaints)</i>		
<i>2002</i>	<i>2003</i>	<i>2004 (January to April)</i>	<i>2002</i>	<i>2003</i>	<i>2004 (January to April)</i>
48	31	6	35 (73%)	25 (81%)	4 (67%)

Source: DH (the above figures include referrals from the Consumer Council and the C&ED)

(ii) *Complaints received by the C&ED*

<i>Nature of the complaint</i>	<i>No. of complaints about beauty products</i>			<i>No. of cases involving slimming products out of the total no. of complaints received (% of total complaints)</i>		
	<i>2002</i>	<i>2003</i>	<i>2004 (January to April)</i>	<i>2002</i>	<i>2003</i>	<i>2004 (January to April)</i>
Products are of poor quality or do not have the claimed effect	3	4	1	0 (0%)	0 (0%)	0 (0%)
Products having adverse effect on health (for example, allergy) or not meeting the safety requirement	38	17	1	0 (0%)	2 (12%)	0 (0%)
Total	41	21	2	0 (0%)	2 (10%)	0 (0%)

Source: C&ED (the above figures include referrals from the Consumer Council and the DH)

(iii) *Complaints received by the Consumer Council*

<i>Nature of the complaint</i>	<i>No. of complaints about beauty products</i>			<i>No. of cases involving slimming products out of the total no. of complaints received (% of total complaints)</i>		
	<i>2002</i>	<i>2003</i>	<i>2004 (January to April)</i>	<i>2002</i>	<i>2003</i>	<i>2004 (January to April)</i>
Products are of poor quality or do not have the claimed effect	39	23	7	6 (15%)	5 (22%)	0 (0%)
Products having adverse effect on health (for example, allergy) or not meeting the safety requirement	12	22	4	4 (33%)	3 (14%)	2 (50%)
Others (for example, unreasonable prices or business malpractices)	118	120	46	9 (8%)	20 (17%)	4 (9%)
Total	169	165	57	19 (11%)	28 (17%)	6 (11%)

Source: Consumer Council (the above figures include cases referred to the C&ED and the DH)

- (b) The DH, the C&ED and the Consumer Council will take necessary follow-up action upon receipt of complaints about beauty products.

(i) *The DH*

The DH will investigate whether the products concerned have contravened the Pharmacy and Poisons Ordinance (PPO) (Cap. 138) or the Undesirable Medical Advertisements

Ordinance (UMAO) (Cap. 231). Under the PPO, all pharmaceutical products are required to be registered before sale. Slimming products and other beauty products are subject to the PPO if they contain any substance regulated by the PPO. For example, weight-loss drugs are controlled medicines and the majority of them have to be prescribed by a registered medical practitioner. In addition, the UMAO prohibits advertisements claiming that a product has curative or preventive effects for any of the diseases/symptoms listed in the Schedule to the Ordinance.

If a beauty product is in breach of the PPO or the UMAO, the DH will order the distributor to stop the sale of and recall the products concerned, and may also take prosecution actions. Between 2002 and April 2004, the DH has ordered the recall of seven slimming products, and successfully prosecuted two distributors.

If the complaints do not fall within the purview of the above two Ordinances, the DH will refer them to the relevant organization for follow-up action as appropriate: complaints relating to goods safety will be referred to the C&ED and those relating to consumers' dispute to the Consumer Council.

(ii) *The C&ED*

The C&ED will investigate whether the product concerned involves breaches of the Consumer Goods Safety Ordinance (CGSO) (Cap 456). The CGSO requires all manufacturers, importers and suppliers to ensure that consumer goods (including beauty products) comply with the "general safety requirement". The Ordinance stipulates factors for determining whether a product complies with the "general safety requirement". These include the manner in which the product is promoted, the specifications for packaging, and the requirement to meet reasonable safety standards as promulgated by a standards institute.

If there is evidence that the beauty products concerned do not comply with the requirements under the CGSO, the C&ED will request the distributors to discontinue the sale of and recall the unsafe products, and may also prosecute the suppliers concerned. Between 2002 and April 2004, the C&ED has ordered the recall of one beauty product and successfully prosecuted six traders dealing in unsafe beauty products.

If the complaints received do not fall within the purview of the CGSO, the C&ED will refer them to relevant organizations for follow-up action as appropriate: complaints relating to drugs will be referred to the DH and those relating to consumers' dispute to the Consumer Council.

(iii) *The Consumer Council*

The Consumer Council will consider the nature and substance of the complaint about beauty products, and liaise with the company concerned to determine whether the complaint is justified. If the complaint is justified, the Consumer Council will mediate for a settlement. If the complaints involve matters relating to product safety or malpractices involving criminal activities, the Consumer Council will refer them to the C&ED, the DH or the police for follow-up action as appropriate.

### **Maintenance and Repair Works to Avenue of Stars**

17. **DR RAYMOND HO** (in Chinese): *Madam President, will the Government inform this Council:*

- (a) *whether it knows if the management company of the Avenue of Stars (the Avenue) has plans to carry out regular maintenance and repair works to the Avenue; if so, of the details and the estimated expenditure on such works;*

- (b) *whether it knows if the management company will keep closer watch on visitors to prevent them from causing damage to this tourist attraction; if so, of the details; and*
- (c) *whether it has assessed the impact of the damage to the Avenue on the image of Hong Kong, if so, of the assessment results?*

**SECRETARY FOR HOME AFFAIRS** (in Chinese): Madam President,

- (a) The Government has entrusted the Avenue of Stars Management Limited (the Management) of the New World Development Company Limited (NWD) with the tasks of management, repair, maintenance and operation of the Avenue for a period of 20 years. The Leisure and Cultural Services Department (LCSD) has been liaising closely with the Management on the Avenue's daily management including cleansing, security, crowd control and law enforcement action, as well as to draw up deployment plans. Moreover, the LCSD has set up a Management Committee for the Avenue to oversee the Management's operation and performance, in a bid to promote the Avenue as a classy tourist attraction. The Management Committee comprises representatives from the LCSD, the NWD, the Hong Kong Tourism Board, the Tourism Commission, the Architectural Services Department, the Yau Tsim Mong District Office and the Hong Kong Film Awards Association Limited.

The Management manages the Avenue under a self-financing mode and bears all the costs without any financial support from the Government. The Management is also required to submit to the LCSD an annual management plan including work plan for daily management items such as maintenance, cleansing and security services. According to the information provided by the Management, the estimated expenditure for routine maintenance and cleansing services is about \$1.5 million per year.

- (b) Some stains and dirty marks were found on some handprints and the pavement of the Avenue since its opening and they were instantly

cleaned up by the cleansing team. The LCSD and the Management have made the following arrangements:

- (i) Deploying more manpower to carry out patrolling and cleansing;
  - (ii) Daily cleansing of areas with stains and dirty marks by high-pressure water jet;
  - (iii) Posting notice on the Avenue to remind visitors that those who litter are liable to a fine of HK\$1,500;
  - (iv) Broadcasting the message of "Do not damage public property" every 30 minutes in Cantonese, English and Putonghua to remind visitors of keeping the venue clean and not to damage public property; and
  - (v) Setting up a special patrol team including staff from the LCSD and the Management to strengthen law enforcement action against those who litter.
- (c) As the Avenue attracts many visitors, especially with a daily attendance over 80 000 during the peak of Labour Day Golden Week, stains and dirty marks are found in some areas. However, the situation is not very serious. The LCSD will continue to work closely with the Management and the relevant departments to keep the Avenue clean.

### **Tiles Falling Off from Walls of Corridors of Housing Estate**

18. **MR JAMES TIEN** (in Chinese): *Madam President, it has been reported that since the beginning of last year, tiles have been falling off from the walls of the corridors of Chung Chi House in Chung On Estate, Ma On Shan, and some residents have been cut by those broken tiles. In this connection, will the Government inform this Council:*

- (a) *why the Housing Department (HD) has not started the repair works yet and when such works will commence;*

- (b) *whether it has examined if there are signs of loose tiles on the walls of the corridors in the remaining buildings of the same housing estate; if it has, of the results of the examination; and*
- (c) *whether the problem of falling tiles is related to the quality of the materials and the workmanship; if so, whether it will recover the losses from the materials suppliers or contractors concerned through legal proceedings, of the other relevant housing estate projects which have been contracted to these suppliers and contractors, and whether the HD has examined the tiles on the walls of the corridors in those housing estates, or requested the personnel concerned to provide relevant data, to ensure that those housing estates do not have the same problem?*

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

- (a) In early 2003, the problem of tile de-bonding occurred on some corridor walls of Chung Chi House in Chung On Estate at Ma On Shan. After inspection, the HD immediately requested the contractor to carry out repair works and the contractor had agreed.

As spray painting, which is more cost-effective to maintain in the long run, has been adopted as the standard finishing for the common areas of future public rental housing, the HD and the contractor decided to use spray painting instead of wall tiles in spots with more large-scale de-bonding. All the repair works at lift lobbies were completed in 2003. However, the tenants opposed the change of wall finishing from tiles to spray painting and had asked the HD to suspend the repair works on the corridor walls.

The problem of tile de-bonding occurred again on the corridor walls of Chung Chi House recently. After discussion with the tenants over the repair arrangements on 13 May, the HD commenced preliminary repair works on 17 May.

- (b) There are altogether five buildings in Chung On Estate. In addition to Chung Chi House, the HD has also received reports of

slight tile de-bonding on the corridor walls of Chung Tak House in early 2004. After thorough inspection, it was confirmed that the problem in Chung Tak House was caused by normal wear and tear. The HD would take follow-up actions to replace the tiles. As for the remaining three blocks, staff of the property management company had conducted thorough inspection during their daily patrol. No tile de-bonding problem has been found.

- (c) Tile de-bonding may arise from many causes, which might involve problems in the working process or workmanship. The causes of tile de-bonding in Chung Chi House are still under investigation. Once the liability is ascertained, the HD will seek to recover the costs of the repair work under the terms of contract.

In the past five years, a total of seven projects involving 17 similar blocks in seven housing estates were undertaken by the contractor in question. Apart from Chung On Estate, slight tile de-bonding also took place in some blocks of the other estates. After completion of the necessary repair works by the contractor, no more problem had been found.

### Survey on Air Quality of Markets

19. **MR FRED LI** (in Chinese): *Madam President, it has been reported that a recent survey on the air quality of markets conducted by a research institute of The Hong Kong University of Science and Technology found that the bacteria and suspended particulate levels in the ambient air around poultry stalls in markets were extremely high. In this connection, will the Government inform this Council whether:*

- (a) *it conducted studies on the air quality of markets in the past three years; if so, of the results;*
- (b) *it will step up the cleaning work for the air-conditioning and ventilation systems in the markets under its management; and*
- (c) *it will consider installing independent ventilation systems for poultry stalls in the markets under its management to improve the air quality there?*



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

- (a) In 2003, the Food and Environmental Hygiene Department (FEHD) engaged the Electrical and Mechanical Services Department to conduct air quality measurements in three air-conditioned public markets, namely the Ap Lei Chau Market, the Yee On Street Market and the Luen Wo Hui Market, for reference purpose. The findings indicated that the concentration level of airborne bacteria in these markets, particularly in the live poultry stalls, was higher than that in offices and public places. The FEHD and relevant departments are examining measures to improve air quality in the public markets under its management, in particular the poultry sections, for example, complete segregation of live poultry storage areas from the rest of the markets, more frequent cleansing of air filters of the air-conditioning (A/C) systems.
- (b) Most of the A/C systems in the FEHD public markets are equipped with disinfection units and filters to disinfect and remove particulate matters, dust and odour from the recirculated air. In the light of the findings of the studies, we have in addition to the regular maintenance programme made arrangements for stepping up the frequency of cleansing of filters of the A/C and ventilation systems in all FEHD markets to ensure that they all function properly.
- (c) Physical segregation of the poultry sections with reduction in the number of live poultry is an effective means to improve the air quality. In all new air-conditioned public markets operated by the FEHD, the poultry sections have been and will continue to be segregated from other parts of the markets and provided with separate A/C system. Similar measures will be introduced for the poultry sections of all FEHD markets to be retrofitted with A/C systems. In the FEHD markets without A/C systems, difficulties are envisaged unless the number of live poultry stalls in most markets can be reduced to allow sufficient space for introducing the new measures.

**MOTIONS**

**PRESIDENT** (in Cantonese): Motion. Proposed resolution under the Loans Ordinance.

**PROPOSED RESOLUTION UNDER THE LOANS ORDINANCE**

**FINANCIAL SECRETARY:** Madam President, I move the motion standing in my name on the Agenda.

The purpose of the resolution is to provide the Government with the authority under the Loans Ordinance to raise a loan of up to \$20 billion or its equivalent by the issuance of bonds.

In my Budget speech on 10 March 2004, I announced that I proposed to issue government bonds in order to raise capital revenue to fund infrastructure or other investment projects which will bring long-term economic benefits to Hong Kong. Today, I would again like to emphasize that it is not the purpose of the proposed bond issue to meet the Government's operating expenditure. All proceeds raised after defraying expenses will be credited to the Capital Works Reserve Fund and will be used to implement projects approved or to-be-approved for funding thereafter by the Finance Committee of the Legislative Council. Annual payment of interest and repayment of principal, as required, will be met by future appropriation of funds from the concerned year's expenditure estimates. The Administration will continue to manage public finance in a prudent manner and maintain strict fiscal discipline, in order to meet our target of reducing operating expenditure to \$200 billion by 2008-09 and restoring fiscal balance in that same year.

The issuance of government bonds will bring many benefits. It will provide greater flexibility to both the management of our liquidity and the execution of our asset sale and securitization programme. Furthermore, bond issuance will also help to promote the development of our local capital markets, an objective which forms part of our continual efforts to reinforce Hong Kong's position as an international financial centre.

As many of us believe, now is a good time to issue government bonds. The Government will benefit from the prevailing relatively low interest

rate environment while the public can be offered a high-quality investment alternative. We need, however, to move quickly to seize this window of opportunity and achieve a win-win result.

We therefore intend to appoint the transaction arrangers and begin detailed preparatory work as soon as the Legislative Council approves the resolution. We expect that separate tranches of bonds of varying maturities will be available for investors, both locally and overseas, from which to choose to meet their different investment appetites. We will also build on the experience gathered from the recent offering of "Five Tunnels and One Bridge"/Hong Kong Link 2004 Bonds and the offerings of the Exchange Fund Notes in the past.

Finally, I would like to reiterate that the proceeds from the coming bond issue will be invested in productive capital projects. As far as the retail tranche is concerned, we will be turning Hong Kong people's hard-earned savings into funding for projects which will generate benefits for themselves and succeeding generations. The proposed bond issue will also provide an opportunity for our citizens to invest in their own future and to help build our home together — a home we proudly refer to as Asia's World City.

Madam President, I hope Members will support the resolution. I beg to move.

**The Financial Secretary moved the following motion:**

"RESOLVED, in the exercise of the powers conferred by section 3(1) of the Loans Ordinance, that the Government be authorized to borrow, for the purposes of the Capital Works Reserve Fund established by resolutions passed under section 29 of the Public Finance Ordinance (Cap. 2), a sum or sums not exceeding in total \$20 billion or equivalent."

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

**MR SIN CHUNG-KAI** (in Cantonese): Madam President, a Subcommittee was set up by the House Committee to study the proposed resolution put forward by

the Government under section 3(1) of the Loans Ordinance. As the Chairman of the Subcommittee, I would like to report on its major deliberations.

Generally speaking, members of the Subcommittee support the proposed resolution which authorizes the Government to borrow a sum or sums not exceeding in total \$20 billion or equivalent for the purposes of the Capital Works Reserve Fund (CWRP). They are however aware that some concerns have been raised by individual Members as well as organizations and individuals in the financial and academic sectors on the implications of the issuance of government bonds for the purpose financing capital projects. Therefore, in studying the proposed resolution, the Subcommittee has invited the relevant sectors to give their views and concerns and conducted detailed discussions. The Subcommittee has made reference to the following concerns in the course of its study:

1. how the borrowing would impact on the Government's commitment to reduce the fiscal deficit and how this would affect the credit ratings of Hong Kong;
2. whether the issuance of government bonds is the most appropriate way to raise funds for financing capital projects and whether it is the right time to borrow; and
3. the manner of bond issuance and how the effectiveness can be assessed.

The Administration reiterates that the target of balancing the Government's Operating and Consolidated Account by 2008-09 and to reduce government annual operating expenditure to \$200 billion by 2008-09 has not changed. The issuance of bonds is intended solely to finance capital projects, and all the proceeds will be credited to the CWRP instead of being used to increase operating revenue.

Members however note that under the CWRP, the Financial Secretary may expend moneys from the CWRP for purposes other than the Government's public works programme, for example, for the acquisition of land. In response to the Subcommittee's concern, the Administration agrees to state in the Financial Secretary's speech in moving the proposed resolution in the Council

that the \$20 billion to be credited into the CWRP only aims to finance those projects approved or to be approved by the Finance Committee.

As for whether the issuance of government bonds is the most appropriate way, the Government points out that the issuance of government bonds provides an alternative source of funds for capital projects and greater flexibility in the implementation of the Government's asset sale and securitization programme, obviating the need to sell government assets at low prices under potentially unfavourable market conditions. The Subcommittee also notes that the financial and banking sectors have generally responded positively to the issuance of government bonds as a means of assisting in the development of the Hong Kong bond market.

In regard to the timing of issuance, the Government's assessment is that there is likely to be significant advantages to the taxpayers if the proposed issuance of government bonds can be executed before the beginning of the summer vacation. With the impending rise in interest rates, there is concern among members that it might not be the right time for bond issue. The Administration stresses that it has confidence that there will be support for the \$20 billion bonds as there is a strong demand for quality bonds like bonds issued by the Hong Kong Government which enjoys a high credit rating. Although there are signs that interest rates will rise, interest rates are still at historically low levels.

However, there is concern among members that the source of funding for financing capital works projects in future years would have to come from proceeds from land sales and the sale of other government assets. Members are concerned that where funding from capital revenue is not sustainable, borrowings through the issuance of government bonds may not be one-off. The Administration advises that it will consider whether to issue additional bonds in the future in the light of funds required for infrastructural and investment projects, progress of implementation of the asset sale and securitization programme, and market conditions. At present, the Government has no plans to issue more government bonds.

The Subcommittee notes the concern of some organizations that the crediting of the proceeds of bond issuance to the CWRP will make it difficult to assess the actual effectiveness. The Administration explains that in assessing

the effectiveness of the bond issue, consideration should also be given to how far the objectives of the issuance of government bonds are achieved. These objectives include the development of the local bond market, fiscal flexibility and whether it is a successful benchmark issue of the Hong Kong government bonds. Another potential measure of success is the pricing of the proposed bonds achieved when compared with other similar bonds in the international market.

In regard to the details of subscription arrangements, the Subcommittee notes that in the recent Hong Kong Link securitization programme, brokers of the Hong Kong Stock Exchange and Hong Kong Securities Clearing Company Limited were included. A Subcommittee member has conducted a questionnaire survey among brokers and some suggestions to improve the subscription arrangements have been made to the Government. The Government considers that the securitization exercise, which was the first offering involving a large number of brokers, was already quite successful, and the suggestions of brokers will be conveyed to the arranger to be appointed.

On the details of bond issue, the Administration has informed the Subcommittee that the bond issue will offer a major domestic and global offering to retail and institutional investors. The Administration assures members that opportunities would be offered to all types of investors, in particular local investors. As regards the currency to be adopted for the bonds, the Administration advises that since the bonds are intended to be offered in the international market, it is likely that part of the bonds would be in foreign currency. Since under regulatory requirements, no specific details of the bond issue shall be disclosed before the formal issuance, the Government agrees to disclose more information to the Panel on Financial Affairs in the middle of June 2004.

The Subcommittee has also discussed the wording of the proposed resolution. The Subcommittee notes that the means of borrowing is not specified in the proposed resolution as in the case of the recent securitization exercise. The Administration explains that section 3(1) of the Loans Ordinance only requires the sum and purposes of the loan to be approved by resolution of the Legislative Council. The manner and terms and conditions of borrowing are to be agreed between the Government and the lender. The manner of borrowing in the recent securitization exercise was specified as the borrowing is to be repaid from future revenue from concerned facilities. But in the case of

government bonds, repayment will be made through future appropriations out of General Revenue. The wording of the proposed resolution is based on that used in similar resolutions passed by the Legislative Council in 1975 and 1991.

The Subcommittee also notes that the raising of loans in Hong Kong by the issue of bonds is also provided for in the Loans (Government Bonds) Ordinance (Cap. 64). According to the Administration, it considers the Loans Ordinance (Cap. 61) more appropriate in the present proposal as Cap. 61 allows the issue of bonds in paperless form, which has become the norm of the day. The Subcommittee suggests that the Administration should take steps to review whether any parts of the two Ordinances have become obsolete or outdated.

Madam President, the Subcommittee supports the resolution.

In the following part of my speech, I would say a few words on the resolution on behalf of the Democratic Party.

To begin with, about two years ago at least, the Democratic Party already suggested the Government to study the feasibility of bond issuance. It is only after two years that the Government has put the proposal into practice. The Government has decided to issue bonds just before the upward cycle of interest rates, so one can say that it will only be able to "catch the last train". It will be more appropriate to do so one year or half a year earlier. But I understand that all this may have been the result of a policy change of the Government. I can remember how the former Financial Secretary repeatedly criticized bond issuance and commented negatively on it. Maybe, the incumbent Financial Secretary thinks the contrary and finds bond issuance a desirable option.

Madam President, in regard to the worth of bond issuance, the Democratic Party supports the ceiling of \$20 billion set down by the Government. But we certainly do not mean that this \$20 billion should mark the end of it all. The Government should realize that in many other countries, the issuance of government bonds is just a financial skill. And, such a financial skill can in fact be employed to boost the economy of Hong Kong. I am of the view that if there is a practical need, or if a practical purpose can be served, the Government may consider the issuance of bonds on a larger scale.

The Subcommittee has also discussed the issue of exchange risks. Can all the \$20 billion worth of bonds be issued in Hong Kong Dollar? The report of

the Subcommittee mentions that the Hong Kong Link securitization bonds were issued in Hong Kong Dollar. The issuance of bonds in Hong Kong Dollar will of course involve less risk because, to put it simply, the revenue of the Government is in Hong Kong Dollar, and it is safer for it to borrow and repay in Hong Kong Dollar. But if other currencies are adopted, some sort of appropriate hedging will become necessary in order to reduce the risks. In this regard, I believe the many financial advisers of the Government will certainly be able to offer it enough support.

The Democratic Party very much hopes that the Government can seek to develop the local bond market by issuing government bonds. In fact, I believe government bonds are certainly a very good investment tool for retirement funds and investors seeking safe returns. In regard to the specific arrangements of bond issuance, I of course support a global offering by the Government, but as long as the local market has sufficient capacity to absorb the bonds, I also hope that the Government can give priority to a local offering. This will be good to ourselves, to investors in the Hong Kong market and also to the development of the local bond market.

I hope that after learning from the experience this time around, in the next term of the Legislative Council, the Government can report to the Council on what experience it has gained from the "Hong Kong Link" and the issuance of \$20 billion worth of bonds. It is also hoped that it can examine the impact on the Hong Kong bond market.

With these remarks, I support the resolution on behalf of the Democratic Party.

**MR HENRY WU** (in Cantonese): Madam President, I am also a member of the Subcommittee on proposed resolution under section 3(1) of the Loans Ordinance (the Subcommittee), and I too support the resolution. However, I still hope the Financial Secretary, when he speaks later on, can give some positive replies and undertakings regarding the recommendations put forward by me on behalf of the industry.

I already talked about these recommendations briefly at the meetings of the Subcommittee, but I still wish to repeat them now. Although the \$20 billion bond issuance this time and the Hong Kong Link securitization exercise last time



are not entirely identical in nature, they do share the common objective of encouraging the wider participation of small investors and members of the public. That is why I wish to review the experience of the Hong Kong Link, the first exercise in which the Government allowed all securities brokers to participate direct in bond issuance, and put forward some improvement proposals, in the hope of improving the next bond issuance exercise.

At the end of April, I conducted an industry survey, a questionnaire survey, entitled "The Bond Issuing Arrangements for 'Five Tunnels and One Bridge/Hong Kong Link'". According to the findings, 40% of the respondents said that they had participated in the retail bond subscription work of this exercise. The actual number of these brokers represents one fourth of the total number of participating brokers announced by the Government, which is why the views expressed in this questionnaire survey are of immense significance to the review on bond issue arrangements. Though the remaining 60% of the respondents did not take part in the subscription work, their positive responses can fully indicate the interest of the securities industry in bond issuance and also their wish to offer advice to the authorities concerned on the arrangements pertaining to the privatization or securitization of government assets in the future.

According to the survey findings, securities brokers all wished to play an active role in the bond issuance exercise, but since the authorities concerned had not given them sufficient preparation time and support, some interested brokers were unable to make any full attempts to recommend or publicize the bonds among their clients. Besides, the adverse effects of the plummeting stock market and the possibility of interest rate increases also reduced people's enthusiasm of investing in bonds very significantly, thus directly affecting the participation rate of securities brokers.

Madam President, besides a drastic decline in investment desire, another reason was that in the Hong Kong Link securitization exercise, there was not any standard subscription form similar to that of initial public offer (IPO), and securities brokers had to prepare the required documents themselves. However, they lacked the relevant experience and must seek professional advice; therefore, besides insufficient time for preparations, there was also the problem of additional operating costs, which in turn reduced cost-effectiveness. This was also one of the reasons for the low participation rate of brokers. My survey

findings actually confirm this point, because more than 60% of the respondents expressed the worry that non-standard contracts might fail to offer full protection to brokers and their clients. And, the respondents also feared that they might violate the Securities and Futures Ordinance and face penalty from the Securities and Futures Commission.

To sum up, if the Government wishes to further promote the active development of the retail bond market, it should adopt procedures and arrangements that are more in line with those of IPO when issuing any new bonds in the future (including the \$20 billion bonds this time). Specifically, standard subscription forms should be provided for the convenience of both brokers and their clients. Those who have such a demand include 73% of those securities traders who said in the survey that they had participated in the securitization exercise of Hong Kong Link. Besides, interests and commissions should be set at more attractive levels, and there should also be more flexibility in terms of maturity. The actual market situation should also be considered, with a view to achieving better timing for bond issuance. And, more time should be allowed for publicity and making support arrangements.

When making arrangements for the privatization or securitization of government assets in the future, whether it is the issuance of the \$20 billion bonds this time, or the future merger of the two railway corporations, or the privatization of the Airport Authority, or the issuance of other government bonds, the authorities concerned should always maintain close communication with the securities industry and specify clearly in their publicity that subscription applications for shares and bonds can be submitted through securities brokers. Seminars may even be organized to brief members of the public on the details of the shares and bonds to be issued by the Government, so as to encourage the various sectors to participate more actively in the privatization and securitization projects of the Government. That way, the status of Hong Kong as an international financial centre can be further entrenched.

The findings and recommendations of the survey have already been submitted to the Financial Secretary earlier on. I hope that in order to make the work of issuing the \$20 billion bonds smoother, to make the best use of the excellent retail network built up by the securities industry over the years and to encourage the active participation of members of the public, the Financial Secretary, when speaking on the resolution later on, can render appropriate

support to the recommendations made by the survey report in response to the aspirations of the industry and also give his firm undertakings. It is also hoped that future issuers should be subject to the same requirements in the future.

Madam President, I so submit.

**MR CHAN KAM-LAM** (in Cantonese): Madam President, according to outside speculations, the existing interest rates may be adjusted upward. Such a possibility looks especially high because over the past two years, there have been signs that adjustments of the interest rates and exchange rate in the United States may be introduced to adjust the United States economy. Members may thus think that since interest rates are prone to rise, it may indeed be a bad time to issue any bonds. That is why they all hope that the Government can issue its bonds as quickly as possible, preferably issuing the \$20 billion bonds all in one batch.

The Democratic Alliance for Betterment of Hong Kong (DAB) of course agrees that actions should be taken before interest rates start to rise again. But we also think that we must prudently consider the necessity or otherwise of issuing any bonds. We maintain that bonds must only be issued in strict accordance with our financial ability and the overall needs of society. This is the main difference in position between the DAB and the Democratic Party. A moment ago, Mr SIN Chung-kai raised the point of increasing the dimensions of bond issuance. He seemed to be suggesting that since we had run into financial difficulties, we should use our credit cards, and if one card was not enough, then more should be used. Well, we may have to do so for liquidity reasons when we are really caught in deep financial trouble in the future. But it seems that our situation now is not that worse. Therefore, honestly speaking, we would think that it is better for the Government to look at any bond issuance with a cautious attitude instead of so easily resorting to the financial skills of borrowing. After all, any money borrowed will have to be repaid. This explains why we have so often emphasized that any bond issuance must be based on genuine needs.

The last time when we debated the Hong Kong Link exercise, it was said that if we could fix the value of bond issuance per year at a certain level, say, a certain percentage of the investments in capital projects, then, we might be able to convince international investors and credit rating institutions that we would not

issue bonds endlessly. The fact is that excessive bond issuance will only increase the financial burden of society in some measure. After all, we must not forget that the opening up of new sources of revenue and the curtailment of expenditure are in fact the best and most practical solutions to our fiscal deficit problem.

We should also realize that economic improvements will bring forth prospects of easing our fiscal deficit. But if we resort solely to borrowing, we may well create other problems. Therefore, we hope that the Financial Secretary can refrain from concentrating solely on increasing the dimensions of bond issuance. And, he must not think that we will definitely give our approval whenever he wants to issue any bonds and puts forward similar resolutions.

In addition, I also wish to say that the Government must state clearly whether the bond issuance this year or in future will be on a sustained basis, with a pre-set value every year. I very much hope that all can be done in the light of our financial situation. I also hope that the Government can make an undertaking on how it will strike a balance between bond issuance and other measures in its bid to solve our financial difficulties.

Thank you, Madam President.

**MS EMILY LAU** (in Cantonese): Madam President, I rise to speak in support of the Financial Secretary's resolution.

As a member of the Subcommittee, I raised a number of points at one of its meetings. Today, I wish to put all these points on record, in the hope that the Financial Secretary can consider them carefully.

Madam President, as pointed out by Mr SIN Chung-kai, Chairman of the Subcommittee, we did receive some opinions at that time, and we also noted many media reports that many people were worried whether the issuance of bonds would affect the authorities' determination to eradicate the fiscal deficit. When he spoke just now, the Financial Secretary understandably said that the authorities' determination would not be affected, that his aim was still to achieve fiscal balance in 2008-09, and that he would seek to keep the operating expenditure below \$200 billion.

However, Madam President, we also note one question: How many means are there to achieve all this? The Financial Secretary may of course say that we have to boost the economy, because when the cake becomes larger, there will be more for all. He may also stress the importance of prudent financial management again. In addition, the Financial Secretary has also mentioned that he intends to introduce a goods and services tax. Madam President, you will also remember that this idea was opposed by all the major political parties in the Legislative Council in a recent debate — some of them spoke in the debate and others did not. I do not know how the Financial Secretary can ensure that he can make it, because I believe that not only the financial sector but also many others would want the Financial Secretary to produce concrete evidence that he can restore fiscal balance in the next few years.

I also hope that the Financial Secretary can speak more on another issue, the issue of cutting expenditure, because this is indeed very important. As we all know, a good part of government expenditure is spent on civil servants. How are we going to control the size of the Civil Service? Some of the allowances are already outdated, so how are we going to spend our money with wise control? I believe that civil servants can all see these problems, and that many in society would like to reach a consensus on this and do the best they can to improve the situation.

In regard to revenue, I really do not know what the Financial Secretary will do. But the Financial Secretary did mention a number of productive projects. What are these projects? One of the projects under discussion now is the redevelopment of the Prince of Wales of Hospital. Is this a productive project? That reminds us of the Harbour Fest, which ended up in a fiasco, involving \$100 million. I think the Financial Secretary must first get to know all these projects thoroughly, because he is the master treasurer, and he must deliver a clear message to society that he is determined to cut expenditure. I naturally also hope that the Legislative Council will support the Financial Secretary.

Madam President, several Members wondered whether this was the right time to issue bonds. The Financial Secretary would naturally say yes. Actually, he already wanted to do so this last week, but then, we convened a Subcommittee meeting, so the matter was deferred for a week. I hope that this has not caused too much delay. Some Members talked about interest rate

increases. Madam President, I also note what the Financial Secretary said to the media yesterday — I am not referring to any media reports but to the press release issued by the Government itself. He said that interest rate increases by the United States are already within the expectation of all, and the financial markets have already taken such increases into account. But will the Financial Secretary please tell us to what extent have such increases been taken into account? Is it true, as many have pointed out, that we are just about to "catch the last train"? Is it true that there are still some risks? I want to ask these questions because \$20 billion is not a small sum of money, and there was already such a mess when only \$100 million was involved. I therefore very much hope that the Financial Secretary and the Secretary can handle this matter very cautiously.

Regarding the effectiveness of bond issuance, Mr SIN Chung-kai raised a question just now, and many other people, especially the Association of Chartered Certified Accountants Hong Kong, have also done so, because the proceeds will not be spent on just one single project. The Financial Secretary has claimed that the money will be spent on productive projects, and all of us have raised no objection, but since the money will not be spent on one single project, it will be very difficult to assess the effectiveness. The Financial Secretary and several Members all talked about the aim of bond issuance. What is the aim? The aim is to develop the local bond market and introduce financial flexibility. But this aim is relatively vague. The point is that we also hoped to achieve many aims by holding the Harbour Fest. But what we have learnt from the recent hearings is that we must specify the aims clearly beforehand. Such aims can then be used in future assessment, and this can offer us better assurance. I therefore hope that the Financial Secretary can give us more concrete details. We can then look at all these details in future meetings. If we see that the aims set down have been achieved, we can call the whole thing a success.

Madam President, regarding the target investors of bond issuance, as it has been pointed out just now, the bonds will be offered both locally and worldwide. Some will be offered to retail investors, and others will be for institutional investors. It was also said just now that for regulation reasons, some of the details and fees concerned could not be disclosed at this stage. We can accept this, and we just hope that a detailed account can be given to the Panel on Financial Affairs as soon as possible — incidentally, we should just be talking about next month. I very much hope that the Financial Secretary can do so as soon as possible.

At the Subcommittee meeting on Thursday, the authorities did assure us that all types of investors, especially local investors, would have a chance to purchase the bonds. Madam President, since I knew that the Central Government had expressed an interest in purchasing the bonds, I expressed my gratitude to the Central Government for its good intention and concern. But I also asked whether there was such a need. The reply we were given at the meeting was that the answer to the question was not important at all, because all would be welcomed and no one would be accorded any priority. But, under "one country, two systems", I must still ask whether we in Hong Kong should be allowed some room for our own development. Some may of course query whether I am in fact saying that the Central Authorities should be forbidden to purchase the bonds. Well, I am not talking about any prohibition, and I do not think that we have any power to do so anyway. Hong Kong is completely under the control of China. But I still hope that the Central Government can realize that some in the market have been wondering whether there is any need for the involvement of the Central Government. People simply wonder whether its direct intervention will deliver any good message at all. The success of "one country, two systems" really depends on the self-discipline of the Central Authorities.

I have stated my personal views. We are very, very grateful to the Central Government for its good intention. But we also hope and believe that this bond issuance can still be a success even without the involvement of the Central Government — the authorities will definitely say that one must not say anything like this. They are of course not supposed to say so.

With these remarks, I support the resolution.

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

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): Financial Secretary, you may now give your reply.

**FINANCIAL SECRETARY** (in Cantonese): Madam President, several Members have spoken on the issuance of bonds by the Government. We wish to express our gratitude to the Subcommittee for supporting this issuance of bonds by the Government. I also wish to respond to the remarks made by the several Members just now *seriatim*.

To begin with, Ms Emily LAU talked about the Central Government's interest in purchasing the bonds to be issued by the Government. I wish to also put down on record that we are very grateful to the Central Government for supporting the issuance of bonds by the Government of the Special Administrative Region (SAR). But I trust the Central Government's interest in purchasing the bonds is both a show of its support for the SAR Government and a commercial decision. Thus Ms Emily LAU was indeed going too far when she dragged in the concepts of "one country, two systems" and "a high degree of autonomy". I believe this commercial decision is definitely based on objective considerations, and since the bonds will be issued worldwide, I do not rule out the possibility that other countries or their central banks may also make purchases. This is just like the case of the Hong Kong Link, where bonds were purchased not only by Hong Kong people but also by people of other places. I do not think that other countries had any special reasons for their purchases, and I believe their decisions were purely commercial.

Another issue is related to a goods and services tax. I have said many times that the proceeds from the Government's issuance of bonds this time will only be used to finance capital projects, not to meet operating expenditure. If the proceeds are used to meet operating expenditure, then, as Mr CHAN Kam-lam has rightly pointed out, the principle of prudent financial management will be violated, and we will in effect be relying on borrowings to meet our expenditure. We should never do anything like this because the determination to curtail expenditure will be dealt a heavy blow. If we are to attain fiscal balance, we must adhere to the principle of prudent financial management and do a good job in creating sources of revenue and cutting expenditure. And, in order to make a good job of it, we will need a consensus in society. In the case of the proposals contained in the Budget announced on 10 March, it is precisely because of our prudent consideration, adequate consultation and thorough explanation that society in general has managed to reach a consensus on them. We will therefore continue to act in a similar fashion.



I have never said that a goods and services tax must be introduced immediately. I have only said that it is still under consideration. An internal working group of the Government is still studying the matter and will not submit its report to me until the end of this year. As for what further steps will be taken, we have not yet made any final decision. Ms Emily LAU may have jumped to a conclusion too fast, thinking that we will surely introduce the tax. I can assure Members that we will consider the matter very carefully. And, I suppose that if there is no consensus in society, it will simply be impossible for me to introduce a goods and services tax. What is more, I also know that many credit rating institutions have been watching us very closely, and one of them has even queried whether it is possible to introduce the revenue measures I have mentioned in the Legislative Council. It seems that credit rating institutions will soon start to query our ability to cut expenditure. I therefore hope that Members can be a bit more discreet, because the credit ratings by these institutions may easily increase the interest cost of our \$20 billion bonds project by as much as several hundred million dollars. I therefore hope that Members can be discreet.

As for the various issues raised by Mr Henry WU, I am very grateful to him for showing me the findings of his questionnaire survey. He distributed 436 copies of the questionnaire and received 57 responses, or 13% of the total number of questionnaires sent out. Understandably, the responses can only reflect the opinions of some people, but all the arrangements for the issuance of bonds in respect of the Hong Kong Link were made following thorough consideration and discussions by our investment banks and various experts. As a result, all in all, I think the result has been satisfactory, because an over-subscription rate of 200% is quite normal. Securities and bonds are of course different, and I believe Hong Kong investors, especially retail bonds investors or small brokers may have to undergo a learning process before they can become more familiar with the various investment options. We shall of course maintain close communication with the industry.

Finally, I wish to say once again that the issuance of bonds this time aims to achieve three objectives. First, as I said in moving the resolution, it is intended to introduce more flexibility to our financial management. But at the same time, we will also adhere closely to the principle of prudent financial management instead of relying on borrowings to meet expenditure. Second, we aim to increase the dimensions of the bond market, so as to better enable Hong Kong to consolidate and take advantage of its status as an international financial

centre. Third, we also aim to offer an additional investment option to members of the public. For these reasons, after deducting all the costs, the proceeds from the issuance of these \$20 billion bonds will be allocated to the Capital Works Reserve Fund. In other words, the proceeds will be spent on infrastructure construction. Subsequently, we would come before the Finance Committee to apply for funding for capital works projects. As a result, Members will again have an opportunity to examine more closely whether the infrastructure projects concerned are financially viable.

Thank you, Madam President.

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

(Members raised their hands)

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

(No hands raised)

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

## **MEMBERS' MOTIONS**

**PRESIDENT** (in Cantonese): Members' motions. Two motions with no legislative effect. I have accepted the recommendations of the House Committee on the time limits of Members' speeches. I think Members are very familiar with the time limits. So I would just like to remind Members that I am obliged to direct any Member speaking in excess of the specified time to discontinue.

The first motion: Anti-gambling.

**ANTI-GAMBLING**

**DR TANG SIU-TONG** (in Cantonese): Madam President, I move that the motion as set out on the Agenda be passed.

Ever since football betting was authorized last August, gambling has reached incendiary levels in Hong Kong. Figures released by the Hong Kong Jockey Club (HKJC) last Wednesday show that for the eight months past, the number of online betting accounts has surged from the original 35 000 to close to 95 000 at present. The number of Telebet accounts has gone past 1 million, representing an increase of 200 000 over that of last August. If the adult population of people over the age of 18 is taken to be about 5.3 million, that would mean that one in every five adults would have a Telebet account. The actual number may not include those who do not have a Telebet account but have a habit of placing bets at the off-course betting branches. Some academics point out that, compared to the number of Telebet accounts a few years ago which stood at about 300 000, the growth in the number of such accounts in recent years has been much faster than anticipated. It is estimated that many of those who have opened their accounts recently are newcomers to football betting. With the non-stopping promotional efforts made by the HKJC for the UEFA European Championship finals, it is estimated that the number of Telebet accounts would increase by 50 000 to 60 000 in the coming month.

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

Last week I conducted a telephone survey on the gambling problem in Hong Kong and of the some 900 respondents, 32% said that they had taken part in gambling activities. It can therefore be seen that it is a common thing for people to take part in gambling activities. The problem is, of the persons interviewed who are under 18 years of age, as many as 16% have taken part in gambling activities. For young people aged between 18 and 25, 43% have taken part in gambling activities.

Speaking from the experience of the World Cup 2002, international matches and the mood at that time are often catalysts causing a surge in gambling activities. As the European Championship finals are about to begin, it is believed that many people who do not normally engage in football betting may

try their luck because of the excitement of the matches, or because of the desire to have a good time or share the fun. What is most worrying is that young people are moved by the trend and the mood to join the ranks of punters. Findings of our survey last week show that fun and excitement are the main causes of occasional gambling and they account for as many as 72% of such gambling. Of those interviewees below 18 and aged from 18 to 25, as many as 67% gamble because of fun and excitement.

For those respondents without any experience in gambling, they find great events like the European Championship finals very attractive. Of those interviewees below 18 years of age, 10% say that they will certainly place bets. At this time when the onslaught of publicity by the HKJC and the media has yet to begin, the European Championship finals are already radiating such great appeal, gambling activities will surely become heated when the finals begin on 12 June.

The original intention of the authorization of football betting is to rein in illegal football gambling and its policy objective is to curb gambling activities by legalizing them. However, as the HKJC engages in earnest wrestling with the off-course bookmakers, it is adding fuel to the spread of the gambling problem. The HKJC has been sparing no efforts in its bid to become more competitive and attracting members of the public to open accounts and place bets. Starting from the 8th of this month, the initial deposit to be placed at opening a betting account has been reduced from \$500 to \$100. There are always new forms of bet and products with giant jackpots are launched. For example, there is the "8HaFu" which is especially launched for the European Championship finals. It is like the Six Up in horse racing where a single winning bet may bring in a dividend of over \$10 million, just like what the advertisements claim. The HKJC has also said that it will launch more new betting forms to counter those offered by off-course illegal bookmakers. In other words, there will be new gimmicks coming up and placing bets will be made easier than ever. The people may place bets with SMS by mobile phones or on the Internet. Starting from 25 May, the HKJC will launch a brand new "one minute online registration", making use of the security and certification technology it has developed so that the close to 1 million account holders can bet online at any time, any place. So easy that it can even do away with the e-cert. The most outrageous thing is the extension of the Mark Six computer quick pick to football betting. This would enable those who know nothing about the matches or how to bet to buy a computer quick pick and try their luck. All these are targeted on those who do

not normally bet on soccer games and those who know nothing about it. They are attracted by the convenience of football betting and this has entirely deviated from the target of competing with off-course illegal betting.

According to figures from the police, police efforts have been very effective in combatting off-course gambling. Figures as at the beginning of March show that within the first three months after the legalization of football betting, the number of people arrested for illegal football betting and the worth of betting slips seized have decreased by 15% and 89% respectively compared to the same period last year. Since the police efforts have been effective, I do not see why the HKJC still has to rack its brains and design new ways of betting and lower the initial deposit requirement just to lure more patrons. I would think that the police should report from time to time to the relevant panel of this Council on the efforts in cracking down on illegal off-course gambling. That will enable members of the Home Affairs Panel to decide whether or not the task of curbing gambling with gambling which the authorities have entrusted the HKJC with has really backfired.

It is learned that according to HKJC estimates, there are about 300 000 to 400 000 people in Hong Kong who take part in illegal off-course gambling and the value of bets placed on football gambling is as much as \$20 to \$40 billion. This group of people who take part in illegal gambling should belong to those who gamble frequently, that is, they are old hands in gambling activities. What makes illegal off-course gambling so attractive is that there is an endless variety of forms of betting, the odds are high, there are discounts in bets and the money owed to bookmakers can be paid at a later date. The HKJC is really no match for these off-course bookmakers. On the other hand, the advantages which the HKJC enjoys are its great transparency and guaranteed dividends. This ever-changing attempt by the HKJC to come up with new forms of betting will on the contrary attract those people who, not being frequent punters, just bet as a form of entertainment and these people will gradually indulge in gambling as a result of the desire to share the excitement or catch up with the trend.

In addition, the HKJC in its promotion leaflets and websites all explain in great details the methods of opening accounts, the betting channels and the various bet types with their All Up formulas. The information is given in illustrations and explanations, and it is only in a most inconspicuous corner that the HKJC urges the people "Don't gamble your life away". In addition, the HKJC takes on a very low-key stance in its publicity directed at preventing

underage persons from taking part in gambling activities. In its information leaflets, it has printed the warning at the very bottom, saying that applicants for Telebet accounts must be Hong Kong residents aged 18 or above. These words in very small print can understandably carry no deterrent effect at all. The leaflet is printed in a most colourful way, calling people to open a betting account immediately. Against these catchy words, the warning is made in a most insignificant manner.

According to the survey conducted by me, 41% of the respondents think that the publicity and promotions made by the HKJC smack of encouraging people to gamble. The HKJC has been very aggressive in soliciting patrons, but it has definitely not done enough in preventing young people below the age of 18 from gambling.

Young people love the game of football and they are easily affected by the mood of the people around them and when added to their rebellious nature, they would try to break the social taboos imposed by the grown-ups. Figures from the HKJC show that during the period from August last year to this March, a total of 75 000 interceptions have been made to deter people unable to produce any proof of age or under the age of 18 from entering the off-course betting branches. The number is 15% of the total interceptions made and it shows a monthly average of over 9 000 person times. In addition, there is an inability to check whether adults lend their betting accounts to underage persons to place bets. The existing Betting Duty Ordinance does not prohibit grown-ups from lending their accounts to persons under the age of 18. In February this year, The Hong Kong Polytechnic University (HKPU) conducted a survey in collaboration with the Zion Social Services Centre on students from 11 secondary schools in Kwun Tong. It was found that 1 000 secondary school students had gambled before. A survey made by HKPU in 2001 shows that 5.7% of the young people interviewed who are aged from 13 to 18 have taken part in football betting and about 2.6% of the young people may become pathological gamblers. This percentage is higher than that in the adult population. The young people love adventures and novelties and gambling is an exciting thing for them. They can also bet to test whether their forecast of matches is correct. In addition, through the publicity made by the HKJC on its online radio, as well as the possibility of placing bets through the SMS of the mobile phones, the young people are attracted to betting through those channels they know and like best. The Asia Pacific Research Institute of The Chinese

University of Hong Kong finds out, in a recent study on the concept of financial management among the young people, that 61% of the interviewees think that making use of various investment tools can make them become millionaires. Those who believe that they can get rich by gambling account for 4.5% of the total. The percentage is surprisingly higher than those who think that doing business can make them rich by as much as more than two times. So one must never play down the risk of young people being led to gamble through this desire to get rich by luck.

Since the authorization of football betting, the Home Affairs Bureau has never taken any positive moves in enforcing an anti-gambling policy. The Bureau which is tasked with the supervision of football betting released a Code of Practice for the Conduct of Football Betting only at the beginning of this February. So the HKJC was left free to do whatever it liked for almost a year in the absence of any code of practice. The Bureau is clearly in dereliction of its duties. It has also left the task of forbidding underage persons to engage in gambling activities to the HKJC and the strength of this regulation is open to question. The Football Betting and Lotteries Commission is only an advisory body in terms of functions and its secretariat is dependent on the Home Affairs Bureau which advocates for regulated betting. The Home Affairs Bureau is therefore advocating regulated betting on one hand while it has to regulate betting on the other, that is trying to regulate itself. When there is such a conflict of roles, how can people believe that it will do its best in regulating betting? A simple example is that its Code of Practice requires the HKJC to provide the names and other information of the organizations providing counselling services, but there is nothing on the gambling counselling hotlines in the HKJC's advertisements on the TV and in the banners placed on the streets.

The Education and Manpower Bureau promotes anti-gambling education on its moral education and civic education websites and efforts are made on the three aspects of knowledge, mentality and skills to teach students to resist the temptation of gambling. The Government has also commissioned the HKedCity to launch a two-year Say No to Gambling Action. Various activities will be organized from May to July this year to encourage participation by students. Unfortunately, this anti-gambling education by the Government is not widely known among the people. The findings of our survey show that 27% of the people interviewed have never heard of public education efforts by the Government in this area. There are 53% who have heard of it but they do not know of the details. Only 20% reply that they know clearly what these

are. When the people know so little about anti-gambling education, how can we expect it to be effective? From this it can be seen that this frail attempt can never hold back the sweeping tides of publicity from the HKJC.

All the above show that we must take action immediately to curb the spread of gambling. In my opinion, the most effective way is for the police to take rigorous actions to crack down on illegal gambling. The Government should collaborate with the HKJC and other related organizations to step up its efforts in anti-gambling publicity and education. According to the findings of the survey conducted by me, 22% of those who do not participate in gambling think that gambling will lead to financial losses. Another 50% think that gambling will lead to undesirable consequences for themselves and their family. They also refrain from gambling because of the unfortunate cases they have seen. Therefore, the authorities should urge the HKJC to step up publicity efforts and convince the people that one will lose more often than win in gambling and that gambling may bring misfortune on themselves and their families. According to the Code of Practice, the licensee shall conspicuously display notices in its premises which contain warning on the seriousness of problems caused by excessive gambling, in order to guide people to exercise self-restraint and even do not participate in gambling. At present, there are no such warning notices placed conspicuously at the off-course betting branches of the HKJC on the adverse consequences of gambling. In these branches, only some leaflets on "Responsible Gambling" are placed solitarily in a corner where nobody would even notice, not to say pick them up and read.

I also urge the Government to increase its resources to step up the counselling and treatment for problem and pathological gamblers and their families. It is reported that the two counselling and treatment centres financed by the Ping Wo Fund are full and many help seekers have to wait for their turn at a later date. It must be borne in mind that those who seek help from these centres are mostly facing very serious problems and if they are not given prompt attention, it might lead to grave consequences. On the other hand, some other voluntary agencies may like to offer similar services but their staff may not have relevant training in counselling gamblers and they need more resources before they can give such training to their staff. I hope that voluntary agencies like the Caritas and the Even Centre can take some pre-emptive actions by, for example, placing an anti-gambling counter in the HKJC off-course betting branches or doing some outreach work in the bars which show football matches. All such work would need more allocation of resources as support.



Anti-gambling efforts are meant to be persistent efforts and advertising and promotional activities can only be complementary because of their haphazard nature. The question about education and promotional efforts is not whether these efforts have been made or not, but more importantly, in whether or not there has been system, efficacy and commitment in making these efforts. The aim of these is to foster an anti-gambling culture. Findings of our survey show that 36% of those interviewed think that the anti-gambling concept should be incorporated into the primary and secondary school curricula. This would be the most effective way to prevent people from becoming over-indulgent in gambling. In addition, educational efforts should not be limited to schools, for the effect of socializing should never be overlooked. Our survey shows that 11% and 10% of the respondents think that the most important ways are respectively to enhance anti-gambling publicity and counselling in the community, and to urge the media to exercise self-restraint and reduce the excessive provision of gambling information. I urge the Government to enhance relevant measures in education, promotion and counselling. On top of these, the Youth Creative Award organized this year aims at encouraging young people aged between 13 and 25 to create their own slogans, posters, theme songs, one-minute videos and street T-shirts to show their resistance to football gambling and to persuade their friends and peers not to participate in it. The entrants are also asked to make use of their summer holidays to devise a publicity programme for the new school year so that they can put the anti-gambling message across to all schools in Hong Kong. All these activities will certainly be of great help to the anti-gambling drive.

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

**Dr TANG Siu-tong moved the following motion: (Translation)**

"That, as the forthcoming UEFA European Championship finals are likely to attract more people, particularly young people, to participate in football betting, this Council urges that the Administration should, in addition to strengthening its efforts in combating illegal gambling, immediately collaborate with relevant bodies and organizations to step up publicity and education, and formulate other long-term measures to foster an anti-gambling culture and prevent people from indulging in gambling; at the same time, the Administration should also allocate more resources to enhance the counselling and treatment services for problem and pathological gamblers and their families."

**DEPUTY PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the motion moved by Dr TANG Siu-tong be passed.

**DEPUTY PRESIDENT** (in Cantonese): Mr Andrew CHENG and Mr Tommy CHENG will move amendments to this motion respectively. Their amendments have been printed on the Agenda. The motion and the two amendments will now be debated together in a joint debate.

I will call upon Mr Andrew CHENG to speak first, to be followed by Mr Tommy CHEUNG; but no amendments are to be moved at this stage.

**MR ANDREW CHENG** (in Cantonese): Madam Deputy, first of all, let me just report to the Legislative Council on what the Hong Kong Jockey Club (HKJC) has achieved in football betting since the legalization of football betting:

First, the HKJC began by accepting bets on the matches of popular soccer leagues such as the English Premier League, the Spanish League Division 1, the German League Division 1 and the Italian League Division 1, but now it has gradually enlarged the range of betting options by adding in the English Nationwide League Division 1 and even the Spanish League Division 2 and the German League Division 2, which hardly attract any attention from soccer fans. Besides, for the mere sake of encouraging gambling to boost betting turnover, the HKJC has even offered betting options that no illegal or foreign bookmakers will offer, so as to "sweep everything into its net".

Second, betting options aside, there is also a wide range of betting types. Although we cannot tell what the case will be in the future, we can be sure that the types of betting available now are unprecedented in terms of variety. The HKJC has been offering many types of betting that even illegal or foreign bookmakers will not ever consider — first, there is 6 HaFu, and, during Euro 2004, 8 HaFu will also be available, thus fanning the already raging blaze of gambling.

Third, the number of Telebet accounts opened with the HKJC has recently exceeded 1 million, an increase of 200 000 accounts when compared with the figure in August last year. In addition, the number of on-line betting accounts has also increased from 35 000 to nearly 90 000 now. In just a short span of

nine months, Telebet accounts and on-line betting accounts have respectively increased by 20% and 157% in number. It is expected that Euro 2004 will lead to another wave of account registration.

Fourth, the HKJC's football betting turnover has been rising incessantly. The HKJC has not yet announced any detail of the books, but at the end of March, Mr Ronald ARCULLI, Chairman of the HKJC, already disclosed that the gross profit from football betting was as much as \$2 billion.

If the HKJC was a listed company, such a performance will certainly enable it to satisfy its shareholders. The point is that the Government's original intent of issuing a licence to the HKJC is to curb illegal betting. But the football betting activities operated by the HKJC are no longer serving this very purpose. Rather, they have served to encourage gambling, inducing some people who did not use to gamble to start doing so, and gradually turning some others who have all along been gambling into pathological gamblers. And, besides the acceptance of bets on matches that are hardly popular, there are also a number of highly uncommon types of betting. Football betting is not a creative industry. The introduction of more and more betting types will only fan the flame of football betting and result in a departure from the objective of the Government's gambling policy. If the HKJC continues to enlarge the football betting population by hook or by crook, instead of exercising any restraint, I am afraid that one day, the range of football betting options may well be extended to the matches in Northern Europe, South America, Japan and South Korea. And, in order to suck the last drop of profit, so to speak, they may even include international friendlies.

In the initial days of the legalization of football betting, The Hong Kong Polytechnic University conducted a survey, and according to the findings, 12.3% of the respondents said that they would increase their bets due to the legalization of football betting. Besides, 6.3% of the respondents observed that a greater number of their family members and friends were placing bets on football matches. It is therefore an incontestable fact that football betting has led to an increase in the gambling population, thanks mainly to the aggressive football betting policy of the HKJC. The current attitude of the Government is to turn a blind eye to all this, allowing the HKJC to offer whatever betting options and introduce whatever types of betting it likes. We in the Democratic Party maintain that the Government should take some actions to impose some sort of restraint on the HKJC.

We are of the view that in order to ensure that there is real regulation of football betting, the Government must at least do two things in addition to adopting the measures put forward in the original motion:

First, it must amend the relevant legislation, specifying the range of matches accepted for the purpose of betting. The relevant provisions can be set out in a Schedule and handled by way of negative vetting. We are of the view that this can help strike a balance between discouraging gambling and curbing illegal betting, thus preventing the HKJC from encouraging gambling by indiscriminately introducing betting options that even illegal bookmakers will not offer.

Second, the HKJC should seek the prior consent of the Legislative Council Panel on Home Affairs and the Football Betting and Lotteries Commission (the Commission) before introducing any new types of betting.

Madam Deputy, the Government may of course think differently, and it has indeed said on various occasions that the two measures mentioned above will undermine the HKJC's competitiveness, rendering it unable to compete with illegal bookmakers. But it must be noted that the HKJC has long since outdone bookmakers in Macao and the United Kingdom in terms of betting types. It is capable of offering any betting types available from bookmakers in Macao, and it is even able to introduce betting types not offered by its counterparts in the United Kingdom. That being the case, a mechanism with public participation should really be put in place to vet any new betting options and betting types that the HKJC intends to introduce in future, so as to reflect their degree of acceptance in society.

Under the existing terms of reference of the Commission, its first duty is to advise the Secretary for Home Affairs on the regulation of the conduct of football betting and lotteries in accordance with the provisions of the Betting Duty Ordinance and the licensing conditions. But according to the record contained in the Government's official website, the Commission has held only three meetings since its establishment, and even the latest one was held as long ago as January. The HKJC and the Government have never notified the Commission of the introduction of any new betting options and betting types, either beforehand or afterwards. The Commission is thus literally a "lame duck" advisory body. As a body responsible for regulating the conduct of football betting, the Commission will find it very difficult to perform its function

if it does not have the power to say "no" to the HKJC's introduction of new betting options and betting types.

Madam Deputy, in April this year, in a speech he delivered during an anti-gambling function, the Secretary for Home Affairs, Dr Patrick HO, remarked, "Although gambling is just a form of entertainment in the eyes of many people, we still think that it is no ordinary diversion but something that entails risks." Madam Deputy, the Secretary referred to "something that entails risks". Frankly speaking, the Government's existing gambling policy similarly entails a risk. If the Government continues with this attitude of giving the HKJC a free hand in introducing new types of betting, it will also face a risk. The risk is that as the gambling population expands, leading to an increase in the number of pathological gamblers, our society will have to bear enormous costs. Madam Deputy, since the Secretary also agrees that gambling is no ordinary diversion, the adoption of "gambling against gambling" as a tactic of curbing illegal betting must be accompanied by the provision of sufficient resources to enhance the counselling services related to the gambling problem. In the first six years of its operation, the Ping WO Fund will have a funding of \$15 million a year, which is just a negligible percentage of the total annual turnover of football betting. And, this amount of funding is also just an extremely small proportion of the estimated net profit of \$2 billion to \$3 billion to be reaped by the HKJC from football betting. It is already beyond any doubt that the spreading of gambling activities will lead to an increase in the gambling population. I am afraid that this will be accompanied by a consequential rise in the number of pathological gamblers. If the Government does not allocate more resources as soon as possible to provide more counselling and treatment services, I am afraid that Hong Kong may eventually become an international gambling centre under the administration of Mr TUNG Chee-hwa. After the vanishing of Mr TUNG Chee-hwa's "85 000" housing target, after he has finished with all his day-dreaming about turning Hong Kong into a Chinese medicine centre, a high-tech port and a flowers port, Hong Kong may ironically become a gambling paradise capable of competing with Macao. This is indeed ironical, or is this really the greatest achievement of Mr TUNG during his term of office?

With these remarks, Madam Deputy, I propose the amendment.

**MR TOMMY CHEUNG** (in Cantonese): Madam Deputy, from August last year, when the Hong Kong Jockey Club (HKJC) was first authorized to conduct

football betting, to the end of February this year, the police detected 20 cases of illegal football betting during raids, seizing some \$4 million worth of betting slips and cash. This represents a drastic drop of 70% when compared with the \$14 million worth of betting slips and cash seized during the same period of the year before last, showing that the authorization of football betting has succeeded in curbing illegal football betting to a certain extent.

Euro 2004 will be held from the end of next month to mid-July. This will certainly lead to a craze of football watching and even football betting. That is why the Liberal Party agrees that the authorities must take early precautions and make preparations for clamping down on illegal football betting more rigorously. Besides, education and publicity efforts must also be stepped up to prevent any widespread indulgence in gambling in society, not least because the climax of the tournament will come when the school examination season is over, so many teenage football fans may fail to resist the temptation and take part in football betting.

I wish to emphasize that the Liberal Party has always been extremely concerned about the problem of youth gambling. We are of the view that the current measures on preventing teenagers from entering off-course betting branches must be enhanced.

In March this year, The Hong Kong Polytechnic University and a district organization in Kwun Tong conducted a joint survey. The survey revealed that almost half of the 1 000 Kwun Tong secondary school students interviewed had participated in gambling in the past one year. They mainly betted on football matches and the Mark Six Lottery, and they also gambled with their friends and relatives. What is most worrying is that nearly 10% of the students interviewed admitted showing symptoms of pathological gambling such as loss of self-control, preoccupation with gambling and the commission of unlawful acts due to gambling. And, 6% of the students interviewed even said that they had started to gamble as early as when they were six years old.

In addition, from the checks on nearly 500 000 people conducted by the HKJC at off-course betting branches from August last year to March this year, the authorities notice that 75 000 people, or about 15%, were juveniles. They attempted to enter off-course betting branches but were refused entry by HKJC staff upon inspection. This shows that the HKJC must step up its age checks. More security guards, for example, must be stationed outside off-course betting

branches to check the age of all suspected juveniles as far as possible. Random checks are just not enough.

As for preventing teenagers from gambling through other means such as telephone-betting and on-line betting, teachers, parents, social workers and other people who have frequent contact with teenagers should all raise their alertness and pay more attention to the behaviour of teenagers. They should remind teenagers of the disastrous consequences of gambling, help them build up concepts of proper financial management and make them realize that even "small bets" can never be allowed, because once they lose their self-control and become addicted, it will be very difficult for them to stand up once again.

However, we also think that it will never be possible to ban gambling totally, and that any such attempts are simply unrealistic. The purpose of my proposing this amendment today is to urge the authorities to foster a culture of gambling regulation, to enhance control, so as to prevent the flame of gambling from spreading wide, from doing immense harm to society, the individual and the family.

It has been almost a year since the commencement of football betting authorization. We agree that it is now the right time to review its effectiveness. Last year, in order to enhance the efforts of curbing gambling and assist problem gamblers in leading a normal life again, the authorities established the Ping Wo Fund. Now that the Ping Wo Fund has been operating for nearly a year, the authorities should explore what improvements are required, so as to address the existing gambling-related problems in society more effectively and prevent the flame of gambling from getting out of control. The scope of review should cover whether there is any need to adjust the funding for publicity and education, treatment centres for pathological gamblers and studies on gambling under the Ping Wo Fund, so as to ensure that the desired objective of regulating gambling can be better achieved. But we must emphasize that before considering the allocation of any extra resources, the authorities should first ensure the effective utilization of existing resources, and additional resources should be allocated only in case of genuine necessity.

Madam Deputy, we also note that according to some surveys, there were already more than 100 000 pathological gamblers and 220 000 problem gamblers in Hong Kong three years ago. The situation with problem gamblers was less serious than that with pathological gamblers, but these two types of gamblers still

amounted to some 300 000 in total. What is more, the debts owed by pathological and problem gamblers are also enormous. According to the latest survey statistics of a gambler rehabilitation centre engaged in handling cases of this nature, the new cases of problem gamblers received in 2003-04 are 16% higher than those received in the previous year, meaning an increase of 435 cases. And, the combined debts owed by some 200 of these gamblers even exceeded \$100 million. What is so worrying is that gambling will not only affect the gambler himself but will also do harm to his family members and children.

In respect of resource deployment, the two gambler counselling centres set up under the Ping Wo Fund may co-operate with each other, with a view to enhancing the counselling services for gamblers in need.

Admittedly, it is very difficult to eradicate illegal betting activities, but this does not mean that we should thus allow gambling to get rampant. Therefore, the Liberal Party would like to urge the authorities and the police to keep up their rigorous efforts of clamping down on illegal bookmakers and enhance cross-boundary actions against off-shore betting. Besides, we also encourage people to take part in legal gambling activities.

Mr Andrew CHENG's amendment proposes to tighten the restrictions on the licensed operator of football betting, including specifying in the Betting Duty Ordinance the types of football matches on which bets may be accepted by the licensed operator. The Liberal Party is worried that this may pose a great hindrance to the licensed operator in its competition with illegal bookmakers, thus reducing the effectiveness of curbing illegal football betting. However, we still encourage the licensed operator to fully consult the Football Betting and Lotteries Commission before introducing any new types of betting. This can ensure the effective curbing of illegal football betting without fanning the flame of gambling. In other words, there will be both effective regulation and flexibility.

Madam Deputy, I so submit.

**MR IP KWOK-HIM** (in Cantonese): Madam Deputy, the Government said in a reply given to a Member's question two weeks ago that from August last year to February this year, the police had detected 20 cases of illegal football gambling



and seized betting slips and cash worth some \$4 million. The number of cases shows a decrease of 20% as compared to the same period last year, while the amount of bets involved has dropped a great deal by 70%. In addition, the Hong Kong Jockey Club (HKJC) has confirmed that since it started to operate football betting, its revenue has increased by \$2 billion. From the above figures it can be seen that since the legalization of football gambling, many people have indeed turned from taking part in illegal football gambling to placing their bets with the HKJC. It looks from the surface that the introduction of legalized channels of football betting has served to reduce illegal football gambling activities successfully. However, the DAB is worried by the rising trend of people participating in gambling. It is reported that the number of Telebet accounts could be as many as 1 million, and just now Dr TANG Siu-tong has cited these data.

The DAB has all along opposed the authorization of football betting and one of the most important reasons is that we do not want to see more people indulge in gambling as a result of authorization of football betting. In next month the UEFA European Championship finals will begin, with 31 matches spanning a period of 23 days. To draw more people to football betting, the HKJC has announced five new bet types and it can be envisaged that the number of people who will open betting accounts will only surge. The fact before our eyes is that the authorization of football betting will only serve to add fuel to the fire of football betting in Hong Kong. What is even more worrying is that many of those who open new betting accounts are newcomers to football betting.

The DAB is of the view that the Government should bear the greatest responsibility for the spread of gambling. Discounting the funding for the two centres which provide counselling and treatment for pathological gamblers, the money which the Government will use in the coming year on anti-gambling work is only \$5 million. Of this sum, \$1.5 million will be used to make an assessment of the effectiveness of these two centres and the remaining \$3.5 million will be used on public education. All these resources come from the Ping Wo Fund, that is, money donated by the HKJC and the public. So, Madam Deputy, strictly speaking the Government has not contributed one single cent to anti-gambling work. Since the introduction of authorized football betting, the value of bets placed is about \$20-odd billion and the revenue for the time being is about \$2 billion. But the resources for anti-gambling work are only \$5 million. It is like a drop of water in the ocean. Not only has the

Government not contributed any resources to anti-gambling work, but it has also passed the responsibility of anti-gambling publicity entirely to the Ping Wo Fund. This is really a heartless move to take.

The DAB very much supports the anti-gambling motion moved by Dr TANG Siu-tong today. We hope that the Government will really crack down on illegal gambling activities and collaborate with the Ping Wo Fund and other related organizations to carry out some specific publicity activities. More importantly, an anti-gambling strategy should be devised as soon as possible to foster an anti-gambling culture in society.

As the DAB did not support the Betting Duty (Amendment) Bill 2003 last year, so we would not support the amendment proposed by Mr Andrew CHENG. As for the amendment proposed by Mr Tommy CHENG which suggests to change the call for the fostering of an anti-gambling culture to one which is conducive to regulating gambling, the DAB thinks that regulating gambling can turn illegal gambling into legalized gambling and that does not meet the anti-gambling aspirations of the DAB. Therefore, the DAB will also not support the amendment proposed by Mr Tommy CHEUNG.

With these remarks, I support the original motion. Thank you, Madam Deputy.

**MR WONG SING-CHI** (in Cantonese): Madam Deputy, ever since the legalization of football betting, the Hong Kong Jockey Club (HKJC) has been launching new promotions in football betting and new bet types. Besides adding to the infinite variety of gambling, the HKJC has also added the types of soccer matches on which bets can be placed. All in all, these efforts are aimed at attracting more people to football betting and making more channels available to them. They are certainly not directed at cracking down on illegal football betting but overwhelming the whole of Hong Kong with the craze for football betting.

Take, for example, a new bet type called "6 HaFu". At first I did not know what it was, but after someone explained it to me, I know that each time the HKJC will pick six matches and punters can bet on the half-time and full-time results of these six matches. Bets with the correct combinations of half-time and full-time results will share the dividend. In case there is no winner, the

dividend will be allocated to the jackpot pool next time. As the HKJC describes it, this new bet type is expected to yield a huge dividend. So that is really very attractive and many people who may not want to gamble may be attracted to take part in gambling, certainly.

In addition, the HKJC has sought to enhance its information services by introducing as a start an online broadcasting service called the Radio JC. The HKJC claims that it is an online radio, but if that is broadcast in all the off-course betting branches, then the government policy which bans young people under 18 from entering the off-course betting centres will be rendered non-existent, for gambling information, instead of being confined to a physical venue, will go out of the off-course betting centres. With respect to the gambling information which young people may view or hear online at any time, the Government should require the HKJC to provide some free software to enable people to download some program to bar access to the relevant website. All primary and secondary schools must also be required to install the software to prohibit students from browsing this website in school. Parents should be encouraged to install the related software to stop their children from browsing the website at home. The Government must not do nothing about it, for if not, it is merely giving up the responsibility of supervision.

The Government always says that young people under the age of 18 are prohibited from participating in football betting. But according to a survey conducted last December by the Hong Kong Gambling Watch of The Society for Truth and Light, after the legalization of football betting, the HKJC has done a lot of publicity on such betting and many young people have been attracted to take part in it. So the situation is acute.

The survey analysed a total of 5 175 questionnaires filled in and returned by students from 45 secondary schools in Hong Kong. It is found that:

- 4.1% of the students have bet on soccer matches illegally and of these students, 70% began to bet on soccer matches after the authorization of football betting last August.
- Of the students who bet on soccer matches, they place their bets at an average of three times a week and with an average bet of some \$70. Over 50% of them would have someone above the age of 18 to place bets for them and close to 40% place their bets in the

off-course betting branches. That shows that though they are under the age of 18, they can still go into these betting branches to place bets. I have personally gone to these branches and found that no one would care about students who look like 18 years of age entering these branches to place bets. There is no one to check their identity cards.

- Among those students who bet on football matches, 15% will borrow to gamble; and among those who borrow to gamble, 30% have borrowed from loan sharks.
- Using the Diagnostic and Statistical Manual of Mental Disorder (DSM-IV) compiled by the American Psychological Association, of those students who take part in football betting, 17% may meet the definition of pathological gamblers and 7.8% can be classified as problem gamblers.
- Over 60% of the students think that football betting is a form of gambling while close to 50% think that it is a form of entertainment.

The above are the findings of a survey done by The Society for Truth and Light. This survey only shows the preliminary findings of a survey done after the authorization of football betting. As I have mentioned, with the HKJC always increasing its betting types and the matches on which bets can be placed, we are worried that more and more young people and students will be attracted to take part in football betting.

Now there are about 400 000 students in Secondary One to Secondary Five school population in Hong Kong. If these students begin to form a habit of gambling during their secondary school days, it is very likely that they will be addicted to gambling. When they have grown up, it is very likely that they will become pathological gamblers or problem gamblers. Just imagine what will become of our society? We will need to pay even greater social costs, to tackle the many problems, including family problems, brought about by the pathological and problem gamblers. At the same time, more resources will have to be used on treatment given to gamblers.

So we urge the Government to expeditiously review the existing football betting policy in order to check the growing popularity of gambling and to

strictly prohibit young people under the age of 18 from gaining access to information on football betting and other related channels. Recently, I have discussed the problem with many parents and they are very worried when they learn of or suspect their children having participated in football betting. These parents do not know what to do and they are so helpless when they come across these problems. Many of these parents have gone to the youth centres and met with social workers, but they find out that there is no service to help them with their children who have bet or suspected to have bet on football matches. So there is no comprehensive or integrated strategy on the part of the Government to prohibit football betting. What the Government is doing is that it is helping out the HKJC to present more opportunities of football betting which will attract and influence our young people. I hope the Government can really do what it claims and will not just help the HKJC make football betting the hottest game in town. More measures should be adopted and, failing that this authorization of football betting should at once be stopped. Madam Deputy, I so submit.

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

**MR AMBROSE LAU** (in Cantonese): Madam Deputy, I speak in support of the motion moved by Dr TANG Siu-tong.

The original intention of the authorization of football betting is to bring football betting onto the right track and to adopt anti-gambling as a policy objective. Now when the UEFA European Championship finals are about to begin, a lot of people will be drawn to watching the matches. With the launching of promotion campaigns by the media and the betting operators, it is anticipated that many football fans will place bets. As international matches are a lucrative source of income for illegal off-course bookmaking syndicates, so the police should spare no efforts in cracking down on illegal gambling activities.

Figures released by the police in March show that for the six months since the authorization of football betting last year, the Hong Kong Jockey Club (HKJC) has succeeded in grabbing the bets which previously would go to some illegal bookmakers, and a few bookmaking syndicates may have withdrawn their operations from the territory as a result. With rigorous enforcement actions by the police, the value of betting slips seized in the first two months after the authorization of football betting dropped drastically by 80% as compared to the

same period two years ago. Recently, the police have only detected four to five cases of illegal football betting each month and it shows that illegal bookmaking activities have become much less noticeable. From this it can be seen that the raids and prosecutions made by the police are important tactics to enforce the regulation of football betting. When faced with the possibilities of a revival of illegal football betting or even syndicated betting activities as the European Championship finals are about to begin, there is a need for the police to carry out multi-pronged actions to combat such activities. The police should also make frequent inspections and carry out promotions aimed at combating illegal football betting in venues like bars which broadcast football matches. This would achieve some deterrent effect.

Last year when this Council debated on the "authorization of football betting", the greatest controversy and worry displayed by the community was whether or not this "authorization" would send a wrong message to the young people, that they would be encouraged to take part in football betting. As a matter of fact, many young people love the game of football and they are also easily influenced by the trends and sentiments in society. So the Government must guard against the possibility that young people may be attracted to become new blood in football betting because of their desire to share the excitement and catch up with the trend. At this time when football betting has been authorized, the authorities should have drawn up better plans and actions in this respect.

The authorization of football betting has not lifted the ban on those under the age of 18 to engage in football betting. According to the Code of Practice for the Conduct of Football Betting released by the Home Affairs Bureau at the beginning of this February, the HKJC must display warning signs and broadcasts to state that persons under the age of 18 are not allowed to engage in football betting. However, according to the survey undertaken by Dr TANG Siu-tong, it is found that the HKJC has not done enough to fulfil its obligations and to deter juveniles from engaging in football gambling. The warning signs displayed on its premises are not conspicuous, catching little public awareness. On the contrary, as the HKJC has been too aggressive in soliciting patrons, it gives the people an impression that it is encouraging gambling. The interceptions made at the off-course betting branches of juveniles show that over the past eight months, there is a monthly average of some 9 000 person times who are not allowed to engage in football betting because they fail to produce proofs of age or they are under the age of 18. From these figures it can be seen that how tempting gambling is to the young people. Now apart from going to the

off-course betting branches to place their bets in person, people can also do so through the Internet or SMS with their mobile phones, so how are such activities to be regulated? The existing Betting Duty Ordinance does not specify that adults cannot lend their betting accounts to persons under the age of 18 and so the Government should plug this loophole and penalize those adults who lend their betting accounts to juveniles. This will help achieve a deterrent effect.

As prevention is better than cure, I am very much in agreement with Dr TANG Siu-tong's suggestion that the Government should collaborate with the related groups and organizations to step up promotion and education efforts and to formulate other long-term measures to foster an anti-gambling culture. According to a survey conducted by the Hong Kong Gambling Watch in the second half of last year, about 4% of the secondary school students in Hong Kong take part in football betting. Therefore, it is a most pressing task to carry out promotion and education work to prevent the young people from indulging in gambling.

On the one hand the Government must act positively in regulation. It should oversee the efforts made by the HKJC to compete with the bookmaking syndicates for patrons while stepping up publicity on the hazards of football betting. Wordings used in the warnings should be of a more forceful or deterrent nature.

On the other hand, anti-gambling education should be incorporated into moral and civic education in schools. It is a very good suggestion that it should be included in the formal curricula of primary and secondary schools and as a long-term measure to be enforced. I hope the authorities would examine this idea in detail.

Madam Deputy, I so submit.

**MR YEUNG YIU-CHUNG** (in Cantonese): Madam Deputy, two weeks ago, the Government announced that an average of more than 9 000 persons every month had been stopped and prohibited from entering an off-course betting branch because they were under the age of 18 or unwilling to produce any proof of age. From this it can be estimated that young people who gamble frequently would completely defy the restrictions imposed by law and would just walk

straight into these off-course betting branches to place bets. That shows beyond doubt that the Government's anti-gambling policy is a total failure. The figures released by the authorities only show the number of people who have been stopped or random checked, but how many young people managed to place bets at the counters of the betting branches? Obviously, the young people would just want to gamble and they do not care about these anti-gambling actions at all.

In 2001 the Government commissioned The Hong Kong Polytechnic University to undertake a study on gambling. The findings showed that of the young people aged between 13 and 18, 5.7% of them had engaged in football betting. It can be seen that a lot of people were already gamblers even before football betting was legalized. So after legalization, the number of young people who engage in football betting has not seen any decrease. However, as to the actual number of young people who take part in football betting, it would be known only when after the Government has commissioned the universities to undertake another study and it is likely that the results would only be known by 2005 at the earliest. Though the Government has lifted the restrictions on gambling, its work in regulating gambling and anti-gambling has not been active. The result is that the Government is reaping huge amounts of betting duty while the punters are suffering from terrible losses.

On the anti-gambling publicity efforts made by the Government, including the anti-gambling messages disseminated among the public through the HKedCity, the APIs and serials aired on the TV, they are seldom directed specifically at the young people. I would like to raise a very simple question: For those young people who gamble frequently, do they browse the HKJC Football.com website of the HKJC more or the Say No to Gambling website of the HKedCity? At the bottom of the HKJC Football.com webpage, there is a line of warning: No person under the age of 18 is allowed to place a bet or purchase lottery tickets. But this warning is placed in a most inconspicuous place and the print is tiny, so what kind of use does it serve? An indisputable fact is that the young people are placing bets in the off-course betting branches blatantly.

The Government has pushed the responsibility of conducting anti-gambling publicity to the Ping Wo Fund, shirking its own responsibility completely. We are unhappy about this state of affairs. The DAB suggests that the Government should work with the Ping Wo Fund to formulate some anti-gambling strategies, long-term objectives and plans. Apart from funding



two counselling and treatment centres for gamblers, the Ping Wo Fund should put in more resources to promote an anti-gambling awareness among young people, especially those who have already acquired a habit of gambling. The Ping Wo Fund can also provide funding to groups at the district level to carry out anti-gambling education activities so that the message can find its way into the local schools and communities.

The amendment proposed by Mr Andrew CHENG urges that in future any new football betting options may only be introduced after the consent of the Panel on Home Affairs of this Council and the Football Betting and Lotteries Commission has been obtained. In my opinion, though the Panel on Home Affairs may oversee and study matters related to gambling, it is not an authority for vetting and approval, nor is it an expert in football betting. It is because the vetting and approval work will involve the principles and technicalities of how a betting option works. The duties of Members of this Council are to deliberate on policies and legislation and they are not members of a vetting and approval authority. So if we agree to the amendment proposed by Mr CHENG, then Members will have to make themselves well-versed in all the options of football betting and those of horse racing. As the DAB does not support the legalization of football betting, so we will not support the proposal raised by Mr CHENG to specify in the law the types of football matches on which bets may be accepted by the licensed operator. In addition, as the amendment by Mr Tommy CHEUNG changes the term "anti-gambling" to "regulating gambling", the DAB will also not support it as well.

With these remarks, I support the original motion.

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

**MR MICHAEL MAK** (in Cantonese): Madam Deputy, in July last year, the Government introduced the Betting Duty (Amendment) Bill 2003. At that time I voted against the Bill. I recall last year when my office conducted a questionnaire survey on the Bill among members of my constituency, the results showed that the number of those in support of the Bill was similar to the number of those who opposed it. At that time, after pondering over the issue carefully, I decided to vote against the Bill. The basic ground I held was a moral one.

When I spoke then, I mentioned that gambling was by nature evil and that it would lead to many problems. For example, when people gamble, they would not be able to concentrate in their work and their family life will also be disrupted. When they become heavy in debts, they may even take on a precarious course of action or even choose to end their lives as they are unable to pay their debts.

Apart from that, the problem I am most concerned about is that football betting will have far-reaching effects on the next generation. Football is in itself a very healthy sport for people of all ages and many young people love the game. My two sons and their friends often watch football matches on the TV and they like to buy merchandises related to football advertisements. The legalization of football betting has laid a trap before the young people and they now stand a great chance of falling into it as they are now in greater exposure to it.

Though the law forbids persons under 18 to place bets, with the legalization of football betting, it has become a fashionable trend more than ever. In a Council meeting on 5 May, Secretary Joseph WONG said on behalf of Secretary Dr Patrick HO in the latter's absence that for the period from August 2003 to March 2004, the licensed operator questioned 496 000 people about their age on the premises of off-course betting branches and in 75 000 of these questionings, the persons being questioned were refused entry because they were unable to produce any proof of age that they were over the age of 18.

The Hong Kong Gambling Watch conducted a questionnaire survey last October among secondary school students in Hong Kong. A total of 6 182 questionnaires from Secondary One to Secondary Seven students of 45 schools in the territory were returned. Of these questionnaires, 5 175 came from students under the age of 18. The findings showed that 4.1% of the students engaged in football betting. Among these students, 68.3% or close to 70% started to engage in football betting since it was legalized last August. For students who engage in football betting, as many as 31.3% have made borrowings for the betting purposes.

In mid-March this year, a 19-year-old young person committed suicide because of the heavy debts he ran into after he had bet on football matches. Just before he died, he sent a short message to his friend to tell the person that he was about to kill himself because of gambling. So all these are proof that the alarm has rung across our community loud and clear. Since it is near the summer

holidays for the students, the gambling craze sparked off by the UEFA European Championship finals may run out of control.

Last year when the relevant Bill was passed, the Government said that it would set up a special fund, to be managed by the Home Affairs Bureau, to carry out the related measures. These measures include conducting studies on the problem of gambling, preventive education and promotion efforts, as well as counselling and treatment for pathological gamblers. But to date, we have not seen any of such efforts made by the Government. That is really very disappointing.

I hope that the Government will not act slowly or even in an insensitive manner in this anti-gambling cause. The Government must take preventive measures. Apart from having the police to crack down on illegal gambling, it must enhance school and community education so that the people are taught not to indulge in gambling or even take part in gambling at all. The Government may also collaborate with the community organizations to hold large-scale functions to publicize the hazards of gambling. Apart from these, I hope the Government will keep its promise and use the revenue from soccer betting duty to enhance counselling and treatment services given to pathological gamblers and their families.

Ever since the authorization of football betting, the Hong Kong Jockey Club (HKJC) has been launching new betting options to attract more people to place bets. In January the HKJC announced that it would broadcast football news on the Internet. At that time, the Football Betting and Lotteries Commission queried that the HKJC might have contravened the licensing conditions and requested the authorities to require the licensed operator not to publicize any gambling information to juveniles on its official website. However, the HKJC did not listen to this and it is still broadcasting information on football gambling on the Internet. That is regrettable indeed.

The above shows the lack of regulation by the Government over the licensed operator. Therefore, I support the amendment proposed by Mr Andrew CHENG and ask the Government to specify in the Betting Duty Ordinance the types of football matches on which bets may be accepted by the licensed operator and requiring, through administrative measures, that in future any new football betting options may only be introduced after the consent of the

Panel on Home Affairs of this Council and the Football Betting and Lotteries Commission has been obtained.

Madam Deputy, if the Government does not do anything to curb the spread of gambling promptly, I am afraid more and more people will become indulged in gambling and society will have to pay a heavy price. So I support this motion on anti-gambling and I urge the Government to take bold and decisive measures to foster an anti-gambling culture.

Thank you, Madam Deputy.

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

**MR ALBERT CHAN** (in Cantonese): Madam Deputy, when the public and Members ask the Government what measures it has in place to combat gambling, often the Government would say that it would approach the problem from the following five aspects, that is, research, promotion, education, treatment and prevention. The approach might look very impressive as many aspects are covered, but actually it is very disappointing. For we can see that with the so-called authorization of gambling, the problem has not been eased but worsening instead.

Let us look at the problem of an increasing number of young people participating in gambling. When giving a reply to an oral question in this Council on 5 May, the Government said that since last August, staff at the off-course betting branches of the Hong Kong Jockey Club had stopped and inspected the identity cards of punters 496 000 times and the number of people who had not been allowed to bet on account of their age was 75 000. These 75 000 cases can be said to involve people who attempt to bet illegally and we cannot say that the situation is not acute. A survey of gambling among students in Kwun Tong shows that, after football betting has been authorized for half a year, the number of students with a gambling problem has surged by 8.9%.

We can also look at the number of football gamblers who seek help. An organization which was set up to cope with the gambling problem after the

authorization of football betting — the Caritas Addicted Gamblers Counselling Centre in Tsuen Wan, has received a total of 164 help-seeking cases over the past three months. 40% of those seeking help have a problem in football betting. Three of these people had tried to kill themselves by burning charcoal but they were saved and some others have also thought about killing themselves because of football betting. On the other hand, statistics from the Zion Social Service Pathological Gamblers Treatment and Counselling Centre show that ever since the authorization of football betting, the number of gamblers seeking help every month has risen remarkably from 10 cases in the past to 15. Although the number is not large, the rate of increase is staggering, being 50%.

We can see that the reason for the above is mainly the Government's failure to do enough in the four areas of education, promotion, prevention and treatment in tackling the problem of gambling after its authorization. Let us look at the development of the Caritas Addicted Gamblers Counselling Centre. Though the Centre is financed by the Government, the amount of funding it receives is very small. During the past eight months, the Centre has organized 30 civic education activities for a total of 3 496 participants. In terms of the promotion of services, in addition to services for individuals, the Centre also provides many treatment and counselling services. But the Government should also do something in promotion and it cannot leave the work to these organizations alone. It is only recently that we come to see some promotional activities done by the Government in the Say No to Gambling campaign among the young people. In the past we seldom saw any large-scale anti-gambling activities and in the Roadshow, the buses, the MTR and so on, we have never seen any anti-gambling publicity which is attractive enough. But those publicity efforts made by Members are pounding our senses. The Government must learn from Members and examine if its publicity efforts can be improved and that the impact of gambling on our young people be reduced.

Many people suggest adding words calling people to exercise restraint when they gamble in the various gambling vehicles, just like the adding of words like "Smoking is dangerous to health" or "Smoking kills" on cigarette packs. But the Government does not want to do this and that is obviously because of the conflict of interests involved. It is because the more anti-gambling publicity made would mean less revenue from gambling. Therefore, in terms of education and promotion, the Government has deliberately kept a low profile and

though it is said that action will be taken, it will only be taken in a half-hearted manner and there is no full commitment at all.

As to the question of inadequate treatment offered to gamblers, though some services have been launched, in my opinion, these are not enough and hence the problem may keep on worsening. Gamblers who run into problems may end up in a personal tragedy or even a family tragedy for the lack of enough treatment and support.

We can see clearly that that gamblers become pathological can be due to many factors such as their background, personality, culture, family or the influence of gambling, and so on. They will need professional treatment and care before they can get rid of this bad habit. I have mentioned the Caritas Addicted Gamblers Counselling Centre a while ago. Though the Centre has launched not many services, the cases that it handles usually involve heavy indebtedness. Close to 23% of the cases have debts to the tune of some \$100,000 to \$200,000. So about 20% of its cases involve such a heavy indebtedness. To handle such problems, counselling service alone is not enough. Many other kinds of professional services may also be required, such as those in finance, financial restructuring or family support. All these will make sure that the problem of debts will not cause the occurrence of family tragedies. We all know very well that in recent years, with the economic downturn, many people have killed themselves or just disappeared, thereby creating family tragedies. So the Government must never overlook the problems faced by these pathological gamblers. For the problem will snowball and it is not just a personal problem. These gamblers, if they choose to kill themselves by burning charcoal, may not die alone and may even make the rest of their families die with them. So we must protect the weak and the vulnerable, especially the children, so that they will not be harmed by the pathological gamblers.

Madam Deputy, in respect of treatment, we can see from the figures of the Caritas Addicted Gamblers Counselling Centre that the rise has been staggering. It is increasing at a rate of 50 new cases a month. But the Centre only has a small staff, that is, one supervisor and seven counsellors. If we take the rate of increase to be 50 new cases every month, then one worker should be added to the Centre every month. For generally speaking, every staff member can only handle 50 to 60 cases. The financial constraints which the Centre is facing will

definitely affect its services, and significantly too. So the Government should step up its anti-gambling promotion, publicity, treatment and education work against gambling and it must never shirk its responsibility. I hope the Secretary can put all such work into practice.

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): Dr TANG Siu-tong, you may now speak on the two amendments. Your time limit is five minutes.

**DR TANG SIU-TONG** (in Cantonese): Madam Deputy, I would now respond to the amendments proposed by Mr Andrew CHENG and Mr Tommy CHEUNG.

First of all, I understand that Mr Andrew CHENG's amendment seeks to impose further regulation on the football betting operated by the Hong Kong Jockey Club (HKJC). I do not oppose to that and I think this will serve to make gambling less popular among the people.

However, with respect to the idea that the Legislative Council Panel on Home Affairs or the Football Betting and Lotteries Commission be tasked with the vetting and approval of betting options, I do have reservations.

It is because of the following reasons. First, when two institutions exercise a similar power of vetting and approval, there may be a problem of overlap. There is no practical need for it as well. Second, the functions of a panel of this Council generally are to discuss government policies and no panel is vested with the power to make any substantial vetting and approval. If this idea is realized, then some fundamental changes must be made to the functions of the panels, which warrant further studies. Therefore, at this stage, if these two bodies are to vet and approve such matters, it would be both unnecessary and unjustified.

Moreover, the amendment proposed by Mr CHEUNG seeks to change the words "to foster an anti-gambling culture" into "to foster a culture that is conducive to regulating gambling". In my opinion, the aim to authorize gambling is to incorporate illegal gambling activities into regulation by laws or the Government, hence combating illegal bookmakers. Put it simply, to regulate gambling is to curb gambling by means of gambling, instead of stamping out gambling by means of gambling. By its nature, to regulate gambling does not have any implication of boosting or discouraging gambling. It only serves to legalize gambling. So even if a culture conducive to regulating gambling can be fostered, it would not help at all in preventing the people from indulging in gambling. On the contrary, findings from many surveys, the number of new accounts opened with the HKJC, and the problems mentioned by me all show that, since the authorization of football betting, the number of people who take part in legal betting has only increased and never dropped and gambling has become a rising trend. I am convinced, with more people taking part in gambling, the risk of problem or pathological gambling appearing will only increase. Therefore, I cannot accept the idea espoused in the amendment, that is, "fostering a culture conducive to regulating gambling" in order to prevent people from indulging in gambling.

(THE PRESIDENT resumed the Chair)

With regard to the second part of the amendment proposed by Mr Tommy CHEUNG, I welcome it. It is because Mr Tommy CHEUNG agrees with the idea that there is a need to provide more services to problem and pathological gamblers. As far as I know, the existing two counselling centres for gamblers are unable to provide enough services to meet the demand. Those who seek help must book in advance for appointment and services cannot be provided on a timely — I stress, timely, basis. At present, we also have a shortage of manpower who can provide professional counselling to problem and pathological gamblers. We must work hard to fill such gaps in demand and meet our service needs.

Lastly, I call upon Members to support my motion and oppose the amendments. Thank you.



**SECRETARY FOR HOME AFFAIRS** (in Cantonese): Madam President, first of all, I wish to express my gratitude to Dr TANG Siu-tong for moving this motion on gambling. I also wish to thank Mr Tommy CHEUNG and Mr Andrew CHENG for their respective amendments, and other Members for offering so much valuable advice. I would like to take this opportunity to explain the Government's views on gambling, especially youth gambling, and also on the measures implemented by the Government to ease the social problems caused by gambling.

The Government very much appreciates Members' related concerns. The demand for gambling exists in every society; it cannot be eradicated even by banning, and Hong Kong is no exception. According to the findings of "A Study of Hong Kong People's Participation in Gambling Activities", commissioned by the Home Affairs Bureau and conducted by The Hong Kong Polytechnic University in 2001, roughly 80% of the adult population have participated in gambling activities, and 3% of them have also taken part in football betting. These are the statistics for 2001. Although gambling is just a form of entertainment in the eyes of many people, we still think that it is no ordinary diversion but something that entails risks. Indulgence in gambling, or, worse still, compulsive gambling, may create severe problems for both the gambler himself and his family. Juveniles should refrain from gambling, and not only this, they should also strengthen their independent thinking and self-control, so as to resist the temptation of gambling. As for adults, even if they choose to gamble, they should exercise self-restraint and guard against indulgence. For all these reasons, the Government has never sought to encourage people to participate in any gambling activities.

With a view to reducing the negative impacts of gambling on society, the Government has been taking actions in three ways. First, we have been making rigorous efforts to clamp down on illegal betting activities, to ensure that under the regulatory regime, the licensed operator of legal betting activities can serve as an effective means of countering illegal betting while being able to reduce the social impacts of gambling. Second, we have included a number of measures in the regulatory regime of authorized betting activities with the specific intention of reducing their negative impacts. Third, we have sought to alleviate the social problems arising from gambling by making efforts in research and studies, publicity, education and gambling rehabilitation services.

Quite a number of Members have expressed great concern about the problems caused by gambling, especially the impacts on youngsters. According to past experience, illegal football betting activities will be particularly rampant whenever there are any large-scale football events. To tackle this problem, the police will step up enforcement actions and distribute leaflets in venues where more football fans gather, such as bars, warning them that they should not take part in illegal betting. Illegal gambling activities are not subject to any regulation, so juveniles can also take part, and betting on credit is offered. Besides, there is often triad involvement in these activities. Actions against illegal gambling activities will therefore be useful in alleviating the gambling problem.

Mr Tommy CHEUNG's amendment to the original motion advocates that the Government should adopt various measures to foster a culture conducive to regulating gambling. The gambling policy of the Government aims to confine gambling to a small number of authorized channels, the underlying rationale being gambling should not be encouraged. The sole purpose of authorizing any particular type of gambling is to counter the related illegal gambling activities, so as to reduce the social problems caused by them. As illustrated by the case of football betting authorization, the Government will consider authorizing a certain type of gambling activities only when the following three phenomena are observed all at the same time: (1) a huge and persistent demand in society for this type of gambling activities; (2) the satisfaction of the relevant gambling demand through illegal channels presents a problem that cannot be solved by enforcement actions alone; and (3) popular support for the authorization of this type of gambling activities as a means of placing the gambling demand under regulation and countering the related illegal gambling activities. In other words, the sole purpose of football betting authorization is to deal with illegal football betting, meaning that it is intended only as a measure to tackle a social problem, not as a means of encouraging people to take part in football betting.

On the premise of not encouraging gambling, the Government has incorporated a number of measures into the regulatory regime of authorized football betting, so as to reduce the negative impacts of gambling, especially the adverse effects on youngsters, and also to avoid boosting the demand for gambling in society. The Betting Duty Ordinance provides that the licences for football betting and lotteries activities must include the following conditions:

- the licensed operator shall not accept bets on credit, or accept credit cards as a means of payment for placing bets;
- the licensed operator shall not admit juveniles to its betting premises;
- the licensed operator shall not accept bets from or pay dividends to juveniles;
- the licensed operator's advertising or promotional activities shall not target on juveniles, exaggerate the probability of winning and expressly or impliedly suggest that betting on football matches is a source of income or a viable way to overcome financial difficulties;
- the licensed operator shall not advertise the conduct of betting on football matches on television or radio between the hours of 4.30 pm and 10.30 pm on any day; and
- the licensed operator shall conspicuously display and keep displayed in its betting premises and betting website notices that contain a warning on the seriousness of the problems caused by excessive gambling and provide information on the services and facilities available in Hong Kong to problem and pathological gamblers.

The Betting Duty Ordinance also provides that for the purpose of giving guidance on compliance with the conditions of licences, the Secretary for Home Affairs may issue codes of practice. In February this year, the Government issued a code of practice on those licensing conditions intended to prevent gambling, providing specific guidelines to the licensed operator on compliance with the relevant conditions. These guidelines provide explanation on those licensing conditions dealing with advertising and promotional activities targeting on youngsters and the ways of preventing them from placing bets. The code of practice also provides that in its betting premises and website, the licensed operator shall display conspicuous signs to warn juveniles that they are forbidden to place any bets. The code also provides that the licensed operator may ask for proof of age if it has reasonable grounds to believe that a patron may be underage. It is also stated that the licensed operator shall not allow any juveniles to open any on-line or Telebet accounts, and that it must ensure that an account holder

must input his password before he can operate his betting account, so as to prevent youngsters from participating in gambling activities.

The Football Betting and Lotteries Commission (the Commission) has also requested the Government to draw the attention of the licensed football betting operator to the problem of youth participation in the activity. The licensed operator has in response made special efforts to enhance its measures on preventing youngsters from taking part in football betting. These measures include:

- (i) deploying uniformed security guards at all entrances of off-course betting branches (OCBBs) and within such premises to check the age of patrons whenever in doubt, so as to prevent the entry of the underage;
- (ii) displaying warning messages against underage betting at the entrances of OCBBs, on publicity materials, in the betting information and the website, on betting ticket dispensers and betting terminals and windows, making it clear that no bet from a person under 18 years of age will be accepted;
- (iii) publishing warning messages against underage gambling on betting tickets, reminding those under 18 not to place any bet;
- (iv) broadcasting public announcements about age restriction on betting within OCBBs and racecourses;
- (v) relaying age restriction messages to users of telephone betting services during the call waiting periods;
- (vi) setting up a special hotline for patrons to report underage access to OCBBs;
- (vii) requiring applicants for betting accounts to provide proof of age;
- (viii) requiring passwords from account holders before allowing them access to their betting accounts; and
- (ix) reminding customers not to let the underage have access to their betting accounts in newsletters to account holders.

Besides, in response to the advice of the Commission, the Home Affairs Bureau has requested the Broadcasting Authority to prohibit any advertisements on betting and betting products on television and the radio during the evening prime hours from 8.30 pm to 10.30 pm, so as to avoid any adverse impact on youngsters.

Mr Andrew CHENG's amendment urges the Government to specify in the Betting Duty Ordinance the types of football matches on which bets may be accepted by the licensed operator and to require, through administrative measures, that in future any new football betting options may only be introduced after obtaining the consent of the Panel on Home Affairs of the Legislative Council and the Commission. I can well appreciate that Mr CHENG is concerned about the effects of match categories and betting options on the prevalence of gambling. However, the Government does not agree to the amendment.

As I have just pointed out, the authorization of football betting is mainly intended to counter illegal football betting activities, which are getting increasingly rampant, and to incorporate football betting into authorized and regulated channels, with a view to reducing the impact of illegal gambling on society. Since the licensed operator of football betting has to operate in a highly competitive market marked by constant changes in match categories and betting options, besides seeking to reduce the negative impact of gambling on society, the regulatory regime must also ensure that the licensed operator is endowed with competitiveness and flexibility, so that it can counter illegal football betting activities operated both locally and overseas.

The amendment of Mr CHENG will significantly undermine the flexibility enjoyed by the licensed operator, to the extent that it may thus fail to respond promptly to market changes. This will greatly reduce its competitiveness. Besides, the proposed requirement is not in line with the models of football betting authorization practised in the rest of the world, and there will also be difficulties in enforcement. For this reason, and also because we have incorporated the abovementioned gambling prevention measures into the licensing conditions of football betting authorization, we do not think that there is any need at this stage to increase the restrictions on match categories and betting options.

In the following part of my speech, I wish to discuss the implementation progress of the measures on preventing and alleviating the gambling problem. The Ping Wo Fund was established last year with funding from the Hong Kong Jockey Club (HKJC) and public donations to finance measures on preventing and alleviating gambling-related problems. The HKJC has undertaken to contribute a total of \$24 million within the first two years and \$12 million to \$15 million each year in the following three years. The ambit of the Ping Wo Fund is to finance mainly the following measures: (1) research and studies into problems and issues relating to gambling; (2) public education and other measures to prevent or alleviate problems relating to gambling; and (3) counselling, treatment and other remedial or support services for problem and pathological gamblers. The prevention of youth gambling is one of the major areas of work financed by the Ping Wo Fund.

Last year, the Government commissioned the Hong Kong Education City to launch the "Say No to Gambling" Action, a two-year education programme with young people as the targets. The main objective of the project is to enhance the understanding of young people, students, teachers and parents of gambling-related problems, and strengthen students' and youngsters' ability to exercise self-control, so that without relying solely on moral and pedantic criticisms, we can let them realize for themselves how to face the problem of gambling and various other temptations and dissuade them from engaging in gambling.

The underlying concept of the "Say No to Gambling" Action is to make youngsters realize that gambling is not simply an ordinary form of entertainment but also an activity that involves potential risks. Youngsters should be made to understand all those problems that may be caused by indulgence in gambling, so that they can resist the temptation of gambling in a sensible and resolute manner. We of course also hope that youngsters can cultivate diversified interests when they are still small, so that they can make good use of their leisure, refraining completely from gambling or saying "no" to it.

With respect to the work on educating young people, parents and teachers do play a very significant role. The "Say No to Gambling" Action comprises the organization of seminars for educators such as teachers and principals on enhancing their understanding of this topic, so that they will know how to deal with gambling-related problems in their schools. The Education and Manpower Bureau has also produced teaching materials on this topic for distribution on the

Internet, with a view to assisting teachers in conducting gambling-related education activities in class. Besides, the Bureau also offers training courses on the prevention of gambling for teachers and principals of primary and secondary schools. These courses aim to help them gain an understanding of the gambling problem, grasp the methods and skills of its prevention and learn how to assist their students in handling gambling behaviour. In regard to parents, the Hong Kong Education City also maintains close contact with organizations such as parent-teacher associations and organizes talks on the gambling problem, so as to enable parents to guard against and detect the gambling behaviour of their children.

In order to intensify the education work on preventing gambling among youngsters, and also to counter the gambling craze resulting from the Euro 2004 matches in the middle of this year, we have launched the "Say No to Gambling Action — Youth Creative Award", which is to be held from May to July. The aim of the activity is to prevent young people from indulging in gambling by enhancing their self-control and resistance to temptation. The main feature of this activity is the proactive and positive participation of youngsters in exploring the problem of youth gambling. Through their actual participation in a series of competitions and activities, such as poster and slogan design and short films production, youngsters can impart the message of "Say No to Gambling" to their peers in their own creative ways, using their own language and forms of expression. In order to pool the strength of the various sectors, we have approached many different institutions and organizations, and 50 of them have agreed to be our sponsors. Together, we will take concerted actions to express our concern about the problem of gambling and enhance young people's determination to counter the prevalence of gambling. To show its support for this project, the HKJC has agreed to allocate extra funding for this project on top of its original donations to the Ping Wo Fund.

Besides the education activities targeting on the youth, the Government has also launched a public education project on gambling-related problems, under which posters and APIs on the radio and television are used to advise people against indulgence in gambling. A series of realistic television dramas entitled "Lost and Win" have been aired recently with good ratings and responses. We hope that the actuality in these dramas can enhance people's understanding and awareness of the gambling problem, thereby achieving a preventive effect. I wish to emphasize that the Government will continue to introduce various education and publicity measures to enhance people's awareness of the gambling

problem. That way, members of the public can be alerted to the problems caused by gambling, thus reducing its disastrous consequences.

In their speeches, Members expressed concern about the counselling and treatment services for problem and pathological gamblers. With funding from the Ping Wo Fund, the Government has commissioned the Caritas-Hong Kong and the Tung Wah Group of Hospitals to operate two counselling and treatment centres for problem and pathological gamblers on a pilot basis. These two centres, located at Tsuen Wan and Wan Chai respectively, were both inaugurated in October last year and will operate for a period of three years. Besides providing counselling and treatment services aimed at assisting problem and pathological gamblers in solving the various problems caused by gambling, these centres also offer assistance and counselling to the family members of gamblers. And, families support groups have also been set up to enable gamblers and their families to have exchanges and offer support to one another. As at April this year, the two centres have received a total of 665 cases requiring counselling and treatment services. The two centres also offer training to some professionals such as social workers, so that when they come across anyone bothered by the gambling problem in the course of their work, they will know how to deal with them and make proper referrals. The two centres also organize many community education activities, so as to enhance people's understanding of the gambling problem. That way, people can know how to prevent the problem or seek early assistance.

Some Members urge the Government to consider the allocation of additional resources to enhance the counselling and treatment services for problem and pathological gamblers. In this connection, we are planning to commission a university to monitor and assess the two counselling and treatment centres in terms of their service standards and effectiveness. On the basis of the review findings, we will consider whether it is necessary to provide more counselling and treatment services to problem and pathological gamblers in Hong Kong. And, if there is such a need, we will consider how best to satisfy the relevant demand. Before the completion of the study and assessment, we will still closely monitor the provision of these services, so that resources can be promptly deployed to meet demand when necessary.

In order to gain an in-depth and sustained understanding of Hong Kong people's gambling participation rate and other related problems, the Government is planning to commission an independent institution to conduct studies on Hong



Kong people's participation in gambling. This research project will follow up on a similar study conducted by The Hong Kong Polytechnic University in 2001. Besides questionnaire surveys on the gambling behaviour of adults and youngsters, actual and in-depth analyses of specific problems and case studies on pathological gamblers will also be conducted, with a view to ascertaining why some people, especially youngsters, will become pathological gamblers. This will enable us to adopt strategies that are more effective when launching preventive services and publicity projects in the future. And, these studies will also serve as useful reference for the operation and resource deployment of the Ping Wo Fund.

In our view, while a proper regulatory regime and preventive measures are required for the effective prevention and alleviation of the gambling problem, the mass media must also play a very important role, particularly in respect of preventing youth gambling. The mass media exert a very significant influence on youngsters, which is sometimes even greater than those of teachers, parents and peers. I have therefore repeatedly expressed the hope that the mass media can discharge their social obligation voluntarily by dealing with sports information and betting information separately, so as to minimize the chances of youngsters coming into contact with betting information. I have also expressed the hope that an appropriate warning can be printed on betting information pages to remind members of the public, especially youngsters, of the disastrous consequences of indulgence in gambling. This will be immensely useful in preventing the gambling problem.

Lastly, I wish to express my heart-felt thanks to Dr TANG Siu-tong for moving the motion, Mr Andrew CHENG and Mr Tommy CHEUNG for their respective amendments and other Members who have spoken earlier for their advice. The Government is fully aware of Members' concern about the prevalence of gambling in general and youth gambling in particular. We will continue to collaborate fully with all social sectors and work hard to alleviate the problem of gambling in society.

Thank you, Madam President.

**PRESIDENT** (in Cantonese): Mr Andrew CHENG, you may now move your amendment to the motion.

**MR ANDREW CHENG** (in Cantonese): Madam President, I move that Dr TANG Siu-tong's motion be amended, as printed on the Agenda.

**Mr Andrew CHENG moved the following amendment: (Translation)**

"To add ", including specifying in the Betting Duty Ordinance the types of football matches on which bets may be accepted by the licensed operator and requiring, through administrative measures, that in future any new football betting options may only be introduced after the consent of the Panel on Home Affairs of this Council and the Football Betting and Lotteries Commission has been obtained, so as" after "long-term measures". "

**PRESIDENT** (in Cantonese): I now propose the following question to you and that is: That the amendment, moved by Mr Andrew CHENG to Dr TANG Siu-tong'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.

(Members raised their hands)

Mr Andrew CHENG rose to claim a division.

**PRESIDENT** (in Cantonese): Mr Andrew CHENG has claimed a division. The division bell will ring for three minutes and then voting will start.

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

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

Functional Constituencies:

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

Dr Eric LI, Dr LUI Ming-wah, Dr Philip WONG, Mr WONG Yung-kan, Mr Abraham SHEK, Mr Henry WU, Mr LEUNG Fu-wah, Dr LO Wing-lok, Mr IP Kwok-him and Mr LAU Ping-cheung voted against the amendment.

Mr Kenneth TING, Mr James TIEN, Mrs Selina CHOW, Mrs Sophie LEUNG, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU and Mr Tommy CHEUNG abstained.

Geographical Constituencies and Election Committee:

Ms Cyd HO, Mr Albert HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mr James TO, Mr LEUNG Yiu-chung, Dr YEUNG Sum, Ms Emily LAU, Mr Andrew CHENG, Mr SZETO Wah, Mr Albert CHAN, Mr WONG Sing-chi, Mr Frederick FUNG and Ms Audrey EU voted for the amendment.

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

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 24 were present, six were in favour of the amendment, 10 against

it and eight abstained; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 28 were present, 15 were in favour of the amendment and 12 against it. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the amendment was negatived.

**MS MIRIAM LAU** (in Cantonese): Madam President, I move that in the event of further divisions being claimed in respect of the motion on "Anti-gambling" or any amendments thereto, this Council do proceed to each of such divisions immediately after the division bell has been rung for one minute.

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

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

I order that in the event of further divisions being claimed in respect of the motion on "Anti-gambling" or any amendments thereto, this Council do proceed to each of such divisions immediately after the division bell has been rung for one minute.

**PRESIDENT** (in Cantonese): Mr Tommy CHEUNG, you may move your amendment.

**MR TOMMY CHEUNG** (in Cantonese): Madam President, I move that Dr TANG Siu Tong's motion be amended, as printed on the Agenda.

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

"To delete "an anti-gambling" after "long-term measures to foster" and substitute with "a"; to add "that is conducive to regulating gambling" after "culture"; to add "review the operation of the Ping Wo Fund, optimize the use of existing resources and" after "the Administration should also"; and to add "as necessary" after "allocate more resources"."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr Tommy CHEUNG to Dr TANG Siu-tong'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.

(Members raised their hands)

Mr Tommy CHEUNG rose to claim a division.

**PRESIDENT** (in Cantonese): Mr Tommy CHEUNG has claimed a division. The division bell will ring for one minute.

**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 James TIEN, Mrs Selina CHOW, Mrs Sophie LEUNG, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU, Ms LI Fung-ying and Mr Tommy CHEUNG voted for the amendment.

Dr Eric LI, Dr LUI Ming-wah, Miss Margaret NG, Mr CHEUNG Man-kwong, Mr Bernard CHAN, Mr SIN Chung-kai, Dr Philip WONG, Mr WONG Yung-kan, Dr LAW Chi-kwong, Mr Abraham SHEK, Mr Henry WU, Mr Michael MAK, Mr LEUNG Fu-wah, Dr LO Wing-lok and Mr IP Kwok-him voted against the amendment.

Mr LAU Ping-cheung abstained.

Geographical Constituencies and Election Committee:

Mr Andrew WONG voted for the amendment.

Ms Cyd HO, Mr Albert HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mr James TO, Mr CHAN Kam-lam, Mr LEUNG Yiu-chung, Mr Jasper TSANG, Dr YEUNG Sum, Mr LAU Kong-wah, Ms Emily LAU, Miss CHOY So-yuk, Mr Andrew CHENG, Mr SZETO Wah, Mr TAM Yiu-chung, Dr TANG Siu-tong, Mr Albert CHAN, Mr WONG Sing-chi, Mr Frederick FUNG, Ms Audrey EU, Dr David CHU, Mr NG Leung-sing, Mr YEUNG Yiu-chung, Mr Ambrose LAU and Mr MA Fung-kwok voted against the amendment.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 25 were present, nine were in favour of the amendment, 15 against it and one abstained; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 28 were present, one was in favour of the amendment and 26 against it. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the amendment was negatived.

**PRESIDENT** (in Cantonese): Dr TANG Siu-tong, you may now reply and you have 33 seconds.

**DR TANG SIU-TONG** (in Cantonese): Madam President, I would like to thank the eight Members, including the representatives of various key political parties, who have spoken on the motion. They have made commendable efforts at the end of the Session in a hot summer. The Secretary's reply in respect of anti-gambling can be regarded as lip service, showing he is unable to do anything. Neither has he proposed any timetable. I hope the Secretary, after listening to Members' views, will keep a vigilant eye on this problem, particularly the betting options and promotional gimmicks of the licensed operator. The Administration should also adopt measures to prevent young people from indulging in gambling and provide counselling to pathological gamblers.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the motion moved by Dr TANG Siu-tong, 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.

(No hands raised)

Mrs Selina CHOW rose to claim a division.

**PRESIDENT** (in Cantonese): Mrs Selina CHOW has claimed a division. The division bell will ring for one minute.

**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:

Dr Eric LI, Dr LUI Ming-wah, Miss Margaret NG, Mr CHEUNG Man-kwong, Mr Bernard CHAN, Mr SIN Chung-kai, Dr Philip WONG, Mr WONG Yung-kan, Dr LAW Chi-kwong, Mr Abraham SHEK, Ms LI Fung-ying, Mr Henry WU, Mr Michael MAK, Mr LEUNG Fu-wah, Dr LO Wing-lok, Mr IP Kwok-him and Mr LAU Ping-cheung voted for the motion.

Mr Kenneth TING, Mr James TIEN, Mrs Selina CHOW, Mrs Sophie LEUNG, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU, and Mr Tommy CHEUNG abstained.

Geographical Constituencies and Election Committee:

Ms Cyd HO, Mr Albert HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mr James TO, Mr CHAN Kam-lam, Mr LEUNG Yiu-chung, Mr Andrew WONG, Mr Jasper TSANG, Dr YEUNG Sum, Mr LAU Chin-shek, Mr LAU Kong-wah, Ms Emily LAU, Miss CHOY So-yuk, Mr Andrew CHENG, Mr SZETO Wah, Mr TAM Yiu-chung, Dr TANG Siu-tong, Mr Albert CHAN, Mr WONG Sing-chi, Mr Frederick FUNG, Ms Audrey EU, Dr David CHU, Mr NG Leung-sing, Mr YEUNG Yiu-chung, Mr Ambrose LAU and Mr MA Fung-kwok 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, 25 were present, 17 were in favour of the motion and eight abstained; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 29 were present and 28 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.

**PRESIDENT** (in Cantonese): Second motion: Regretting the decision of the standing committee of the national people's congress to rule out universal suffrage in the years 2007 and 2008.

**REGRETTING THE DECISION OF THE STANDING COMMITTEE OF  
THE NATIONAL PEOPLE'S CONGRESS TO RULE OUT UNIVERSAL  
SUFFRAGE IN THE YEARS 2007 AND 2008**

**MR ALBERT HO** (in Cantonese): Madam President, I move that the motion, as printed on the Agenda, be passed.

On 6 April, the Standing Committee of the National People's Congress (NPCSC), without consulting the people of Hong Kong at all, took the initiative to exercise its power of interpretation and confer on itself the power to examine and approve and initiate constitutional reform in Hong Kong. On 26 April, the NPCSC, despite being in full knowledge of the aspiration of the majority of Hong Kong people for the full implementation of universal suffrage in 2007 and 2008, went so far as to exercise the self-conferred power to rule out universal suffrage and freeze democratic development in 2007 and 2008. It is against this background that I have proposed this motion today to express my regret about the NPCSC decision. I do not cherish any hope that the political reality can be changed instantly. Today, whether there will be democratic development in 2007 and 2008 has, in comparison, become secondary. What matters more is that the NPCSC has gone so far as to deprive the people of Hong Kong of any

say in constitutional development and damage Hong Kong's constitutional system by a brutal (albeit lawful) means. It is indeed incumbent upon the Legislative Council of Hong Kong to debate cardinal issues of right and wrong. I also hope Members can speak and put their words on record so as to be accountable to history and the people.

The success of "one country, two systems" is founded on three factors: first, the faith of the people of Hong Kong and the international community; second, a system capable of putting "a high degree of autonomy" into implementation; and third, the respect of the Central Authorities for this system. Yet, this foundation has been damaged by the NPCSC's interpretation of the Basic Law and its decision to rule out a democratic institution. The people of Hong Kong at large generally aspire for the implementation of universal suffrage in 2007 and 2008 because, after seven years of rule by TUNG Chee-hwa, they have gained the profound understanding that only a leader elected by the people by a democratic means can truly, openly and responsibly respond to social aspirations and implement policies in the overall interests of the community rather than biased towards certain strata or groups. Only in doing so can a constitutional relationship truly in conformity to the principle of "a high degree of autonomy" be fostered with the Central Government on the basis of public opinion.

The demand of Hong Kong people for democracy is by no means treacherous, and is consistent with the ultimate goal of constitutional development as spelt out in the Basic Law. Neither is there any attempt to make Hong Kong an independent or semi-independent entity. The accusation made earlier by the director of the Institute of Hong Kong and Macao Affairs, Mr ZHU Yucheng, that some Hong Kong people had attempted to seek independence was totally unfounded and malicious. In my opinion, he has insulted the Basic Law by saying something like that because, according to his logic, the ultimate goal of the Basic Law of achieving democracy will lead to the independence of Hong Kong. Furthermore, equating democracy with independence is tantamount to implying Taiwan will abandon democracy after reunification. Such comments are truly treacherous for they will not only deal a blow to the efforts made in achieving cross-strait reunification, but also split the country.

Deputy Secretary-General of NPCSC, Mr QIAO Xiaoyang, stated that the NPCSC's decision of not to implement universal suffrage in 2007 and 2008 should not be seen as an end to democracy in Hong Kong. Instead, it should be seen as a new starting point for democratization in Hong Kong, and it also left

enormous room for Hong Kong in future. Sorry, his words sounded like the following remark made by an abuser to the abused, "From now on, you are one of us. From now on, you are going to lead a good life." Hong Kong people are being forced to listen to such words even after being abused legally. I believe senior officials in Beijing who are accustomed to abusing their power are unable to appreciate the feelings of the people.

Mr QIAO Xiaoyang went on to say that, although the Basic Law was supported by the people of Hong Kong at large, it was questioned, distorted and even slandered almost every day throughout its implementation over the past six years. This is indeed indisputable. I find that Mr QIAO is probably living in an enclosed regime of dictatorship. He probably does not understand that, in a democratic and open society, it is not uncommon to see different interpretations of the provisions of the Constitution, thereby leading to disputes and even proceedings in the Court. I believe Mr QIAO, probably accustomed to deciding everything by one man's say, found it hard to tolerate dissidents and therefore vented his spleen on Hong Kong people.

It was just natural for the people to demand strongly for democracy within 10 years after the reunification. Hong Kong has already had 20 years of experience in transition, starting from the introduction of representative government in 1984 to progressive development during the past decade after the reunification. Thus, we can see that the three major political parties in Hong Kong, namely the Democratic Party, the Democratic Alliance for Betterment of Hong Kong and the Liberal Party, have reasonably (at least for some time) included the implementation of universal suffrage in 2007 and 2008 in their political platforms. The realization of "a high degree of autonomy" means not only the participation of Hong Kong people in ruling Hong Kong, but also the making of decision by Hong Kong people on how Hong Kong should be governed, like the legislature in Hong Kong and the Chief Executive being given the power to decide amending the method of selection as stipulated in Annexes I and II.

Let us review a statement made by the Foreign Ministry of China in 1994 which reads, "With regard to election of all Members of the Legislative Council of the Hong Kong SAR by universal suffrage after 2007, Article 68 of the Basic Law and paragraph 3 of its Annex II contain provisions to this effect. It is a question to be decided by the Hong Kong SAR itself and it needs no guarantee by the Chinese Government." On 18 March 1993, former Director of Hong Kong

and Macao Affairs Office, Mr LU Ping, publicly stated in unequivocal terms that "the formation of the Legislative Council as a legislature after its third term should be decided entirely by Hong Kong. The Basic Law contains provisions that the formation of the Legislative Council after its third term can be put into implementation with the endorsement of a two-thirds majority of all Members and the consent of the Chief Executive. Insofar as the Central Authorities are concerned, the matter shall be reported to the NPCSC for the record only. No approval from the Central Authorities will be required, ..... This is entirely within the autonomy of Hong Kong, and the Central Authorities will not interfere."

Madam President, it has been 10 years since then. The statement and speech read out by me just now were made 10 years ago. The NPCSC has never objected to and corrected the statements of the abovementioned official representatives. They point to the accuracy of the official interpretation and clearly reflect the true legislative intent of the law-maker, that is, the Basic Law Drafting Committee. For this reason, the proper way for the NPCSC to rebut this is to amend the Basic Law. Its forced attempt to achieve this goal by an interpretation of the Basic Law is indeed an act of violence in the name of law, abusing the responsible officials of the Central Authorities and the people of Hong Kong by force.

Articles 45 and 68 of the Basic Law provide for two major principles of constitutional development, namely "gradual and orderly" and "actual situation". Should the people of Hong Kong, who are most familiar with the actual situation of Hong Kong, or their representatives not be allowed to decide? Why has the NPCSC gone so far as to, without giving the people of Hong Kong even a say, rule out dual elections by universal suffrage and further democratic development, and even call a complete halt to the proposal to raise the ratio of directly elected seats?

From an opinion survey conducted by the Democratic Party between 26 April and 29 April, we find that, after the NPCSC's decision to rule out dual elections by universal suffrage, 60% of the respondents still support dual elections by universal suffrage in 2007 and 2008. This shows that the people's aspiration for democracy sustains, and that the aspiration of the vast majority of the people for democracy has not wavered because of the political reality. Let our national leaders clearly see the fact that the people's fight for democracy will not die. Suppressing public opinion by power will only aggravate the

governance crisis and delay the progress of resolving the various problems caused by the existing political system.

Lastly, Hong Kong must be brought back to the right track of "one country, two systems". The "two systems" must not be suppressed in the name of "one country". Actually, national sovereignty is fully manifested in a number of provisions in the Basic Law. At this point, who — I request the Government to respond later — can point out or explain specifically which provision of the Basic Law concerning the power of the Central Authorities has not been fulfilled or respected? At present, it is most imperative that the weaker system of the two, that is, the uniqueness of Hong Kong, can be fully manifested and developed rather than being suppressed and drowned by the overriding political power of the Central Authorities. After the NPCSC's interpretation and the 26 April decision, a friend of mine told me that "the falling of one leaf heralds the autumn". He said, on watching the fall of a leaf, we should realize that the NPCSC's interpretation and decision are tantamount to a pronouncement of the judgement that "one country, two systems" has started withering and walking towards death. However, Madam President, the people of Hong Kong at large and I still hold hopes on our country and the democracy prospects of Hong Kong. We will never give up. It is hoped that the NPCSC can restore things to order by revoking the 26 April decision, allowing amendment of the method and scope of election without imposing conditions, listening to the views expressed by the people of Hong Kong in a completely free environment, and establish a democratic system in true conformity to "one country, two systems" and "a high degree of autonomy" on the basis of public opinion.

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

**Mr Albert HO moved the following motion: (Translation)**

"That, in view of the objection of the people of Hong Kong at large to the decision of the Standing Committee of the National People's Congress (NPCSC) to rule out flatly the selection of the Chief Executive by universal suffrage in the year 2007 and the election of all the Members of the Legislative Council by universal suffrage in the year 2008 in Hong Kong, and to maintain the existing ratio between Legislative Council Members returned by functional constituencies and Members returned by

geographical constituencies through direct elections, as well as the procedures of separate voting on bills and motions introduced by individual Members, this Council considers that the decision of NPCSC completely ignores Hong Kong people's general aspirations for democracy; this Council expresses regret about and dissatisfaction with such decision, and calls upon the people of Hong Kong to continue striving for democracy with all might and never give up."

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

**PRESIDENT** (in Cantonese): Mr LEUNG Yiu-chung 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 LEUNG Yiu-chung to speak and move his amendment.

**MR LEUNG YIU-CHUNG** (in Cantonese): Madam President, I move that Mr Albert HO's motion be amended, as printed on the Agenda.

Madam President, in early April, the NPCSC interpreted the Basic Law on the part relating to constitutional development, and on 26 April, the NPCSC vetoed dual elections by universal suffrage in 2007 and 2008. Seeing these changes in society, many people, like me, feel that this place of Hong Kong where they have been living for decades now appears to be more and more of a stranger to them. The compères of radio programmes have taken themselves off the air one after another; some people have been pressurized to provide their information as voters and have been asked and forced to vote for a particular political party; some other people have been threatened continuously, and such intimidation has escalated from verbal threats to actions. Today, it is even found that somebody had smeared my office premises with faecal matter. The political environment in Hong Kong seems to have retrogressed to the state of some 30 to 40 years ago. All these are about not only the question of freedom of speech, they also show that the mainstream values in Hong Kong society which stress legitimacy, rationality and non-violence are facing unprecedented

impacts. In this connection, I hope that Honourable colleagues, the Central Authorities and officials of the Hong Kong Special Administrative Region (SAR) will address the situation squarely. Faced with the torn-up of society and signs of a collapse of the original lifestyle and values, we cannot respond passively any more. Otherwise, the situation would only turn from bad to worse and if this persists, the consequences would be disastrous.

Let him who tied the bell on the tiger take it off. If the decision-making authorities no longer respect the wish of Hong Kong people and refuse to revoke the relevant decision, the situation would certainly deteriorate. Today, I have proposed an amendment to urge the Chief Executive to request the State Council to propose to the NPCSC the withdrawal of its decision on 26 April mainly in the hope that the Hong Kong community will be enabled to set aside differences and be given more room to hold rational discussions on future constitutional development. We consider that at this critical moment, the Chief Executive should give play to his role, particularly his role as a bridge between China and Hong Kong, with a view to preventing further division in society which would only plunge the community into a state beyond salvation. In so doing, the Chief Executive, to quote the words of the former Special Advisor to the Chief Executive, Mr Paul YIP, would have his name forever remembered in history. Perhaps the Chief Executive personally considers honour or disgrace unimportant. But I believe the vast majority of Hong Kong people do think that the stable and healthy development of Hong Kong absolutely cannot be ignored.

Madam President, we understand that the Central Authorities ruled out dual elections by universal suffrage in 2007 and 2008 because they are worried that the "high degree of autonomy" will become "full autonomy" and worse still, "semi-independent" will become "fully independent", as pointed out by ZHU Yucheng at a seminar a few days ago. However, we must point out that what we have done to strive for a democratic political system is completely within the parameters of the Basic Law. Annexes I and II to the Basic Law clearly provide that amendments can be made to the constitutional system of Hong Kong after 2007. So, we are only striving in a lawful and reasonable direction, hoping that the democratic political system as promised in the Joint Declaration and the Basic Law can be implemented early in Hong Kong, hence creating a positive impact on the overall development of Hong Kong. As also admitted by Mr QIAO Xiaoyang in his statement on 26 April, taking democracy forward step by step is a major premise of "Hong Kong people ruling Hong Kong" and "high degree of autonomy" and also the most important spirit of the Basic Law. Over the last

20 years or so, the political system in Hong Kong has been developing gradually in the direction described by Mr QIAO. We consider that the implementation of universal suffrage for the elections in 2007 and 2008 is absolutely in compliance with the principles of "Hong Kong people ruling Hong Kong" and "high degree of autonomy", and also lives up to the spirit of the Basic Law. On the contrary, rejecting dual elections by universal suffrage and maintaining the ratio between Members returned by functional constituencies and those directly returned by geographical constituencies as well as the voting procedure including the system of separate voting will cause constitutional reform to stagnate. We consider that in order to maintain "one country, two systems" and "high degree of autonomy" and to respect the Basic Law, as stressed by Mr QIAO, the best way is for the Chief Executive to request the State Council to ask the NPCSC to withdraw its decision, so that discussions on the constitutional system can return to the right track and the community can, in a harmonious atmosphere, conduct rational discussions on constitutional reforms as consistently advocated by the Government.

Some people may think that insofar as our proposal is concerned, we are pursuing an impossible cause, knowing that it is impossible, and we are too naive; or at least, according to Chief Secretary TSANG's comments on 11 May, he would certainly think that our proposal is absolutely impractical and he would not second our views. But to every Hong Kong citizen who truly loves Hong Kong and hopes that Hong Kong can come out of the shadow of the past seven years and who does not wish to see continued retrogression of our systems in Hong Kong, today's motion is absolutely necessary.

Even the editorial of a pro-China newspaper admitted that constitutional reform is the general trend, and not even the "royalists" dare to raise objection to it. Constitutional reform and dual elections by universal suffrage are already the consensus of Hong Kong people. Only that the SAR Government is unwilling to face up to the reality. Without conducting extensive consultations, the Government took swift and resolute actions to impose nine hurdles to restrict constitutional development and subsequently publish the Third Report of the Constitutional Development Task Force on the basis of the NPCSC's decision on 26 April, imposing restrictions on the discussions by Hong Kong people and completely turning a blind eye to the actual needs of Hong Kong people. We consider that the publication of its Second Report by the Constitutional Development Task Force without extensive consultations and the Chief Executive's submission of his report to the NPCSC have completely left out the



opinions of Hong Kong people in the constitutional reform, while reflecting only the views of a small group of people. This is not only a dereliction of duty, but has put across a wrong message to the Central Government, making it think that Hong Kong people do not support universal suffrage. Mr TUNG and the Constitutional Development Task Force do owe Hong Kong people an explanation. To fill this gap in public opinions, we consider that the best way is for the Chief Executive and the Constitutional Development Task Force to expiate their faults by requesting the State Council to propose to the NPCSC the withdrawal of its decision, so that the SAR Government can further consult the people extensively.

Madam President, some people have described that the community of Hong Kong has come to a point of split. A war to defend the SAR will start soon by suppressing democracy and the room for speech in Hong Kong, in order to gain firm control over Hong Kong. However, we must point out that this is only like dropping a bomb onto Hong Kong and the final outcome would be reducing Hong Kong to ruins and completely and thoroughly destroying the political system and values to which the past success of Hong Kong is owed.

Today, the Hong Kong community has come to a critical moment. Mr TUNG must give play to his wisdom and show his courage by proposing to the Central Authorities the withdrawal of the decision made by the NPCSC, so that a rational and harmonious basis could be restored for public discussion on the future constitutional development and the wish of the Hong Kong people will hence be answered.

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

**Mr LEUNG Yiu-chung moved the following amendment: (Translation)**

"To delete "; this Council" after "general aspirations for democracy" and substitute with "and"; and to add "; this Council urges the Chief Executive to request the State Council to propose to NPCSC the withdrawal of the above decision" after "dissatisfaction with such decision"."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr LEUNG Yiu-chung to Mr Albert HO's motion, be passed.

**SECRETARY FOR JUSTICE:** Madam President, this motion is based on a false premise. Although some people in Hong Kong may object to the recent decision of the Standing Committee of the National People's Congress (NPCSC), I do not agree that "the people of Hong Kong at large" disagree with it. That statement is far too sweeping. Hong Kong is a pluralistic society, and views on important issues are seldom uniform.

In any event, the fact that some people may object to the decision does not justify the motion's assertion that the decision "completely ignores Hong Kong people's general aspirations for democracy". That assertion is unfounded. People's aspirations were fully considered. But other equally important considerations also affect our constitutional development. In particular, the rule of law demands that such development must proceed in accordance with both the substantive and procedural principles laid down in our constitution.

Although many people in Hong Kong may feel disappointed that universal suffrage will not be achieved in 2007 or 2008, the fact is that the Basic Law never promised that this would be the case. Articles 45 and 68 of the Basic Law expressly provide that universal suffrage is the ultimate aim. They also expressly provide that the electoral arrangements "shall be specified in the light of the actual situation in the Hong Kong Special Administrative Region (HKSAR) and in accordance with the principle of gradual and orderly progress".

Those principles must be adhered to. As I will demonstrate, the steps taken so far, including the NPCSC's decision, are in strict accordance with those principles. If one understands these fundamentals, there is no basis for regret or dissatisfaction. The ultimate aim remains the same: universal suffrage.

Before dealing with the basis of the NPCSC's decision, I would like to remind Honourable Members, first, of the constitutional basis of the NPCSC's role in the development of our electoral arrangements and, second, of the extensive public consultation which took place before the NPCSC's decision was made.

First, the NPCSC's constitutional role. China is a unitary state. This means that all power flows from the Central Authorities. The HKSAR was established, and the systems to be implemented here were determined, by the National People's Congress (NPC). The legal status of the HKSAR is set down in Articles 1, 2 and 12 of the Basic Law: Hong Kong is an inalienable part of the

People's Republic of China; its high degree of autonomy is authorized by the NPC and shall be exercised in accordance with the provisions of the Basic Law; and the HKSAR comes directly under the Central People's Government.

Article 11 of the Basic Law expressly states that the systems and policies practised in the HKSAR shall be based on the provisions of the Basic Law. The underlying purpose of those systems and policies was to ensure the implementation of the basic policies of the People's Republic of China regarding Hong Kong. These include the upholding of national unity and the maintenance of the prosperity and stability of Hong Kong.

The political structure of the HKSAR is laid down in the Basic Law and cannot be unilaterally amended by Hong Kong. Nor can any constitutional development which affects the political system of Hong Kong take place without the consent of the Central Authorities.

This role of the Central Authorities is expressly set out in Annexes I and II of the Basic Law. Even if there is a need for change in our electoral methods, that change cannot be effected unless a consensus is reached, by the three parties referred to, on arrangements which are consistent with the Basic Law. The NPCSC is one of those parties.

I turn now to the second point, that is extensive public consultation which took place.

One function of the Constitutional Development Task Force has been to listen to the views of the public on relevant issues. Before publishing its First Report on 30 March this year, the Task Force had met with 77 organizations and individuals to listen to their views on the relevant issues of principle and legislative process. The organizations and individuals included political parties, political groups, trade unions, chambers of commerce, academics, members of the former Drafting Committee for the Basic Law, members of the Committee for the Basic Law, non-affiliated members of the Legislative Council, and representatives of local organizations. The Task Force had also met with members of the District Councils and the Election Committee in groups.

On 15 April, the Task Force published its Second Report, which dealt with the three issues of principle. By that date, the Task Force had met with 86 organizations and individuals; its website had been visited by the public about

190 000 times; and it had received from the public around 730 letters, facsimiles and e-mails, expressing views on the issues of principle and legislative process. That report expressly referred to "many views that the 'actual situation' should constitute the prevailing aspirations of the general public — that is the realization of universal suffrage in 2007 and 2008". However, quite properly, the report also referred to views which differed from this.

The Task Force then formed its own view of what the "actual situation" of the HKSAR is. It decided that the "actual situation" includes not only public opinions, but also factors such as the legal status of the HKSAR, the present stage of constitutional development, economic development, social conditions, the understanding on the part of the public of "one country, two systems" and the Basic Law, public awareness on political participation, the maturity of political talent and political groups, as well as the relationship between the executive authorities and the legislature. This conclusion — that the "actual situation" does not refer only to public opinion on the question of universal suffrage — is, I believe, an entirely justifiable one.

Having considered all the views submitted to it, the Task Force concluded that the Chief Executive should submit a report to the NPCSC, recommending that the methods for selecting the Chief Executive and for forming the Legislative Council be amended.

In mid-April this year, the Chief Executive did submit a report and recommendations to the NPCSC, and in it, he endorsed the views and conclusions of the Task Force.

I pause here to emphasize that the Task Force's reports and the Chief Executive's report to the NPCSC fully reflected public opinion in Hong Kong. As I mentioned earlier, the views expressed were diverse. They ranged between two extremes. At one extreme were those who wanted universal suffrage in 2007 and 2008, and at the other extreme were those who strongly opposed this. Such views were reflected in total to the NPCSC. Given such divergent views, there appeared little chance that a consensus on universal suffrage could be reached and for legislation to be promulgated in time for the 2007 and 2008 elections.

The interpretation of Annexes I and II of the Basic Law by the NPCSC is an important element in recent developments, since it provided for the report by the Chief Executive to the NPCSC, and for the decision by the NPCSC. There

is no doubt about the lawfulness, constitutionality and binding effect of that interpretation.

As I explained in my speech in the Legislative Council two weeks ago, the power of interpretation is conferred on the NPCSC by Article 67(4) of the Constitution of the People's Republic of China, which is reiterated in Article 158 of the Basic Law. The Court of Final Appeal has determined that the NPCSC's power of interpretation applies to any provision in the Basic Law; that it can be exercised on the initiative of the NPCSC; and that any interpretation of the Basic Law by the NPCSC is binding on Hong Kong Courts.

The interpretation of the two Annexes to the Basic Law was not only lawful, but has also clarified the NPCSC's position on Hong Kong's constitutional development for 2007 and 2008. In addition, it has removed doubts over the meaning of important aspects of the Annexes. These included doubts such as whether amendments could be made in the year 2007, and over the procedures involved in deciding whether there is a need for change.

The interpretation also made it clear that, if no consensus was reached on changes to be made to the two Annexes, the arrangements set out in those Annexes would continue to apply in 2007 and 2008. This underlines the need for consensus-building if change is to be effected.

The NPCSC's decision which is the subject of this motion was made in response to the Chief Executive's report to it. As I said earlier, that report endorsed the content of the two reports of the Task Force which themselves reflected public opinion.

Before the NPCSC made its decision, a delegation from the NPCSC visited Shenzhen on 21 and 22 April 2004, and met Hong Kong delegates to the NPC, Hong Kong members of the Chinese People's Political Consultative Conference (CPPCC), members of the public (including members of political parties), academics and members of the Committee for the Basic Law, representatives from the Article 45 Concern Group, lawyers, and the Task Force. The NPCSC had also available to it all the submissions and representations made by the public to the Task Force on this subject.

As required by the Basic Law, the NPCSC's decision was made in the light of the actual situation in the HKSAR, and in accordance with the principle

of gradual and orderly progress. It is important to remember that the NPCSC made two rulings in its decision. The effect of the first ruling is referred to in the motion. However, the second ruling is entirely ignored in the motion. The second ruling was to the effect that, subject to the limitations in the first ruling, "appropriate amendments that conform to the principle of gradual and orderly progress may be made" to the electoral methods set out in Annexes I and II of the Basic Law.

This is important. In omitting the second ruling, the motion seriously underestimates the extent to which Hong Kong people's general aspirations for democracy were taken into account by the NPCSC. If one studies the speech by the Deputy Secretary-General of the NPCSC, Mr QIAO Xiaoyang, given at a forum in Hong Kong on 26 April this year, it is apparent that these aspirations were indeed taken into account. I quote:

"According to my understanding, various sectors of Hong Kong society have very much the same views that the democratic development of Hong Kong should move forward continually. They all think that the methods for selecting the Chief Executive in 2007 and for forming the Legislative Council in 2008 should be amended."

The second ruling by the NPCSC fully reflected that broad consensus.

On the question whether universal suffrage for the two elections should be adopted in 2007 and 2008, Mr QIAO noted accurately that there was a divergence of views. He concluded, however, that if universal suffrage for the two elections was implemented in those years, "that would clearly deviate from the path of gradual and orderly progress as stipulated in the Basic Law and be inconsistent with the provisions of the Basic Law".

According to Mr QIAO, "the key to resolving the divergence and disputes on the issue of constitutional development in Hong Kong is to strictly follow the path laid down in the Basic Law in an unbiased and pragmatic spirit to strive for the truth".

Since that was the approach adopted by the NPCSC, the decision to rule out universal suffrage in 2007 and 2008, whilst allowing for amendments which support "gradual and orderly progress", is not a cause for regret or

dissatisfaction. Those who believe in the rule of law and constitutionalism should accept the decision.

The NPCSC's decision to maintain the existing ratio between Members returned by functional and by geographical constituencies, and the procedures for voting on bills and motions in the Legislative Council, is justified in the introductory paragraphs of that decision. They explain that any change to the electoral method must be conducive to the balanced participation of all sectors and groups of society, to the effective operation of the executive-led system, and to the maintenance of the long-term prosperity and stability of Hong Kong. They also state that it remains to be seen how the move this year to a Legislative Council which has equal number of Members from geographical constituencies and from functional constituencies will impact on the operation of Hong Kong society as a whole, and on the executive-led system.

I believe those to be fair comments, and that the decision to retain in 2008 the 50/50 proportion and the current voting methods in the Legislative Council to be a prudent and responsible political decision. Of course, some people may disagree. Some people may think that their views have been ignored. But that was not the case. The speech by Mr QIAO Xiaoyang devoted several paragraphs to the extent to which the NPCSC considered the views from different sectors. However, difficult choices had to be made, and it was the responsibility of the NPCSC to make those choices. As Mr QIAO emphasized, "public opinion is an essential reference factor in formulating policies, but is not the one and only criterion for judgement. A government completely led by opinion polls is an irresponsible government."

The NPCSC's decision does not purport to have legislative effect. However, it is a formal decision by the permanent body of the country's highest organ of state power, acting within its constitutional powers. There is therefore no doubt about the legal effect of this decision.

The NPCSC has the power, both under the Annexes of the Basic Law and under its interpretation, to decide whether any particular amendment is consistent with the Basic Law. In particular, it has the power to decide whether a particular amendment is specified "in the light of the actual situation in the Hong Kong Special Administrative Region and in accordance with the principle of gradual and orderly progress".

Since the NPCSC has that power, there is no legal reason why it cannot exercise it at the beginning of the process, rather than at the end. The merits of the approach adopted are that:

- (1) it sets the parameters for a debate on possible reforms which are consistent with the Basic Law;
- (2) it may help to prevent a continuous argument between extreme views, which would not result in any consensus being reached, but which might affect Hong Kong's stability; and
- (3) it prevents unconstitutional reforms from being put forward by the HKSAR which would be vetoed by the NPCSC, possibly leaving insufficient time for other reforms to be agreed upon and implemented.

The final paragraph of the NPCSC's interpretation should not be overlooked. It reaffirms that the democratic system of the HKSAR will certainly be able to progress forward incessantly, and will ultimately attain the aim of universal suffrage. This is entirely in accordance with the aspirations of Hong Kong people.

Universal suffrage in Hong Kong is a common aim of the Central Authorities, the HKSAR Government, and Hong Kong people, but we need to work together to achieve that goal. There must be dialogue, not confrontation. We must look forward, not backwards.

Madam President, I have explained the legality and merits of the NPCSC's decision. When the issue is considered dispassionately, there is no cause to express regret about, or dissatisfaction with, that decision. I disagree with those negative elements of this motion. However, I have no problem with its call to the people of Hong Kong to continue striving for democracy. Let us strive together, but accept that the pace of change must comply with the criteria laid down in the Basic Law.

For the reasons I have given, I would urge Members to vote against this motion, and against the amendments proposed by the Honourable LEUNG Yiu-chung.

Thank you, Madam President.



**DR LUI MING-WAH** (in Cantonese): Madam President, as there is no constitutional court to settle constitutional disputes in China, laws can only be interpreted by way of legislation. The NPCSC has interpreted the Basic Law twice. The first was its interpretation in 1999 on the right of abode of children born to Hong Kong people in the Mainland, and the second was its interpretation on 26 April this year in relation to the constitutional provisions of the Basic Law. Both interpretations have aroused heated debates in Hong Kong. Regarding the recent interpretation by the NPCSC, there are controversies in a number of areas, including whether this move of the NPCSC was to interpret the Basic Law or to actually amend the Basic Law. The controversies revolving around the pace of constitutional development are in fact a major reason for the interpretation of the Basic Law. Some people considered that the Central Government resorting to legislative means to settle political issues is indicative of the rule by law, which violates the spirit of the rule of law, and that while the interpretation of the Basic Law by the NPCSC is constitutional and legitimate, why was it necessary to act extremely swiftly with such irresistible devastating force and make a final decision without consultation whatsoever? And in its interpretation on the right of abode, the NPCSC adopted the principle of "legislative intent" but the principle adopted for its recent interpretation was to "do what is right and just", showing that the Basic Law is largely interpreted in an arbitrary manner.

Although this interpretation of the Basic Law by the NPCSC has pointed to a direction for the constitutional reform of Hong Kong, it has aroused concern among Hong Kong people over, for example, the scope of autonomy. They are worried about the Central Government controlling Hong Kong by interpreting the Basic Law, the discrepancy between Hong Kong people's understanding of the Basic Law based on their knowledge of common law and the understanding and interpretation of the Basic law in accordance with the principles of construction under mainland laws, and what other provisions of the Basic Law the Central Authorities will interpret in the future. All these uncertainties have caused anxieties among Hong Kong people.

All these have to be explained in detail by the Government and legal experts. I am no expert in constitution. I only wish to discuss this motion from common sense and a practical viewpoint.

Apparently, some people in the community are very dissatisfied with the interpretation of the Basic Law by the NPCSC. This is due to the difference

between their understanding and perception of "one country, two systems" and the concept of "one country, two systems" as originally designed. From now on, Hong Kong people can no longer interpret the Basic Law according to common law principles. Rather, they must understand and interpret it in accordance with the relevant principles of construction under mainland laws. Given that the NPCSC's interpretation by way of legislation carries the same legal effect as that of statutes, the interpretation by the NPCSC is therefore constitutional and legitimate. Certainly, the fact that no consultation was conducted before the interpretation has given cause for criticisms. But under the prevailing political environment in Hong Kong, consultation will certainly spark off endless disputes. So, I see no reason to "regret" the interpretation by the NPCSC.

Considering the overall interest and development of Hong Kong, I think this interpretation of the Basic Law is necessary and timely. The interpretation of the Basic Law has identified a direction and drawn a starting line for the constitutional development of Hong Kong, and has also set new rules of the game. Rejecting universal suffrage for the elections of the Chief Executive and the Legislative Council in 2007 and 2008 does not mean ruling out the possibility of universal suffrage in the future. Nor does it mean that the development of democracy will come to a standstill. In terms of history, four years are only transient.

Certainly, spurred by the momentum of the 1 July march and the force accumulated from the sweeping victory in the District Council election, members of the democratic camp, who have hence escalated the community's aspirations for democracy and expectation of universal suffrage, will be in a very advantageous position in the direct elections in 2007 and 2008. Such being the case, the decision of the NPCSC is, to them, a sudden braking and a drastic cooling-down of sentiments and total helplessness. However, they should realize that China is a sovereign state and Hong Kong is an administrative region under China. Our relationship is one between the Central and local authorities, not a parallel one. Even though we feel utterly helpless about the interpretation of the Basic Law, this is the political reality. Why should we "regret" the interpretation of the Basic Law by the NPCSC?

Besides, while the democratic camp does have some popular mandate and may stand a good chance of winning in the direct elections, they lack comprehensive plans for the economy, knowing only to fight for their political

convictions and the people's livelihood. This is not in the interest of Hong Kong. Indeed, the community is worried about they becoming the populist party or "free lunch" party after gaining dominance in the Legislative Council. This may be one of the reasons that induced the interpretation of the Basic Law.

Now, the interpretation of the Basic Law by the NPCSC is already a fact. All sectors of the community should reach a consensus within the new framework and identify the best option for constitutional reform, with a view to taking democracy forward. I hope that all political parties can put down their historical baggage, display the magnanimity and spirit of compromise expected of statesmen, adopt a rational and pragmatic attitude to put forth their proposals on constitutional reform and make a decision on the electoral system, working in concert to make contribution to the future of Hong Kong. Only this is the best strategy. Thank you, Madam President.

**DR YEUNG SUM** (in Cantonese): Madam President, I speak with a heavy heart in support of the motion of Mr Albert HO and the amendment of Mr LEUNG Yiu-chung.

Madam President, as early as the '80s, I, together with some friends with aspirations for democracy, had already openly declared our support for China's resumption of sovereignty of Hong Kong. We put forward our proposal of a democratic reunification and "a high degree of autonomy". As of today, I still firmly believe that the promotion and the implementation of "one country, two systems" and "a high degree of autonomy" in Hong Kong will have a major bearing on the future of the territory as well as the well-being of its people. It will also contribute significantly to turning our country into a stronger, richer and more democratic country. However, the decision made by the Standing Committee of the National People's Congress (NPCSC) on 26 April to rule out universal suffrage in selecting the Chief Executive in 2007 and in forming the Legislative Council in 2008 makes me doubt whether it is still feasible to implement "one country, two systems" and "a high degree of autonomy" in Hong Kong. The NPCSC's decision has given people an impression that "one country, two systems" is developing in the direction of "one country, one system". An enormous gap has emerged between this trend and the conviction which I have held over the years. In my younger days, I often heard that the Communist Party of China was open to any discussions, but once such discussions were drawn to the sharing of power, there was absolutely no room for negotiation. The truth of this observation can be reflected in the recent issue

of constitutional reform in Hong Kong. In the early stage of discussing constitutional reforms, someone raised a question on which party should have the authority to activate the amendment mechanism mentioned in Article 7 of Annex I to the Basic Law, which stipulates that if there is a need to amend the method for selecting the Chief Executives for the terms subsequent to the year 2007, such amendments must be made with the endorsement of a two-thirds majority of all the Members of the Legislative Council and the consent of the Chief Executive, and they shall be reported to the NPCSC for approval. I felt the question a bit strange then. Now I realize that it is the Central Authorities that intend to put the initiative of political reform of the entire SAR firmly within their own grip because the issue of political reform touches on the issue of power sharing. In addition, the Central Authorities worry that the pro-democracy camp may win a landslide victory in the Legislative Council Election in September, and by then they may advocate universal suffrage by exercising their political momentum. That explains why the Central Authorities had made use of the interpretation by the NPCSC to put the initiative of political reforms of the SAR firmly within their grip.

Madam President, I really regret and am strongly dissatisfied with the NPCSC's blatant ruling out of the aspirations of Hong Kong people for universal suffrage in the two elections even before Hong Kong people have had the chance to put forward any proposals for political reform. The NPCSC made the decision in a way very much different from the due process considered very important by Hong Kong people all along. Originally, I understood that the control of political reforms was in fact already firmly held by the NPCSC. Therefore, I believed that the NPCSC would allow Hong Kong people an opportunity to discuss various political reform proposals. This is what we called "putting on a good show". But, what was unexpected to me was the NPCSC having made the moves as fast as lightning to rule out the proposals of implementing universal suffrage in the two elections, which are the aspirations of most Hong Kong people, in a high-handed manner. Such a move was really surprising to me. Very obviously, such an approach may be common in the Mainland. But in Hong Kong, a place where the due process has always been emphasized, most Hong Kong people will feel extremely dissatisfied.

Madam President, we all understand that due process and "one country, two systems" and "a high degree of autonomy" are complementing each other. But the decision of the NPCSC on 26 April has obviously violated the due process to which Hong Kong people have always attached great significance, and

its move has dealt a heavy blow to the principles of "one country, two systems" and "a high degree of autonomy". No wonder many people, especially the middle-class people, the intellectuals, have started to hold misgivings about the prospects of the principles of "one country, two systems" and "a high degree of autonomy".

Madam President, I feel dissatisfied with one point concerning the NPCSC's decision made on 26 April, that is, when the relevant officials explained the decision, they stressed strongly on the importance of functional constituencies. The officials were almost equating capitalism and interests of businessmen with functional constituency elections. It seems to purport that to safeguard capitalism, the interests of businessmen must be protected and functional constituency elections must also be strengthened and protected. Madam President, I understand that there is the need for mainland officials to win over the commercial and industrial sectors in their united front work. However, an excessive emphasis on the importance of functional constituencies will undoubtedly rule out in principle the achievement of universal suffrage as the ultimate aim of constitutional development in Hong Kong. Fortunately, Premier, WEN Jiabao has reiterated that implementing universal suffrage, being the ultimate aim of constitutional development in Hong Kong, shall remain unchanged and a transitional process is all that is required for it. In fact, functional constituency election is basically a form of monopolization of political power. If the commercial and industrial sectors are genuinely concerned about the principles of "Hong Kong people ruling Hong Kong" and "a high degree of autonomy", they should form their own political parties and actively participate in geographical direct elections, thereby making Hong Kong move forward to fair and open elections by "one person, one vote". Only in this way can we promote the long-term well-being of Hong Kong.

Madam President, describing functional constituency elections as a means to realize balanced participation, and equating universal suffrage with Hong Kong moving towards independence are both anti-intellectual. "The autocratic power overwhelms truth" is the best description of the situation.

Madam President, Hong Kong is an advanced and civilized modern society. I believe justice will ultimately win most widespread support. I also believe, a temporary political setback will definitely not lead to Hong Kong people suffering a depression *en masse*. The seeds of democracy will eventually bear fruits. I expect that the Legislative Council Election in September will witness

a record high turnout rate. And the results of the election, I am sure, will reflect the reaffirmation of universal suffrage by most Hong Kong people. As long as Hong Kong people do not give up hopes, and as long as they continue to strive for the goal, democracy will eventually come.

I support the amendment of Mr LEUNG Yiu-chung because Chief Executive TUNG Chee-hwa should really reassess the public opinion of Hong Kong people and put forward a motion to request the NPCSC to overrule its earlier decision.

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

**MR NG LEUNG-SING** (in Cantonese): Madam President, the Legislative Council is part of the constitutional framework of the Hong Kong Special Administrative Region (SAR). The authority of the Legislative Council is conferred through the enactment of the Basic Law by the National People's Congress (NPC), which is the highest organ of power of our country. The Standing Committee of the National People's Congress (NPCSC) possesses the ultimate authority of interpretation of the Basic Law. If a Member moves a motion in the Legislative Council to express dissatisfaction for or question a legal interpretation or decision made by an upper-level organ, which is the source of authority of the Council, in discharging its constitutional responsibilities, no matter such dissatisfaction or question is directed at the legality or rationality of the relevant legal interpretation or decision, such behaviour has already damaged the rule of law and undermined the constitutional order, and may even damage the political and legal foundation for "one country, two systems" and the stability and prosperity of Hong Kong. I have come in touch with many people who are concerned about the situation in Hong Kong and rational members of the Hong Kong community. They pointed out that certain Legislative Council Members in Hong Kong, prompted by their political motives and interests, have taken such a confrontational status. All along, they have been making such confrontational moves against the Central Government which has always safeguarded the interests of Hong Kong people. Such moves will eventually damage the fundamental interests of Hong Kong people. Not only does such confrontational behaviour make the people worried, it also makes international credit rating agencies and the Central Government worried. They worry that the "opposition camp" may ignore the subordinative relationship between the

Central Authorities and a territory; that they may ignore the reality that the Central Authorities have been supporting Hong Kong's economic development and its "high degree of autonomy", thereby pushing Hong Kong dangerously to a position of opposing the Central Authorities. They do not deserve to be addressed as the "pro-democracy camp", but should instead be factually called the "confrontation camp". In addition, judging from their actions, no wonder people would worry that they might develop into elements striving for independence. In the interest of the long-term prosperity and stability of the SAR, I would like to advise the "confrontation camp" not to stubbornly adopt a confrontation stance against the Central Authorities to the neglect of the interests of Hong Kong people. If the "confrontation camp" stakes all the interests of Hong Kong people in a single political gamble, then the prospects of Hong Kong could be quite disastrous.

After several months of public consultation in Hong Kong, plus the frequent communication and exchanges between many Hong Kong people and mainland departments, the NPCSC has actually listened extensively to views expressed by various sectors, including the voices for and against universal suffrage, before making the decision on the methods for selecting the Chief Executive in 2007 and for forming the Legislative Council in 2008. In fact, the NPCSC has expressly stated and admitted in its decision that (quote) "(we) fully note the concern in society of Hong Kong about the methods for selecting the Chief Executive in 2007 and for forming the Legislative Council in 2008, including the views which express the aspirations of some organizations and people for universal suffrage in the elections for the Chief Executive in 2007 and all the Members of the Legislative Council in 2008." (end of quote) This can sufficiently prove that the NPCSC is fully aware of the divergent views, which are by no means ignored. It is an undeniable fact that there are divergent views on constitutional development in Hong Kong society. Apart from those who press for the introduction of universal suffrage, there are also many views which hold that Hong Kong should, in the light of the actual local situation now, ensure balanced participation in the political system and preserve the present functional constituency system without making any changes. Only in this way will it be conducive to social stability. The NPCSC has precisely considered all such factors before making this prudent and reasonable decision in the interest of the long-term prosperity and stability of both our country and Hong Kong. Although this decision, being the vehicle for handling two completely divergent schools of opinion and ideology, which may not be able to satisfy the demand of some people, is both natural and reasonable. Being always fervently keen about

prosperity and stability and with a rational mind, Hong Kong people will be able to understand and accept this completely.

Since the reunification, many Hong Kong people have begun to feel the sincerity and initiative of the Central Government in showing great concern about the SAR and the people in aspects ranging from economic and livelihood issues to constitutional development. However, some people from the "confrontation camp" have always ignored the existence of these circumstances in the Hong Kong community and the feelings of the people. They are effectively ignoring the aspirations of the general public. Instead, the "confrontation camp" even intends to falsely claim that the "people of Hong Kong at large" oppose the Central Authorities and the decision of the NPCSC. They have simply made a farce of democracy. Of course, it has been the usual tactic of the "confrontation camp" to hijack public opinion and mislead the people. In view of the fact that most Hong Kong people are keen on pursuing a stable political situation and economic development, and that our country with its 1.3 billion population is becoming strong and making progress continually, I, as a Member of this Council, feel that I have the responsibility of sharing the following maxim, which may serve as a friendly reminder, with Honourable colleagues, "Communication is beneficial, while confrontation is harmful!"

Madam President, I so submit.

**MR CHEUNG MAN-KWONG** (in Cantonese): Madam President, during the period of time immediately before and after the promulgation of the interpretation of the Basic Law by the National People's Congress (NPC) to rule out universal suffrage, Hong Kong underwent an unprecedented oppression and a transient depression. The "oppression" came from the Central Government, whereas "patriotism" was employed to suppress the dissidents. The interpretation of the Basic Law by the NPC is meant to subduing the rule of law. The resolution of the NPC has the effect of putting a stop to the expectation of Hong Kong people for universal suffrage and suppressing democracy. In less than three months, the rule of law and democracy in Hong Kong suffered overwhelming blows. From these, Hong Kong people can clearly see the reality of autocratic politics; we can see the authoritarian rule and the unreasonable measures of the Central Authorities and the NPC, which have smashed "one country, two systems" and the "high degree of autonomy" into pieces.



"Depression" is felt by the people of Hong Kong. In the face of the authoritarian power of the Central Authorities and the hegemonist measures of the NPC, all that the people can do is to vent their anger and resentment by making use of the freedom of expression enjoyed by the mass media. However, even the freedom of expression is now subject to oppression. Radio talk show compères Albert CHENG, WONG Yuk-man and even today's Allen LEE have quitted from their posts due to formidable political pressure, which has plunged Hong Kong people into an unprecedented state of depression, fear, suffocation and anger. Three major pillars of the prosperity of Hong Kong have suffered: Democracy is oppressed, the rule of law is undermined and the freedom of expression dwindles. The ghost of white terror has crept into the mass media, and freedom has become history. Self-censorship is the key to one's survival, otherwise one will be subject to infiltration, containment, fault-finding, isolation, oppression, and eventually bribery. If one could not be "killed", one would be "bribed". If the freedom of expression of the entire Hong Kong were "bribed", then the ruling regime may really enjoy an eventless and peaceful time.

The Hong Kong policy of the Central Authorities, the interpretation of the Basic Law by the NPC as well as its resolution are meant for "shooting down the trouble-making birds", "killing the monkey to warn the chickens" and "silencing the voices of opposition by gagging the outspoken". They want to tell the whole world and the entire Hong Kong that the Central Authorities and the NPC would take back at all costs the "high degree of autonomy" and withhold its pledge of "one country, two systems". How can there be any intact eggs if the bird's nest is toppled? When democratization remains stagnant, when the great wall of the rule of law collapses and when freedom of expression dwindles, when Members cannot speak their minds in the Legislative Council, Hong Kong is no longer what it used to be. The so-called pledge of "remaining unchanged for 50 years" has become the worst blank cheque, which has deceived all the people of Hong Kong. As a result, Hong Kong people have undergone an unprecedented oppression and transient depression. Although the Central Authorities can stifle the progress of democratization of the SAR, they cannot resolve its governance crisis. The active resistance and passive boycott by Hong Kong people, the great disparity between the ruling regime and the people, the contradiction between the Central Authorities and Hong Kong people have slashed a major wound beyond the Taiwan Strait. As a result, only the land has been reunited with China, but not the people. It just fails to win the hearts of the people. This is the greatest failure of the reunification. It fails to win the loyalty of the people, which is attributable to the intervention by the Central Authorities, the

interpretation of the Basic Law by the NPC, the suppression of universal suffrage by the NPCSC, the quitting of famous radio talk show hosts, the self-censorship of the mass media and the "birdcage freedom" in the Legislative Council.

Renowned Chinese writer, Mr LU Xun, penned these lines of verse in the most depressed days of his life,

"Troubles boundless in my heart expand,  
ranging the vastness of our land,  
And in this place without a trace of sound,  
I hear tremorous thunder raging 'round."

Under the oppression of the Central Authorities and the NPC, Hong Kong people are now subject to an overwhelming and territory-wide suffocation. Everyone feels uneasy and disturbed. However, the feeling of suffocation, depression, bitterness, sense of injustice and anger will transform into the calmness foreboding the cracking of a major thunderstorm, which could well be compared to the black cloud precipitating before torrential rains. On 4 June, 1 July and 12 September, the calmness will transform into the silent yet tremorous thunder, and the quiet yet invincible power of the people. High-handed dictatorial power will only aggravate the contradiction. As long as there shall be stones, the seeds of fire will not die. As long as there shall be the people, democracy and freedom will spread like the sparks of fire, flow like the water of a great river — so that democracy and freedom will not fade away; they will not stay stagnant and they will not stop moving forward. History will testify today's failure of the Central Authorities. History will also testify that the decision of the NPC is wrong. I so submit and wish to put these remarks on record.

**MR BERNARD CHAN:** Madam President, we have seen a great deal of arguments over the wording of this motion. It has been widely reported locally, and by the overseas press. I am sure a lot of people must be asking — what is happening to us, and where will this end? It seems that we are getting deeper and deeper into a struggle in which no one will win.

I conducted a brief survey of my colleagues in the insurance constituency, to find out their views about the NPCSC's decision to rule out universal suffrage in 2007 and 2008.

I freely admit that the survey was not scientific, and of course, my constituency is not representative of Hong Kong as a whole. But I found the results very interesting, because I believe some of the responses do reflect broader opinion.

Basically, I asked my colleagues whether they could live with the NPCSC's decision and move on, or if their reaction was one of anger and disappointment.

Around 75% of the respondents said they could accept the NPCSC's ruling. Of those, around 30% welcomed it as a good decision because they did not support fast moves towards democracy. Another 30% were not happy about the way it was done and the lack of a timetable, but they were keen to move on. Around 15% had no strong feelings. On the other hand, a minority — around 25% — said they felt angry and bitter about it all.

However, what I found interesting was how nearly all the respondents were in agreement on certain things. Regardless of their views on the NPCSC's ruling, they nearly all wanted to see less confrontation and more willingness to listen.

Nearly everyone who expressed a view wanted all sides to get closer together and build up trust. Only a very small number placed all the blame for this situation simply on one side or another — although many of them, across the board, indicated that ineffective government was a major part of the problem.

I suspect many people in Hong Kong share this frustration in all this fighting and name-calling. This motion itself is the result of an argument — an argument over what can be in a Legislative Council motion and what cannot be. But do we really need another argument?

The atmosphere has become unpleasant. The pro-democracy camp is deliberately taking an antagonistic stance when it gets into disputes like the one over this motion. They know what Beijing's reaction will be. They must realize that by doing this, they are simply making it much harder for Beijing to be flexible.

From Beijing, we have accusations that some people here are "bananas", or seeking independence. To many Hong Kong people, this sort of language

seems undiplomatic or provocative. It simply pushes the pro-democracy camp into a more confrontational position.

Then, we have some of our own business leaders polarizing the community even more by making comments which many consider insulting to Hong Kong people. Meanwhile, the SAR Government sits on the sidelines, apparently unable to play a role in public or behind the scenes to calm everyone down and get people to work together. Most of the ordinary Hong Kong people are looking on from a distance, and they ask themselves — what on earth is happening to our city?

Some of the comments I received from my constituents were quite pessimistic. One said, "I do not see any light at the end of the tunnel." Another said, "We have not seen the worst yet."

I would like to think that after the election next September, things will settle down, and people will be more willing to sit down together, talk and build mutual understanding. But it will require flexibility from everybody involved. This motion does nothing to bring that about.

**MR LAU CHIN-SHEK** (in Cantonese): Madam President, the Standing Committee of the National People's Congress (NPCSC) ruled out the dual elections by universal suffrage in 2007 and 2008. Some people have cited a lot of reasons to justify this decision, but are these reasons really convincing?

Madam President, if the lack of political talents is a reason for the denial of universal suffrage, then why the small-circle elections can create something out of nothing and produce sufficient political talents? Or instead, the small-circle elections absolutely do not require any political talent at all, and is it true that some political idiots would be sufficient for governing Hong Kong?

Madam President, if some seats have to be tailor-made for the industrial and commercial sectors just because Hong Kong practises capitalism, why have all advanced capitalist countries in the world adopted universal suffrage? If universal suffrage will lead to welfarism and cause damage to the economy, why are democratic countries such as Britain, the United States, Germany and France all great economic powers?

Madam President, if universal suffrage is ruled out because it cannot cure all the ills in the governance of Hong Kong, then by the same logic, does it follow that we do not need money because it cannot solve all our problems?

If it is because Hong Kong people do not have a proper concept of nationalism, and universal suffrage will undermine the exercise of sovereignty over Hong Kong by the country, so the NPCSC has to rule out universal suffrage as fast as lightning, then will such an approach undermine or strengthen Hong Kong people's identification with the country? Insofar as these reasons for ruling out universal suffrage are concerned, not only are they unconvincing to the listeners, even the speakers cannot convince themselves!

Madam President, I have participated in the social movement for several decades. However, I have never experienced any social atmosphere which is as stifling as the present one, nor have I seen more people feeling so gloomy before. Today, Mr Allen LEE declared that he would not host Commercial Radio's "Teacup in a Storm" anymore and he planned to resign from the post of Hong Kong Deputy to the National People's Congress. Like many Hong Kong people, I also ask him, "What on earth has happened in Hong Kong? Why should it come to such a state?"

Allen told me that, before officially hosting this programme, he had already informed the Chairman of the NPC, Mr WU Bangguo, and said that if this had any contradictions with his position as a NPC Deputy, please let him know. In that case, he would choose to resign from the post of a Deputy of the NPC. In short, if he hosts the programme, he must be allowed to speak freely without any restrictions. According to Allen, the message he received then was explicit: There was no contradiction.

However, after a few weeks, Allen found that he could not speak freely and was unable to enjoy the pleasure of hosting the programme. I have known Allen for many years, from the days when I had to deal with him when I was involved in unionist activities, and then the days of the Council, the Co-operative Resources Centre and the Liberal Party. Allen has always been the typical "Shandong Man" who is outspoken and cares very little about trivial issues. Yet if he still feels that he is being stifled and cannot speak his mind freely, it is indeed miserable and heartrending.

Allen and I actually stand for different sides of the world: he is the boss, while I am a unionist. So it is only natural that we have different stances in policies. But the most precious part of our relationship is, even if we hold different opinions, we can still tolerate each other, seek common grounds and put aside differences, and try as far as possible to resolve our discrepancies. This is also the most precious point of Hong Kong. As I said in this Chamber two weeks ago, people of different political ideologies, different races, different classes, be they rich or poor, can all make Hong Kong their home. When Hong Kong loses this characteristic, Hong Kong is no longer Hong Kong, and all Hong Kong people will become the losers.

After listening to the confession of Allen, I came to a fuller realization that, the exercise of power is not just limited to exercising it in a naked and high-handed manner, but it could be exercised through the daily life network of the individuals.

Madam President, there is a hymn which starts with "You and I are not isolated islands, and no one is left standing alone." I shall not accuse anyone of betraying Hong Kong. I just hope that everyone of us can be faithful to himself.

Thank you.

**MR TAM YIU-CHUNG** (in Cantonese): Madam President, by virtue of the authority conferred by the Constitution and in accordance with the provisions of the Basic Law of the Hong Kong Special Administrative Region (SAR), the Standing Committee of the National People's Congress (NPCSC) adopted the motion of interpretation of Article 7 of Annex I and Article III of Annex II on 6 April 2004, and in addition, also adopted the decision on 26 April 2004 on issues related to the methods for selecting the Chief Executive in 2007 and for forming the Legislative Council in 2008. This has specified a clear scope for the constitutional development of Hong Kong in future. It is beyond doubt that the NPCSC has exercised its authority according to the laws. As such, we must respect the NPCSC's interpretation of the Basic Law and its decision on the constitutional development of Hong Kong.

The NPCSC's decision has pointed out a clear direction for the future constitutional development of Hong Kong. Moreover, regarding the methods for selecting the Chief Executive and for forming the Legislative Council in 2007

and 2008 respectively, there is still extensive scope for discussion in Hong Kong in future. Some days ago, Premier WEN Jiabao once again pointed out that, the Central Government had not changed its objective of implementing full-scale universal suffrage in Hong Kong. Therefore, we should now rationally explore specific electoral proposals for the two elections, so as to seek a consensus in society and further take forward the democratization of the political system of Hong Kong.

Recently, the Hong Kong Federation of Trade Unions (FTU) visited Beijing. During the visit, we conveyed to the Central Government our hope that the Central Authorities could enhance their communication with Hong Kong people, including people and organizations that held dissident views. The response of the Central Government was positive. They agreed to communicate more with Hong Kong people, including the dissidents. However, the Central Authorities also made it clear that those who advocated "ending one-party dictatorship" were excluded. Yet, in the motion debate held in this Council last week, Mr SZETO Wah reiterated that "ending one-party dictatorship" was one of the five goals of the Hong Kong Alliance in Support of Patriotic Democratic Movements of China, so it could not be abandoned. We know that the regime of the Government of China is now under the leadership of the Communist Party of China, and the regime of the Government and the Constitution are the basis of the existing legal system, and the protectors of the existing social system. Words and actions intended to advocate and instigate attempts to overthrow the Government are conduct that runs counter to the legal system and civilization. The national policy of "one country, two systems" implemented in Hong Kong is a political pledge made by the Government led by the Communist Party. If the Communist Party is overthrown, who is going to protect "one country, two systems"? Can the society of Hong Kong remain stable?

Democratization is an inevitable trend of social development in modern times. However, whenever we take one step forward, we must make sure that it is a pragmatic step, that can really bring about some good results. Recently, many people who are concerned about the prospects of Hong Kong have conveyed to me three worries, namely, first, certain people may take actions to paralyse the Government; second, such people may adopt a confrontational stance against the Central Authorities and third, such people may collaborate with foreign forces. These people have alleged that, some members of the

"opposition camp" have proclaimed that, since the Central Government has restricted the constitutional development of Hong Kong, they will definitely paralyse the Government if they can win the majority seats in the Legislative Council. Although some people immediately tried to tone this down by saying that they would exercise their authority very prudently if they could really get the majority seats in the Legislative Council. But will the people believe in them? Recently, in the deliberations on the Education (Amendment) Bill 2002, we can see that some people who used to advocate democracy strongly have now changed their stance to opposing democratization and transparency. In the meantime, a balanced Budget was also "killed" by the "opposition camp". It is worried that some day the Government might not be able to apply successfully for the funds required for its day-to-day operation.

Another worry is about the attitude adopted by the "opposition camp" in confronting the Central Authorities. A certain Member once said that she was dissatisfied with the decision of the NPCSC, so she called on the public to take to the streets to voice their demands. She even confessed directly that the move was made for "challenging the Central Authorities". Before this motion was proposed today, several Members from the "opposition camp" had tried to propose motions that made serious accusations against the NPCSC and even condemned the NPCSC. Such moves were neither in order nor constitutional. They did it deliberately with the purpose of undermining the relationship between the SAR and the Central Authorities, provoking the discontent of Hong Kong people towards the Central Authorities as well as people and organizations that love both Hong Kong and the country.

I also wish to cite some figures and examples, which suffice to illustrate the fact that I have also been subject to some oppression recently. In the evening of 4 June last year, the glass door of my Tung Chung office, though with a thickness of three eighths of an inch, was smashed. Three banners of mine hung in Tung Chung were vandalized. In Tung Mun, altogether seven banners have been vandalized since 8 March. Recently, five banners have been vandalized in Yuen Long, five in Kwai Tsing, six in Tsuen Wan and one in Cheung Chau. On such vandalized banners, offensive remarks were made against me, while some portraits of mine on them have been defaced with the eyes having been gouged out, the heads removed and the banners damaged by cutting into pieces. Although I have reported these cases to the police, no results have been seen to date.



Hong Kong is a pluralistic society, so pushing the contradiction and confrontation in society to the extremes will undermine the social stability of Hong Kong, thereby affecting the lives of the people. Hong Kong is not a place for championing confrontation and contradiction, nor is the Legislative Council a venue for challenging the Central Authorities, or disparaging the Central Authorities for such actions will damage the stability of the community of Hong Kong. An international credit rating institute has already issued a yellow card. With these remarks, I oppose the original motion and the amendment.

**MISS MARGARET NG:** Madam President, I support the motion of the Honourable Albert HO. Before stating my reasons, I would like to address a view voiced by certain sectors that debate on such a motion should not be allowed because this Council, being inferior in status to the Standing Committee, should not be allowed to imply that the Standing Committee is wrong, and any criticism of its decision amounts to disrespect and a challenge of its authority, and we have no constitutional power to do so.

I disagree with this view. Criticism should not be taken to be the same as disrespect. In my profession, we frequently have to criticize a judgement of the Court and argue robustly that it is wrong. It is the basis of every appeal that the judgement below is wrong. You do not thereby offer insult to the Court which gave that judgement; your appeal is not an accusation calculated to degrade the esteem of the Court. Neither is there anything to bar an inferior court from stating the view that a judgement of a superior court is probably wrongly decided. The inferior court may be bound to follow the judgement of the superior court, but it is not inappropriate or disrespectful to suggest that it should never have been decided that way, and to express the hope that it will be corrected as soon as possible. This is how we make progress.

Madam President, in a totally different context, in a motion debate in the then Legislative Council on 29 January 1997, although I opposed the motion, I thanked the mover for bringing up for debate the question of whether the impartiality of the President had been compromised by certain acts or decisions of the then incumbent. I said then, and I say so again: "we would expect ourselves to discuss any matter of public interest in a forthright manner, with detachment and no rancour." Decent public debate on all issues concerning the public's interests is the foundation of civic society, and that we must strenuously protect.

There are those in the community who agree with the substance of the motion but consider this debate futile, because it is bound to be defeated. I invite them to have more faith in the system: for as long as we can maintain fair and rational debate; civic society lives; the hope of democracy lives, then these will be vivid signs that our constitutional arrangements are still viable.

Let me now state my reasons for supporting the motion very simply. First, the decision of the Standing Committee has gone beyond what is necessary for Beijing to make the point that the Central Authorities have a real part to play in Hong Kong's political development. The method and the manner chosen have deeply hurt the feelings of Hong Kong people whose strong aspiration to universal suffrage in 2007/08 is known to Beijing.

Second, there are signs that the decision and the way its gagging effect is being reinforced are hurting Hong Kong's civic society, which has always been marked by the robust exercise of the freedom of expression. Instead of just a delay of the pace of democratization, there is now pressure everywhere. Even the sanctity of the ballot box is touched.

However, the greatest concern of the legal profession is that the Standing Committee's decision does not have any legal basis. There is no provision in the Basic Law or the Chinese Constitution for the Standing Committee to intervene by ruling out at this stage universal suffrage in 2007/08 which is permitted by Articles 45 and 68 of the Basic Law. Even under the interpretation promulgated on 6 April 2004, the Standing Committee is not given such a power. The power given was merely to determine whether there is, or is not, a need to change a relevant method in response to the Chief Executive's report, which must be limited to the need for change or otherwise. At this stage, the HKSAR has not yet entered into full debate within the community on the ways in which the methods for selecting the Chief Executive, or electing the legislature, or the voting procedure may be changed. The aim and effect of the decision is to limit discussion within the HKSAR. It is respectfully submitted that there is no legal basis for the Standing Committee to intervene in Hong Kong's affairs in this way, and that to do so contravenes the "one country, two systems" principle, and the "high degree of autonomy" conferred upon the HKSAR.

What then is our way forward? I agree with the Honourable Albert HO that we must continue to fight for universal suffrage, because without it, the most

acute problems in Hong Kong's governance cannot be solved. We should listen and consider fairly every genuine proposal, not excluding universal suffrage in 2007/08. Even if it cannot be achieved, given the Standing Committee's opposition, a rational discussion on it may well help the community to reach a consensus on the conditions for the implementation of universal suffrage, so that a step-by-step approach may be mapped out, and a real timetable proposed. Without a real timetable, infinite postponement is only another name for denial.

**MR HOWARD YOUNG** (in Cantonese): Madam President, in the motion moved by Mr Albert HO today, it is mentioned that the people of Hong Kong at large oppose the decision of the Standing Committee of the National People's Congress (NPCSC) made in the light of the Report of the Chief Executive, which includes the determinations that it is not suitable to implement full-scale universal suffrage in 2007 and 2008; that the existing ratio between Legislative Council Members returned by functional constituencies and Members returned by geographical constituencies through direct elections should remain unchanged; and that the procedures of separate voting should be preserved. The Liberal Party considers that the viewpoints held by Mr Albert HO are open to question.

In fact, from various perspectives, we can see that, even though there are many people who support the implementation of universal suffrage for the two elections in 2007 and 2008, the number of people who have expressed objection to or reservations about this is by means insignificant. Many people from the middle class or the business sector even hope that the functional constituencies can continue to play their roles. In other words, neither the supportive side nor the opposing side enjoys an overwhelming majority in terms of popular support.

We understand that some people may feel disappointed about the decision of ruling out universal suffrage for the two elections. However, there can be no denying that the decision made by the NPCSC is consistent with the provisions of the Constitution and the Basic Law.

Madam President, when Deputy Secretary-General QIAO Xiaoyang led a delegation to visit Hong Kong some time ago, he already pointed out expressly that in the process of deliberation, the NPCSC had fully considered the viewpoints of various sectors of Hong Kong, and in addition, he highlighted the fact that the NPCSC attached great significance to the data collected in opinion polls, and had grasped the people's aspirations for universal suffrage in 2007 and

2008. However, he also pointed out that the NPCSC was fully aware that the number of people not supporting the approach of achieving the goal in one single step was "not insignificant". Very Obviously, the NPCSC indeed had heard clearly the voices calling for universal suffrage, yet, after careful deliberation and on balancing the pros and cons, and in consideration of the fact that any changes introduced may have far-reaching implications on the development of Hong Kong, so it had arrived at the present decision. Therefore, we disagree with the allegation in the motion that the decision of the NPCSC completely ignores Hong Kong people's aspirations for democracy.

Now, as the NPCSC has passed the final verdict and the Constitutional Development Task Force (the Task Force) has also published its Third Report, we should make the best use of the time to proceed with rational and pragmatic discussions as soon as possible in accordance with the interpretation of the NPCSC as well as the principles stipulated in the Basic Law to achieve a consensus acceptable to the people, the Hong Kong Special Administrative Region (SAR) and the Central Authorities. Only in this way can we genuinely take forward the constitutional development of Hong Kong.

Working with this spirit, the Liberal Party has started to formulate an internal discussion platform within the Party on the method of selecting the Chief Executive in 2007, so as to enhance the acceptability and representativeness of the Election Committee.

First of all, let us discuss the issue of acceptability. We in the Liberal Party think that the size of the Election Committee can be expanded from the present 800 persons to at least 1 200 persons, or even to 3 200 persons. Meanwhile, the voters of the Election Committee can be increased from the present 160 000 persons to 290 000 persons, or even to 400 000 persons.

Secondly, I would like to discuss the issue of representativeness. We think what we can do is to enable more sectors to take part in the election of the Chief Executive in 2007 by further splitting up the existing 38 constituencies or introducing some new constituencies.

As for the Legislative Council election in 2008, the Liberal Party also intends to propose an increase in the number of seats in a pragmatic and realistic manner. This of course applies to seats to be returned by geographical direct elections as well.

Certainly, this is only the internal discussion platform of our Party, and it still has to be discussed thoroughly within our Party as well as by the various sectors before a formal proposal can be submitted to the Task Force for purpose of seeking a most widely accepted consensus in society.

The constitutional development of Hong Kong has a major bearing on the future prosperity and stability of Hong Kong. It is so significant that we cannot afford running into any mistakes. Moreover, once the reforms are launched, there can be no turning back. So we must act very prudently, and we must not hurry in the process. The Basic Law has already stipulated expressly that the elections of both the Chief Executive and all the Members of the Legislative Council will eventually be conducted by universal suffrage. Even Premier WEN Jiabao has given repeated assurances in this regard. This ultimate goal has not been changed, and we have the responsibility to ensure that this undertaking is realized in an orderly manner and through due procedures.

However, there are certain deficiencies in the decision of the NPCSC, namely, only the situations in 2007 and 2008 are mentioned, without any indication of how the present development can be taken forward. On this point, the Liberal Party thinks that we should strive to create the right conditions for electing the Chief Executive by universal suffrage subsequent to a nomination process in 2012 at the earliest, but not later than 2017. We shall encourage the entire society, including people from various sectors such as the commercial and industrial sectors and the middle class, and so on, to strive jointly to create the right conditions for the achievement of this goal.

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

**MS EMILY LAU** (in Cantonese): Madam President, I speak in support of the motion of Mr Albert HO and the amendment of Mr LEUNG Yiu-chung.

The decision made by the NPCSC on 26 April gravely disappointed many Hong Kong people, and some even felt very angry about it. On 27 April, we in the Frontier held a press conference, a "Black Press Conference". In the press conference, I said I would dress in black during the next month. So you can see that I am now dressing in black every day. And, Madam President, this is very

simple indeed because when you wake up every morning, you can just put on any clothing that is black, and that is all. You do not have to think about what you should wear for the day. I said I did it to challenge the Central Authorities. By challenge, I meant, even though the Central Authorities had decided on something, we in Hong Kong could still say no; we had to say why we thought the Central Authorities had been wrong; we had to say what we thought was on the minds of most Hong Kong people. Therefore, I very much hope that we can continue to speak the minds of Hong Kong people in any corner of Hong Kong, including this Chamber.

A moment ago, the Secretary for Justice made some points in her speech. She said this time she could see that not many people opposed the suggestion of the Central Authorities. She seemed to imply that many people had accepted it. In fact, even Mr Howard YOUNG has said that there is a divergence of views now, and even Mr YOUNG is willing to accept that in fact many people support direct elections. Of course, he also said that some people support indirect elections, but they are fewer in number. Therefore, I do not know what were the justifications for the Secretary in saying that most people seemed to feel that there was no problem, and they seemed to agree with the decision. Even in the speech of Mr Bernard CHAN, I felt that he was not saying that this was the case.

The Secretary for Justice said that the steps taken by the NPCSC accorded with the arrangements stipulated in the Basic Law; that the Basic Law had never promised that universal suffrage would be implemented in 2007 and 2008; and that what it had been doing was in accordance with the principles of the Basic Law. Madam President, maybe the Basic Law has stipulated many principles, but we are not necessarily acting out of wishful thinking on our part. All along, we have been thinking that if we want to amend the arrangements for 2007 and 2008, all we have to do is to act according to the provisions in Annexes I and II. And we think that a lot of obstacles are already in place in Annexes I and II, which makes the task of making amendments quite formidable in itself.

However, once the NPCSC took the stage, it had already said that this was not the case, and it started telling us that there was no such thing; that even Annexes I and II were not applicable, and that universal suffrage in 2007 and 2008 had already been ruled out. Under such circumstances, I would like to ask the Secretary: How can she convince me and many Hong Kong people that this approach really accorded with the Basic Law? Although we do not belong to

the legal community, we have really been discussing issues according to the Basic Law for many years in this Chamber. When our discussions come to the elections in 2007 and 2008, we will turn to Annexes I and II to see how we should make use of these provisions. So such issues have been discussed here over and over again. We are all pragmatic people, and know only too well that it will be quite impossible to achieve what has been laid down in Annexes I and II — with the endorsement of a two-thirds majority of all the Members of the Legislative Council? How can we get it? And then we still need to have the consent of the Chief Executive and the approval of the Central Authorities.

However, the Secretary now said that everything had been done in strict accordance with the provisions, how can we accept this? The Secretary even said that the present decision made by the interpretation had removed certain doubts, so that there would not be so many arguments. Madam President, we just had some doubts on Monday. In the meeting of the Constitutional Affairs Panel, I asked Secretary Stephen LAM, as the Third Report had been released, and a consultation would be held on the following Monday (which I shall attend as well), if the 800 members of the Election Committee could be elected by universal suffrage. Could the corporate votes in functional constituency elections be abolished? He was unable to answer in very specific terms at that time. He just said that it was not possible to implement universal suffrage in an indirect manner. I asked him: Which sentence in the decision of the NPCSC stipulated that it was not possible to implement universal suffrage in an indirect manner? Therefore, we can see that a lot of such doubts have emerged.

After this, some other Honourable colleagues asked, "As you are holding a consultation to seek the views of others, but you have not specified the scope, how can people give you any suggestions?" In addition, I also queried whether the three-person Task Force was the only authority to interpret and say how big or how small the scope was. Therefore, if the Secretary for Justice said that there would not be any more arguments, or all the arguments could be removed, I believe she had better think twice about this because this is impossible.

However, Madam President, we also do not wish to have endless arguments. Everyone just hopes that society can move forward. However, you still need to give us some room, give Hong Kong people a chance, instead of acting in such a high-handed manner — dismissing any possibility immediately and saying that universal suffrage will not be introduced without conducting any

discussion. Even Dr LUI Ming-wah said just now that it was done without any consultation. How can Hong Kong people put up with such injustice? In fact, I had said in an earlier motion debate that Hong Kong was under the complete control of China, but we thought that we might still enjoy some room under "one country, two systems" and "a high degree of autonomy". The present development really makes us very frustrated. However, we will of course continue to do our work.

The Chinese Government, or the Central Government is now actually a player in the field. It participates in the game so directly, it shall hold itself responsible for anything that may happen. This may not prove to be good for it. According to surveys conducted recently in Hong Kong, the proposal was also described as an all-lose proposal. And Mr ZHU Yucheng has also failed to understand fully the viewpoints of Hong Kong people, so in a forum held last Saturday, he still accused Hong Kong people of trying to seek independence. At that forum, I told him, among us, those who really understood the thinking of Hong Kong people could not go to the Mainland. When could we go at the soonest? He said we would be able to go eventually. However, Madam President, certain mass media were really ridiculous. Madam President, they reported that I was very satisfied. I never said that at the forum. Madam President, I can tell you that, the session came to an end soon after Mr ZHU Yucheng had made that remark, and no member of the media had ever come up to me and interviewed me. However, the media of Hong Kong can do something to such an extent, and they wrote the report in such a way as if it did happen that way. So, even Mr Albert HO asked me about it just now. But he said, judging from my usual behaviour, he did not think that I would have said such things. That was why I told him, "That's it. Albert, why on earth should I act in such a manner?" What kinds of media are they? How could they distort the truth to such an extent?

Madam President, the future development of Hong Kong hinges very much on the efforts of Hong Kong people. I firmly believe that if Hong Kong can enjoy democracy, freedom and the rule of law, it will bring about great benefits for the development of China as a whole. I believe, like many Hong Kong people, we shall continue to do our best. I support the motion.

**MR LAU KONG-WAH** (in Cantonese): Madam President, this is a critical moment for Hong Kong. Although the decision of the Standing Committee of



the National People's Congress (NPCSC) to rule out universal suffrage in 2007 and 2008 has been greeted by the public with a mixture of welcome and disappointment, the public in general still hopes to continue fighting for democracy and universal suffrage in a moderate and rational manner and, adopting a pragmatic approach, to communicate with the Central Authorities through dialogue. However, some people in Hong Kong have proposed to boycott the Government, challenge the Central Authorities, and even provoke the public to take to the streets by directing their spearheads at the Central Authorities. This will definitely not do Hong Kong any good. This is also the root cause of Hong Kong's crisis.

China has gone through a painful experience. At one point, all its energy was concentrated on political struggles to the complete neglect of economic development. During the same period, Hong Kong concentrated its efforts on improving its economy without involving itself in political disputes. In the last couple of years, however, things have turned out to be just the opposite. As the Mainland began to see its efforts in improving its economy pay off, Hong Kong was preoccupied by political disputes. The public can indeed easily judge whether this is good or bad.

Obviously, it is the wish of the majority public to improve the economy, invigorate Hong Kong and address the issue of constitutional development in a rational and pragmatic manner. Yet, the opposition camp, appears to have deviated from this aspiration of the public and has proposed to boycott the Government and challenge the Central Authorities. According to my observation, this is mainly attributable to their pursuit of unilateralism in their mentality and behaviour.

"Unilateralism" is a very popular jargon in the international community. It literally refers to the doctrine held by people merely caring for themselves without giving any consideration to others, or despising the advocacy of others by brutal means. This is the meaning of "unilateralism". Example one is the hostility shown by the opposition camp towards those people disagreeing with its advocacy. Recently, the Chief Secretary for Administration, Donald TSANG, published a report embracing the views of all sectors of the community. After the making of a decision by the NPCSC, Donald TSANG was criticized by Members of the opposition camp as a lackey. Such an act can indeed be described as "only what I say counts": all dissenting voices will simply be labelled by the opposition camp as alien. The Chief Secretary for

Administration was labelled a lackey even though he had merely included different voices in his report. Such a mentality and approach of talking nonsense immediately after achieving some short-term success is really frightening. The opposition camp's failure to accommodate other voices in Hong Kong is indeed an act of unilateralism.

Example two is when the NPCSC canvassed views in Shenzhen, the opposition camp obstinately resorted to gatecrashing to show to others that the Central Authorities would not listen to their views. In contrast, when the NPCSC members visited Hong Kong to listen to views, some Members of the opposition camp put on a show by staging a walkout, without showing any respect and intention of communication. Yet, the show *per se* will not lead to rational discussions. Constitutional development is a serious matter. Actually, everyone will agree that it is essential for both parties, namely Hong Kong and the Central Authorities, to reach a consensus. Unilateralism will lead to great danger. Some barristers have even publicly advocated that the NPCSC's decision is unlawful and non-binding. I can simply not help asking this question: Where do these barristers wish to lead Hong Kong? Actually, unilateralism has raised a serious alarm for the Central Government. It is worth pondering the ulterior motive of some people who have recently resorted to "faking a mood of melancholy in order to win the sympathy of others".

Unilateralism in a political sense is tantamount to self-supremacy. It is in itself anti-democratic. Those who intend to promote democracy without adopting a rational and inclusive approach will become a destructive force. With the infiltration of individuals who are overseas agents or advocates of Taiwanese independence, it will even evolve into a dangerous force. Of course, I do not hope to see the Central Government listen to views partially. I do hope the Central Authorities can play a more active role in future in communicating with different voices of Hong Kong and understand that, apart from maintaining Hong Kong's stability, it is essential to listen to the aspiration of the people for democracy.

Judging from the current situation under which the opposition camp has proposed to boycott the Government and challenge the Central Authorities, they will definitely take the next move of paralysing the Government and confronting the Central Authorities. Should the situation be allowed to develop, Hong Kong will be doomed eternally. In a recent voter registration drive conducted by me on the streets, many members of the public took the initiative of approaching me for registration for they could not stand the arrogance of the

opposition camp. Expressing extreme worry about Hong Kong's political situation, a member of the public warned: "Hong Kong will finish should the opposition camp seize power!" This is really frightening.

What Hong Kong desperately needs at the moment is that political powers from all sides can listen to the views of others and keep calm and rational to create an environment where all parties can get along together while holding onto their own independent thinking. Unlike the opposition camp, Hong Kong must refrain from pouring oil over the flames, advocating confrontation, and intensifying the mood of melancholy. The years of 2007 and 2008 are not the deadline. Putting the implementation of universal suffrage on hold does not mean "the sky is going to collapse". We can still pursue our cause and take the next step of our work. As such, I am convinced that the mainstream public opinion seeks to "fight for democracy with patience; maintain dialogue instead of confrontation". While the core values of Hong Kong embrace democracy, freedom, human rights and the rule of law, the core pursuit of Hong Kong people is rational behaviour, harmony, stability and prosperity. I deeply believe such values and pursuit are indispensable. Unilateralism in any form will only put Hong Kong in a dangerous position.

**MR LAU PING-CHEUNG** (in Cantonese): Madam President, since the Basic Law makes it possible to amend the methods of selecting the Chief Executive in 2007 and forming the Legislative Council in 2008, there have been requests from the people of Hong Kong for the Government to review the election methods for the Chief Executive and the legislature in 2007 and 2008 respectively with a view to launching reforms.

The repeated administrative blunders of the Government have time and again disappointed the public with the occurrence of numerous incidents, including the chaotic opening of the new airport, the substandard piling works of public housing, the reduction in civil service pay, the enactment of legislation in relation to the proposed national security laws, and so on. Coupled with such natural and man-made disasters as the Asian financial turmoil, avian flu, the SARS outbreak, and so on, our economy has remained in depression. In addition, the high unemployment rate has exposed the weaknesses of the executive framework, rendering it powerless to cope with contingencies. Despite the vigorous efforts of the Government of the Hong Kong Special Administrative Region (SAR) in improving the efficiency of governance by

promptly launching the Accountability System for Principal Officials, the results have not been prominent, and the anticipated effects have not been achieved. As a result, 500 000 people took to the streets to express their dissatisfactions last year. The administrative blunders of the Government do have the effect of intensifying the public's aspiration for institutional improvement through a review of the constitutional system for 2007 and 2008, so as to enable the Government to get closer to the public and improve its administrative capability.

The issue of reform pertaining to the 2007 and 2008 elections has been debated repeatedly in this Council. I have made my position clear that the existing electoral arrangements are not democratic enough, and it is necessary for democratic elements to be enhanced in the 2007 and 2008 elections for the purpose of progressing towards the ultimate goal of universal suffrage. At the same time, the Government is obliged to carry out consultation expeditiously to enable public discussion to be held to compare the pros and cons of various electoral arrangements.

I believe many people have misgivings, in various degrees, about whether or not universal suffrage is the best solution to resolve administrative blunders of the Government. Regardless of whether there is going to be universal suffrage or when universal suffrage can be held, the Government is still obligated to improve governance and enhance its efficiency. To launch constitutional reform, the Government should start by reviewing its own weaknesses before examining proposed reform initiatives to determine if they can prescribe the right remedy for an illness to avoid prescribing the wrong medicines. The establishment of the Constitutional Development Task Force (the Task Force) this year was immediately followed by a public consultation. Before meeting with the Task Force on 23 February jointly with other Members, I consulted the views of four associations. The Hong Kong Institute of Architects remarked, and I quote: "The Task Force should point out the constitutional or government framework problems with which the public are dissatisfied to enable them to compare and contrast different constitutional reform proposals for the sake of improving the existing situation." End of quote.

Regardless of whether universal suffrage can rectify the flaws of the current constitutional system, we must admit that the dual elections by universal suffrage are the most supported electoral methods for 2007 and 2008. As pointed out by the Task Force in its Second Report, and I quote, "Recent opinion polls have indicated that more than 50% of those polled are in favour of selecting

the Chief Executive by universal suffrage in 2007, while around 60% of those polled support election of all members of the Legislative Council by universal suffrage in 2008." End of quote.

For these reasons, before the scrutiny of the report submitted by the Chief Executive by the Standing Committee of the National People's Congress (NPCSC), I asked the Task Force on 21 April to hand a letter from me to Mr QIAO Xiaoyang, Deputy Secretary-General of NPCSC, requesting the NPCSC to consider not ruling out any proposals in line with the requirements of the Basic Law, including the proposal of holding dual elections by universal suffrage in 2007 and 2008. I have even further demanded the Government to present the dual elections proposal jointly with other feasible electoral options to enable the public to compare and discuss the matter in an in-depth manner, in the interest of striving for the greatest consensus on the electoral arrangements for 2007 and 2008 before putting them into implementation by way of enacting local legislation. Copies of the letter were also sent to all my constituents afterwards. So far, I have written four letters to the voters in my constituency to report on the latest situation of the constitutional development and invite them to express their views. Despite the fact that not many people have replied to me to express their views, I have, with their consent, forwarded all their views to the Task Force.

Madam President, if it is our hope to see constitutional development progressing forward, no matter the pace of the progress, the people of Hong Kong must strive for the greatest consensus. It will not be helpful to fostering consensus should individuals or political groups insist on clinging to their own views while rejecting considering the views or suggestions of others. When the people of Hong Kong have succeeded in fostering a public consensus on a solid foundation, the Legislative Council, the Chief Executive and the NPCSC will definitely face squarely to and consider the matter. This will help push the three parties forward in reaching a consensus on the elections to be held in 2007 and 2008. Otherwise, our constitutional development will remain stagnant, and nothing will be accomplished. I am afraid not a single member of the community will like to see this happen.

I am sorry to see that the development has turned out to be the opposite. Frankly speaking, although I am disappointed by the NPCSC's decision, I do understand that its decision is constitutional. Unless someone can convince us that all the problems cited earlier can be resolved simply by universal suffrage, I trust most members of the public are rational and pragmatic. I noted that,

before the NPCSC made a decision on the report submitted by the Chief Executive, some local political groups with a firm position made some proposals in relation to the elections to be held in 2007 and 2008. Although these new proposals may not necessarily be able to win the consensus of all the people, a mild, more middle-of-the-road proposal might possibly emerge after in-depth discussion. After the NPCSC's announcement of its decision, the middle class and intellectuals began to show some sentiment. I note *Ming Pao* quoted in its editorial on 17 May the comments of an unbiased university professor, and I quote, "The intellectual sector has actually realized a long time ago that the possibility of dual elections by universal suffrage in 2007 and 2008 is not high. It is willing to explore different progressive means of achieving universal suffrage to address the concern of Beijing and the business sector. What it has failed to realize is that Beijing has completely abandoned its mode of decision-making adopted since the drafting of the Basic Law by doing away with consultation, dialogue, and reconciliation. Instead, within a short span of a month, the Basic Law was interpreted and then conditions were imposed. The rules of playing the game of constitutional development were rewritten without any room for discussion." End of quote.

As a member of the professional sector, I can fully feel and understand this sentiment of discontent. However, I hope the intellectual sector (including myself) can, after the sentiment has subsided, behave like an intellectual again by acting in a rational and cool manner and, based on the established foundation, strive to fight for consensus on constitutional development and push forward the reform. Madam President, every step made by Hong Kong, whether big or small, represents a step closer to its ultimate goal. Therefore, Hong Kong should continue marching forward.

I so submit.

**MR AMBROSE LAU** (in Cantonese): Madam President, on 29 January 1999, the Court of Final Appeal (CFA) pointed out in its judgement, and I quote, that "nor did the Court's judgment question, and the Court accepts that it cannot question, the authority of the National People's Congress (NPC) or the Standing Committee (NPCSC) to do any act which is in accordance with the provisions of the Basic Law and the procedure therein." End of quote. "The authority to do any act" by the NPC or the NPCSC does of course embrace the decision made by the NPCSC on 26 April. In this connection, the CFA "accepts that it cannot question such authority"; so should this Council.

Regarding this motion proposed today, the Hong Kong Progressive Alliance (HKPA) holds that the inclusion of any motion questioning and challenging the NPCSC's decision on this Council's Agenda, whether or not the motion will be passed, will not be accord with this Council's constitutional position, and will go beyond the powers and functions conferred on this Council by the Basic Law.

In our unitary country, the Hong Kong Special Administrative Region (SAR) is a regional administrative region directly governed by the Central People's Government. The powers and functions enjoyed by this Council are entirely conferred by the NPC through the enactment of the Basic Law. Under the principle of "one country, two systems", the SAR is allowed to exercise a high degree of autonomy under the mandate of the Central Authorities. All this is written clearly in the Constitution and the Basic Law. Apart from providing for the powers and functions of this Council, Article 73 of the Basic Law has also provided that the Rules of Procedure of this Council must not be inconsistent with the Basic Law. The NPCSC has exercised the power conferred on it by the Constitution and, in pursuance of the Basic Law and the requirements of the NPCSC in relation to interpretation and on the basis of fully listening to views from all sides, strictly adhered to the statutory procedure in making its decision on issues pertaining to the elections in 2007 and 2008 in Hong Kong. This important legal document has not only manifested the will of the country, but also carried ultimate legal effect.

Madam President, the HKPA has to point out that the NPCSC's decision, like its interpretation of the Basic Law, is the highest constitutional law of the SAR. It is the same as the Basic Law in terms of legal effect. The NPCSC's interpretation is a component of the Basic Law; the NPCSC's decision was also made on the basis of the interpretation of the Basic Law. Under Article 104 of the Basic Law, Members of this Council are obligated to, in accordance with law, swear to uphold the Basic Law. As such, it is also necessary for them to, in accordance with law, comply with the relevant decision made by the NPCSC. Members of this Council may express their views on any occasions outside this Council should they have any dissenting views on the NPCSC's decision. This is the freedom of speech. However, any challenge of the NPCSC's decision within the constitutional framework is in breach of both the Constitution and the Basic Law, and it has entirely nothing to do with freedom of speech.

Since the Basic Law had been distorted by some people in relation to constitutional development in Hong Kong, the NPCSC was forced to, in order to protect the Basic Law, make an interpretation and a decision. The HKPA hopes there will not be a recurrence of the situation in which the NPCSC is forced to interpret the law.

Madam President, the NPCSC's decision was seriously and cautiously made on 26 April on the basis of extensive consultation of various sectors of the Hong Kong community and after fully considering the actual situation of Hong Kong society. After the NPCSC's interpretation and decision, such issues pertaining to constitutional development in Hong Kong, including the principle and agenda, have become crystal clear. This Council should respect the constitutional order, face the political reality and, within the legal frame of the Basic Law and the NPCSC's decision as well as on the basis of the Third Report, put aside differences to seek common ground, accommodate others, strive to narrow divergence, seek consensus and jointly push constitutional development forward.

Madam President, I so submit.

**MR FREDERICK FUNG** (in Cantonese): Madam President, I remember I was a member of the Basic Law Consultative Committee when the Basic Law was being drafted. During our discussions on the Basic Law, we were told by the senior officials of the Hong Kong and Macao Affairs Office (HKMAO) and the Central Government that the Basic Law was unique in the sense that a provision therein could not be found in any other provinces and municipalities in China. What is that particular provision about? It is about the power to propose bills for amendment to the Basic Law. The power was bestowed by the Central Government on the Government of the Hong Kong Special Administrative Region (SAR), as spelt out in Article 159 of the Basic Law (Article 159).

Actually, the provision is unique in that three parties, namely the NPCSC, the State Council and the SAR, can propose bills. We were also told that the Central Government would seek (or even try as far as possible) to avoid proposing bills through the NPCSC or the State Council by invoking Article 159. It was hoped that the SAR would try as far as possible to propose bills to deal with matters related to the Basic Law. These remarks were heard not only in Hong Kong, but also in the United States and Germany.



However, if someone told me that the NPCSC's interpretation or decision was tantamount to making amendments to the Basic Law, it would obviously mean that the NPCSC (although I believe and know that the NPCSC does possess such power, but if it really does something like that), given what we were told years ago, has taken back the power once bestowed on us and failed to honour its commitment.

Madam President, Mr QIAO Xiaoyang, Deputy Secretary-General of NPCSC, gave several reasons in the comments he made during his visit to Hong Kong on 26 April as to why the NPCSC disagreed with the selection of the Chief Executive and the Legislative Council in 2007 and 2008 by universal suffrage. The four reasons cited by him were, in my opinion, weak and even untenable. I will try to analyse these four reasons with Members.

First, it was claimed that it might not be appropriate to implement universal suffrage now because the people of Hong Kong did not have a thorough understanding of "one country, two systems" and the Basic Law. Yet, the Second Report compiled by our SAR Government makes it very clear in paragraph 3.18, and let me read it out: "In addition, with the full implementation of "one country, two systems" and the closer trading and economic links between the Mainland and Hong Kong, Hong Kong people's identification with the country and their sense of belonging have been enhanced. At the same time, under the safeguards of the Basic Law, Hong Kong people continue to enjoy all the rights associated with a free and open community, which are on par with the rights enjoyed in other developed places." Furthermore, the findings of a number of surveys conducted by the University of Hong Kong showed that Hong Kong people's identification with and support for the Central Government had exceeded 50% — from lagging behind the SAR Government in 1997 to even surpassing the SAR Government. Such information indicates that the first reason cited by Mr QIAO Xiaoyang is untenable and incorrect.

Second, Mr QIAO Xiaoyang said it was an indisputable fact that, despite support for the Basic Law by the Hong Kong people at large, the Basic Law had, over the past six years of its implementation, been questioned, distorted and condemned almost every day. Mr Albert HO has stated one of the reasons earlier, so I am not going to repeat it. On the whole, Hong Kong is a pluralistic society; naturally, there will be a divergence of opinions.

Another reason is that Hong Kong is a common law society, while the Mainland is a civil law society. The Basic Law was based on civil law, whereas Hong Kong is operated in accordance with common law. During discussions on the Basic Law, many people will find it essential to look at the Basic Law from the angle of civil law. However, for the purpose of truly implementing "one country, two systems", will it not be necessary for the Central Government, which is practicing the civil law and possessing all powers, or the NPCSC to consider looking at the relevant provisions from the angle of common law, which has all along been adopted by Hong Kong people? Is the angle of common law definitely wrong? Is there any guarantee that it will work or there will not be any conflicts or "collision" should the civil law interpretation be applied to common law for the purpose of implementing the "one country, two systems"? Will it turn out to be smoother or more acceptable to the people of Hong Kong should consideration be made from the angle of common law? Why is this reason not looked at from this angle?

Third, even Mr QIAO Xiaoyang has admitted that Hong Kong is a highly market-oriented and international capitalist society, or a comparatively mature capitalist city; hence, the SAR has to preserve its previous capitalist system and way of life for 50 years. It is therefore necessary to protect the interests of various parties: Without the business sector, there will be no capitalism. Next, it is essential to retain functional constituency elections in order to maintain balanced participation.

Madam President, there are serious problems with these two points. I remember when I was a member of the Basic Law Drafting Committee, I was told by a senior official of the HKMAO that, without the Communist Party, "one country, two systems" would not be realized. Why? This is because the Communist Party is a devotee of dialectical materialism. Analysing from the angle of dialectical materialism, if Hong Kong is to maintain its prosperity and stability, and if China wishes to resume its sovereignty over Hong Kong as a worthy city, the former must allow the latter to practise a different system. All other countries not adopting this way of thinking from this angle will surely implement "one country, one system" on the resumption of sovereignty over Hong Kong. Only Communism in China can accept, allow, and even approve such a decision.

Today, however, I was told by someone that, "Without the business sector, there will be no capitalism; without the business sector, there will be no

capitalism." How can a senior official from a Communist country speak in such a way that is inconsistent with the fundamental analysis of Communism? Members should be aware of the relevant history. Capitalism has actually originated from slave society, landlord society to the control of means of production. The business sector was a product of capitalism. How can it be the other way round?

Madam President, insofar as balanced participation is concerned, I have read an article which merits appreciation. I would like to read it out to share it with Members. The article, written by Mr CHAN Chi-yuan (陳智遠), was carried in *Ming Pao*. It reads, "According to the positivistic studies conducted by LIJPHART, as quoted from *Patterns of Democracy* in 1999, consensus democracy emphasized consultation and the sharing of power in order to minimize the 'winner-takes-all' element. From the practical experiences of many countries, this model is more stable than the majoritarian model". Furthermore, it reads, "Consensus democracy requires institutional, political and cultural support before it can take root." "Institutionally, the existence of functional constituencies stifles the development of consensus democracy. Actually, numerous political studies have indicated that the proportional representative system alone can already give rise to multi-party systems and coalition governments for the laying of foundation for consensus democracy. This is evidenced by the emergence of such minor parties as the Green Party and the Business Party in the consensus democratic system in Europe and their rising to power against major political parties."

Madam President, there are numerous reasons telling me that it is unreasonable, untenable, and unacceptable for us to give up universal suffrage in 2007 and 2008 for the several reasons mentioned above. This explains why I feel sorry for the decision made on the basis of these four reasons. (*The buzzer sounded*)

**MS AUDREY EU:** Madam President, it is with great sadness that I speak on this motion.

The Secretary for Justice said that those who believe in the rule of law and constitutionalism should accept the decision of the NPCSC. Yet, in the same speech, she let slip the truth when she said, and I quote, "Since the NPCSC has

that power, there is no legal reason why it cannot exercise it at the beginning of the process, rather than at the end." She was referring to the change brought about by the NPCSC's interpretation. It reversed the sequence of the three-step procedure as stated in Annexes I and II of the Basic Law. It added a kick-start mechanism which is not found in Annexes I and II. Yet, this was done under the guise of interpretation rather than an amendment to the law.

The Secretary said that China is a unitary state and all powers flow from the Central Authorities. This is so. However, the very concept of "one country, two systems" embodies inherent conflict between the two systems. Hence, in the exercise of its powers over Hong Kong, the Central Authorities must apply self-restraint with due regard to the common law legal system in Hong Kong. This is particularly so when the NPCSC exercises its power under Article 158 of the Basic Law to discover the so-called "original intent" of the law — a concept unknown to the common law. The NPCSC gave only seven days' notice. No draft was available, let alone public consultation. No differentiation was made between interpretation and amendment of the law. The Basic Law is rendered uncertain if it can be changed due to political expediency.

For reasons stated, the NPCSC's interpretation undermines the common law principles. Yet, the retort is that it is wrong to apply common law principles when interpreting the Basic Law. This is a dangerous approach. It runs counter to Articles 8, 82, 84, and so on, of the Basic Law which make it clear that the common law system with the existing legal system is to be maintained in Hong Kong.

The Secretary for Justice said that there was public consultation. Yet, my colleague Mr LUI Ming-wah on my left let the cat out of the bag, when he said that there was no point in having consultation because it would only lead to never-ending dispute. The Task Force did carry out a consultation, but that was on principle and procedure only, not on the matters decided by the NPCSC on 24 April, namely, whether or not there should be universal suffrage in 2007 and 2008, and whether the existing ratio between the geographical and the functional constituencies, or the split voting system, should be kept.

My colleague Mr LAU Kong-wah referred to barristers who challenged the constitutionality of the NPCSC's decision and asked where this is leading to.

The answer is simple — hopefully, to constitutionalism and the rule of law as known in Hong Kong. He called on people to listen to alternative views. Equally, I call on him to listen to alternative views different from his.

With these words, I support the motion and the motion as amended.

**MR MARTIN LEE** (in Cantonese): Madam President, there actually exists a huge gap between the Central Authorities and the community of Hong Kong. In retrospect, there was general confidence in "one country, two systems" during discussions on this concept back in 1997. Now, we can even hear discussions about "independence of Hong Kong". What has happened? Arrangements have clearly been made in the Basic Law to guide Hong Kong on the road to democracy. Annexes I and II have clearly stated that Hong Kong may elect its own Chief Executive and all Members of the Legislative Council by universal suffrage in 2007 and 2008 respectively. Actually, there are three hurdles in each of the Annexes — amendments must be made with the endorsement of a two-thirds majority of all the Members of the Legislative Council, the consent of the Chief Executive, and finally they shall be reported to the Central Authorities for approval or for the record.

Why should two more hurdles be imposed on 6 April? Why was it necessary to erect the hurdles? Why was it necessary for a decision made on 26 April? The Government of the Special Administrative Region (SAR) was obviously prepared to consult the Hong Kong people on whether universal suffrage should be introduced in 2007 and 2008. Why did the Central Authorities decide not to give approval before the SAR has the opportunity to consult the people? Many people in Hong Kong feel suffocated because of the interpretation of the Basic Law and the decision.

Yesterday, *Ming Pao* published an article written by me. The article was captioned "Yesterday Tai-Pan\*, today Yuk-man, how about tomorrow?". Tomorrow actually refers to today. Members should all know now that I was referring to "Ah Fei" — Allen LEE. Madam President, may I ask central leaders what good it will do to Hong Kong? What good will it do to the country? How many people will be forced to leave before the problems considered by them troubling Hong Kong can be resolved?

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\* Tai-Pan is the nickname of Mr Albert CHENG King-hon.

Madam President, Hong Kong is actually fine. The fact that so many people took to the streets on 1 July last year has actually offered a precious opportunity. All problems would have gone, provided that the leaders in Beijing trust Hong Kong people. As long as the leaders believe democracy in Hong Kong will not lead to independence, all problems will be solved, thus leaving everyone happy. Actually, public acceptance of the new central leaders at that time, HU and WEN, was higher than that of Hong Kong's Chief Executive. Despite Hong Kong people's confidence in the central leadership, the latter still lack confidence in Hong Kong people.

CHEN Shui-bian has now won in Taiwan again. He has clearly stated that he has to thank Hong Kong for having not fully manifested "one country, two systems" for his victory this time. The central leaders have once again confused Hong Kong with Taiwan, thinking that CHEN Shui-bian has been elected because Taiwan now has democracy, thus leading to an inclination to independence. It is worried that Hong Kong, if given democracy, will follow suit by electing someone like CHEN Shui-bian and lead to an inclination to independence.

Where in Hong Kong can we find someone like CHEN Shui-bian? Does anyone in Hong Kong wish to pursue independence? What have the royalists in Hong Kong been up to for the central leaders cannot understand such a basic fact? What has the Liaison Office of the Central People's Government in the Hong Kong Special Administrative Region done? Why can it not clearly tell the central leaders this simple fact?

Actually, no one in Hong Kong wants it to be independent. Despite our leaders' repeated emphasis on being confident of reunifying with Taiwan, there appears to be an increasing likelihood that Taiwan can be reunified only through military force. Given that the central leaders often say they are confident of maintaining Hong Kong's stability and prosperity, does it mean that they can do so only through military force? I would like to ask the state leaders this question: Are you confident of winning the hearts of the Taiwanese? Are you confident of winning the hearts of Hong Kong people?

A failure to win the hearts of the Hong Kong people will cause the gap to grow. To resolve the problem, they will resort to more and more intimidation, "white terror", all kinds of threats and inducements, and forcible means.

However, all problems can actually be resolved, provided that they have confidence, that they can truly win the hearts of Hong Kong people.

I hope the central leaders can stop toeing such an extremely "leftist" line, and come visit Hong Kong to truly listen to the views of Hong Kong people, instead of sending Mr ZHU Yucheng here who preferred talking before listening. I hope they can send someone here to listen carefully to the views of Hong Kong people. When Mr LU Ping visited Hong Kong to consult the people on the Basic Law, he said, "I am here to listen, not to talk."

Madam President, provided that the central leaders are willing to listen, they will understand that they should not worry about Hong Kong having democracy. I really worry that they will resort to force to resolve Hong Kong problems. What good will it do to Hong Kong? What good will it do to the country? Does it imply that China simply do not have the means to relaunch Hong Kong? Given that so many Hong Kong people wish Hong Kong to prosper, why is this still inattainable?

**DR DAVID CHU** (in Cantonese): Madam President, after listening to the speeches delivered by colleagues, I find that the essence of today's debate has nothing to do with whether the decision of the NPCSC should be regretted, but with whether Hong Kong people should handle the relationship and establish mutual trust between the two places through communication and co-operation or verbal attacks and confrontation? I trust this Council and the people of Hong Kong will make a decision in their interest.

Lastly, I would like to ask Members through the President, "What good will the motion debate this evening do to Hong Kong?"

Thank you, Madam President.

**MR YEUNG YIU-CHUNG** (in Cantonese): Madam President, I consider Mr Albert HO's motion and Mr LEUNG Yiu-chung's amendment completely unacceptable. The simple move by the "opposition camp" to regret the final decision of the NPCSC through today's motion debate is actually tantamount to a challenge to the highest legal status of the NPCSC in the Constitution. Like the

moving of a motion in this Council to regret a final ruling of the Hong Kong Court of Final Appeal (CFA), such an act is extremely irresponsible because it will not only challenge the rule of law, but also damage the relationship between the Central Authorities and the Special Administrative Region.

Hong Kong is a society that upholds the rule of law, where the legality of the Constitution always comes first. However, in this very Chamber of the Legislative Council where laws are enacted, we can find some Members who are fervent violators of the rule of law. It is most ironic that some Members have publicly defied the Constitution established by the country, defied the relevant provisions in the Basic Law, and questioned the leading role of the Central Authorities over local administrative regions.

Hong Kong is a local administrative region of China, not an independent political entity. Under the framework of "one country, two systems", the powers of "Hong Kong people ruling by Hong Kong" and exercising "a high degree of autonomy" are all conferred by the Central Authorities. Although Hong Kong enjoys a higher degree of autonomy compared to other provinces, autonomous regions, and municipalities directly under the Central Government, it does not mean that the SAR can deal with all of its affairs on its own. It is constitutional, fair, reasonable and legitimate for the Central Authorities to intervene in major issues including those related to the relationship between the SAR and the Central Authorities, social systems, political systems, and so on.

The "opposition camp" has deliberately distorted the real picture of the truth by deliberately exaggerating the NPCSC's decision as an act of infringement detrimental to "one country, two systems". Provoking social conflicts and sowing discord in the relationship between the people of Hong Kong and the Central Authorities, which is not helpful at all.

The NPCSC's decision has been criticized by the "opposition camp" of being "high-handed" — the NPCSC has brutally ignored public opinions right at the start of the discussion on the constitutional system by ruling out dual elections by universal suffrage in 2007 and 2008. I must point out that although the NPCSC's decision is not acceptable to every member of the community, the question is: Should the people of Hong Kong not analyse the rationale of this decision made by the NPCSC in a calm and rational manner? Are the principle of constitutional reform prescribed by the Central Authorities in breach of the



Basic Law or violating the policies committed by the Chinese party in the Sino-British Joint Declaration? No! Absolutely no!

Mr Albert HO mentioned earlier that "the falling of one leaf heralds the autumn". Actually, for Mr HO, it should rather be "the falling of one leaf blinds his eyes". If he is not suffering from amnesia, he must be unable to see even with his eyes open. I note that several members of the "opposition camp" attended the meeting of the consultative forum held by the NPCSC in Shenzhen. Furthermore, three Members of this Council chose to gatecrash the boundary. Despite this, Mr QIAO Xiaoyang appointed Mr LI Fei to personally meet with them to listen to their views. I wonder if it is because their views have been distorted, or the representatives have failed to reflect their views, that they insist that their views have been ignored.

Some Members have always used "public opinion" as their shield. Yet, I am afraid that they have grossly ignored public opinion. Political disputes are an ongoing issue in Hong Kong. There are disputes because of the existence of two or even more voices. Have the Members heard another voice expressing public opinion? Is it true that only voices supportive of their position can be considered public opinions? Are voices against their position not public opinions? If this is really the case, what kind of democracy is it? What is the difference between democratic hegemony of this sort and dictatorship? I would like to invite all the people of Hong Kong to look carefully at the "opposition camp" and its style of "I am the law; I am democracy" as well as "letting those who comply with me thrive and those who resist me perish".

Madam President, I wish to point out that the accusation made by some members of the "opposition camp" that the NPCSC has ignored the aspirations of the people of Hong Kong for democracy and damaged the implementation of "one country, two systems" is fundamentally biased and unfounded. In fact, the Central Government has always advocated and supported the progressive development of a democratic system suitable for Hong Kong's actual situation in accordance with the principles prescribed in the Basic Law. The fact that Hong Kong has been able to decide on its internal affairs and the Central Authorities have never intervened in the past six years since the reunification already serves as the best practical evidence. I believe the NPCSC's decision is balanced in the sense that it was made by the NPCSC after gaining a full understanding of the

various aspirations of various sectors of Hong Kong society for constitutional reform.

The constitutional development of a country or a region must take public opinions into consideration. However, this is not the only consideration. Enabling a balanced participation of various sectors of the community is also important. In addition, the ruler must consider such factors as the actual circumstances and endurance of the community, the impact of the constitutional reform on the economy, and so on, for full co-ordination is essential.

For these reasons, we respect and support the decision made by the NPCSC on 26 April. This decision will help not only settle disputes, but also guide the public in discussion on the election of the Chief Executive and the Legislative Council in 2007 and 2008.

Striving for democracy is the common wish and goal of all the people of Hong Kong. Leaders of the Central Authorities have publicly guaranteed time and again that the goal of dual elections by universal suffrage remains unchanged. Only that the time is not yet ripe. If the "opposition camp" insists on holding someone responsible for this, then all the people of Hong Kong must look carefully at its "number one" mentality.

Madam President, I urge Members to put aside their preconceived ideas and personal preferences to enable democracy in Hong Kong to develop in a truly tolerant manner. Thank you, Madam President.

**MR ALBERT CHAN** (in Cantonese): Madam President, the people of Hong Kong and China have always shared the wish of pursuing democracy. From the Three People's Principles advocated in the 1911 Revolution, "democracy" promoted in the May Fourth Movement to the status of workers and peasants emphasized upon the founding of the People Republic's of China, the entitled rights of the grassroots at large have always been the emphasis. It is ironical that, flaunting the banner of proletarian dictatorship, the Government of the People Republic's of China has now chosen to stifle the development of democracy in Hong Kong after promoting and campaigning for the interests of workers and peasants. This can really be described as an irony of history.

In my opinion, the high-handed approach adopted by the Central Government recently is entirely unnecessary, because the overwhelming majority of the public, including the pro-democracy camp, love the country and the territory.

In order to rebuild the Government's credibility in Hong Kong and to "support" and "defend" TUNG Chee-hwa, given his incompetent governance over the past seven years, the Central Government has adopted a high profile in intervening in the administration of Hong Kong. Constitutional review, a major issue of governance, has now been turned into a root cause "destroying Hong Kong" in the bid to "defend" and "support" TUNG. I do not hope to see Hong Kong sink into degradation for the sake of "supporting TUNG". Hong Kong is now like a patient receiving treatment by an unscrupulous doctor. Because of the doctor's discriminate intubation and prescription of medicine, the patient is in a critically condition. Before he dies, the patient shouts and condemns the doctor for misconduct and misjudgment. Yet, the senior hierarchy of the hospital do not only refuse to listen to the patient's accusation, but also accuse him of being insane on the contrary, saying that he should keep calm. No mention of the misbehaved doctor is made.

The damage inflicted by TUNG Chee-hwa on Hong Kong has become a historical fact. The most serious problem now confronting us is that some extreme-leftist super-rich businessmen with vested interests have, by means of various tactics, channels and with the help of certain incompetent officials, caused the Central Authorities to completely distort the public sentiments and the patriotic state of mind of the people of Hong Kong by bombarding the Central Authorities with malicious reports from various sides. Some people have even attempted to put the public into a difficult position by accusing them of seeking independence of Hong Kong, in order to achieve their ulterior motive of struggling for power and protecting their vested interests.

In this critical moment of constitutional reform, the Central Authorities and the Hong Kong people have still not improved their communication. Instigated by the extreme leftists and super-rich businessmen, the Central Authorities have become even more convinced in beefing up their intended suppression of Hong Kong people. The extreme leftists and super-rich businessmen have even assisted the Central Authorities in suppressing the patriotic Hong Kong people. The current scene has reminded me of certain remarks by Mr PO Yang: "All those people who have persecuted the Chinese in the most brutal way are not foreigners but Chinese. All those who have

betrayed the Chinese are not foreigners but Chinese. And all those who have framed the Chinese are not foreigners but Chinese." Given this current scene in Hong Kong, what Mr PO Yang wrote 30 years ago can still serve as very useful reference. So this group of people will ultimately turn Hong Kong into what Mr PO Yang described as a jar of soybean paste that stifles life. He commented, "The jar of soybean paste I am talking about is a highly corrosive and chaotic feudal society. It is a society that entails the politics of servitude, with a deformed sense of morality, an individualistic outlook on life, and a snobbish mentality. With its prolonged destructive effect, it has ossified the creative spirit of the Chinese people and caused the whole nation to degenerate." When we try to apply this description to the present-day Hong Kong, we would also find it most valuable reference.

Madam President, Hong Kong people, the Government and the Central Authorities were all major losers in the past seven years. While Hong Kong people lost their happiness, and even numerous lives, the Government lost its credibility. And the Central Authorities ruined their good image in the eyes of Hong Kong people, and very likely lost its ideal of "one country, two systems". The only winner was those super-rich businessmen from consortia with vested interests in Hong Kong and people making political capital by way of suppressing the pro-democracy camp and the wishes of the people of Hong Kong. TUNG Chee-hwa has emerged as another winner, given his solid position over the past seven years and now. Moreover, his family wealth has grown substantially. The after-tax profit of the Orient Overseas (International) Limited in 2003 was 14 times higher than that in 1997; the company's share price has risen sharply from under \$6 three years ago to over \$20 recently. Five properties have also been brought under the name of the company from 1999 onwards. Two nearly-completed properties have a floor area reaching 356 210 sq m each. All these are objective figures. The person having benefited from running Hong Kong for seven years is indeed perfectly obvious to all. In some extent, the present-day Hong Kong resembles the government of the Kuomintang in the '30s and '40s when it was dominated by "money" politics, because big capitalists can now exploit the people as they wish. The Hong Kong Government has also allowed big capitalists to trample on the dignity of the people and portrayed Hong Kong's actual situation and its aspiration for democracy in a distorted manner.

Today, I hope the Central Government can demonstrate the same broadness of mind in governance as it did when the country was founded in 1949.

We can see that there was no reorganization of the army and no social reform even following the signing of 17 agreements with Tibet in 1951. Neither were changes made to the existing Tibetan system nor the authorities and position of Dalai Lama. Why can the Central Government today not run Hong Kong with the same broadness of mind as it did upon the founding of the country?

**MISS CHOY SO-YUK** (in Cantonese): Madam President, I have all along been focusing on green policies. I was usually not entirely enthusiastic in motions and disputes on politics. On the contrary, I would more often urge Members to devote more time to green issues and play a more active role in expressing ideas to enable us to do our green work more satisfactorily.

Today, however, I can no longer remain silent. This is because a warning issued by Standard & Poor's a couple of days ago clearly reflects that our political disputes are not internal disputes any longer. They have escalated to such a degree that the ratings of Hong Kong by international institutions have been affected. The uncertainty of our political prospects has also become a hidden worry that may obstruct our economic development. My worries about the prospects of Hong Kong are unprecedented. Should the public fail to be more vigilant in taking precautions and allow the disputes to intensify and to go to the extremes, our economy and the livelihood of the people will unavoidably suffer further damage.

Madam President, destruction is easy. We must therefore all the more cherish what has been built up.

In retrospect, we will find the "opposition camp" has campaigned for democracy all the time by way of confrontation. It has shifted from pinpointing the Democratic Alliance for Betterment of Hong Kong (DAB) in the past to the Government of the Special Administrative Region (SAR); and now the spearhead is directed at the Central Government and the National People's Congress (NPC). What actual benefit has Hong Kong received because of what the "opposition camp" has done? As the saying goes, facts speak louder than words. Has democratization progressed faster or slower on the contrary?

Madam President, all of us share the same ideal of pursuing for a greater degree of democracy. This overriding principle is universally true. Like every citizen of Hong Kong, the DAB yearns for a more democratic, open and

liberal society. I am also convinced that both the SAR Government and the Central People's Government firmly believe and aspire to see a greater degree of democracy in the SAR.

The dispute before us utterly has nothing to do with whether or not our system should become more democratic. The disputes in the community actually boil down to one point: the implementation of universal suffrage in 2007 and 2008 is the only option, or else Hong Kong will be doomed.

Madam President, the Central Authorities have made it clear that universal suffrage in 2007 and 2008 is not acceptable. We have no intention to advocate reconciliation, total obedience, and even licking the boots of the Central Authorities on every matter. Had the existing political system been rendered completely ineffective and had the people been suffering badly, we would definitely have stood forth without hesitation and made known our demand for a constitutional overhaul. But is the reality really like this? Compared to the days before the reunification, Hong Kong is undeniably enjoying a greater degree of democracy now. At the same time, it has been repeatedly acknowledged by the international community that Hong Kong enjoys freedom, democracy and the rule of law. Under such circumstances, we find it most incomprehensible that Hong Kong has always been portrayed by the "opposition camp" as a city in an abyss of suffering, where our political system is now riddled with countless gapping wounds. It seems that Hong Kong will be doomed eternally if universal suffrage is not implemented in 2007 and 2008. According to such logic, people not supporting the implementation of universal suffrage in 2007 and 2008 will, whatever their reasons, be taken in a "broadbrush" manner as opponents of democracy and sinners impeding the democratic development in Hong Kong. May I ask whether this method of differentiation into "either black or white" can genuinely represent the true essence of democracy?

In the opinion of the DAB, it is most important for Hong Kong to maintain prosperity and stability. Given the present circumstances, we do not approve of achieving the goal of implementing universal suffrage in 2007 and 2008 at all costs. We are even more opposed to the constant attempt of provoking antagonistic sentiments in the community and creating polarization under the cover of this subject, even though it is perfectly clear that it is impossible for universal suffrage to be achieved in 2007 and 2008. We have no intention to speculate on the motive of the "opposition camp". Only that it will definitely be detrimental to Hong Kong should we act according to its wish.

Madam President, it is now a critical moment for smooth transition; our economy is recovering steadily. What we need most is a stable and harmonious environment in which the strength of the community can be pooled to build our home to enable this Pearl of the Orient to sparkle in all its splendour again. Furthermore, we believe that maintaining a good relationship with the Central Authorities is most crucial to the economic development of Hong Kong. At this point in time, is it worthwhile for us to, in spite of the knowledge that it is impossible for the goal to be achieved given the objective reality, insist on confronting the Central Authorities, or even risk arousing the doubts of the international community over the investment environment of Hong Kong, for the sake of pursuing some issues which are not the most pressing and most critical without taking the reality into consideration?

Although the Central Government has made it clear that full universal suffrage in 2007 and 2008 is unacceptable, it does not mean that democracy can only remain in stagnancy in Hong Kong. Actually, there is evidently enormous room for development in the scope between the existing political system and full universal suffrage, room for rational discussions by the public and active striving for the goal. The Third Report published by the Constitutional Development Task Force has already mentioned the point that there is absolutely room for discussion and revision in relation to the membership and composition of the Election Committee, the number of seats of the Legislative Council and the electorate of functional constituencies, and so on, for the purpose of improving our pace of democratization.

Should Members refuse to wake up and instead continue indulging themselves in some irrational, unnecessary and even senseless disputes, thereby consuming their own energy and affecting Hong Kong's image, will it be good or bad for Hong Kong? This is indeed worrying.

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

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

**MR LEE CHEUK-YAN** (in Cantonese): Madam President, a number of Members from the DAB said that we would love to employ the reasoning of either black or white whenever we came to discussions on democracy and the constitutional system. I have heard many Members say something like this.

In particular, Miss CHOY So-yuk has also spoken in this way. However, it is most evident that, in this Chamber, Miss CHOY So-yuk is the most representative when it comes to seeing things as either black or white. Members may take a look at her clothes. They are clearly either black or white. We are actually not the one who look at things in black or white.

Madam President, Hong Kong can be said to have experienced the darkest April in the month of April this year, for the NPC suddenly put a brake on the long-awaited constitutional review by interpreting the Basic Law. The interpretation was followed by nine points of consideration raised by the Chief Executive, TUNG Chee-hwa, and the NPC's decision. These three movements made within a month can be likened to the cutting of the Gordian knot. The possibility of universal suffrage in 2007 and 2008 has been strangled by such a forceful hand.

Madam President, the Central Authorities have actually committed a very serious mistake this time, for the move is tantamount to a direct intervention in Hong Kong, thereby seriously compromising Hong Kong's "high degree of autonomy" and "one country, two systems". Of course, both the NPC and the three-member Constitutional Development Task Force have emphasized that the constitutional system does not fall into the scope of "high degree of autonomy". Nevertheless, as Mr Albert HO mentioned earlier, LU Ping clearly indicated a decade ago that the third Legislative Council should be decided by Hong Kong people. So, why is the constitutional system not considered part of "high degree of autonomy"? It has been made clear that Hong Kong people can make their own decision. Has the NPC not been erected as the last hurdle in its being given the power of record or approval in Annexes I and II? Has this not been stipulated in the Basic Law? Now the last hurdle has become the first one, where has our "high degree of autonomy" gone? Should the NPC go on acting like this, it will be able to make interpretation indiscriminately and then apologize to Hong Kong people that there is no scope for consultation and discussion. Hong Kong people will thus end up being denied of their chances of discussion, and even rights of consultation. With the imposition of a birdcage, Hong Kong people can merely be consulted inside the cage. Madam President, what is it if it is not damaging Hong Kong's "high degree of autonomy"?

Of course, many officials of the Central Government visiting Hong Kong will say "high degree of autonomy" is not tantamount to full autonomy. But have we or any citizens in Hong Kong asked for full autonomy? The "high



degree of autonomy" we were talking about is the same as what is stated within the framework of the Basic Law. The question merely lies in how high is high as in the expression "high degree of autonomy".

I recall, during the negotiations on Hong Kong future, the late leader DENG Xiaoping was asked how high was high as in "high degree of autonomy". DENG replied: "As high as me." But what did "as high as me" actually mean? Though his reply was considered by many as entirely improper, I disagreed because I believed what DENG implied was that he was the highest leader of the nation. Is the highest leader very high? There will be no problem if the answer is "as high as DENG". We will be in trouble if the answer is "as high as Mr Albert HO". This is crystal clear — it will be very high if it is as high as the highest leader, and "high degree of autonomy" should be defined in this way. What we ask for is true "high degree of autonomy" manageable by Hong Kong people. With a democratic system, Hong Kong people will be allowed participation. This is what we ask for.

I have heard Mr LAU Kong-wah from the DAB say "Be patient in striving for democracy". I was really puzzled by his remark. What did the DAB mean when it stated clearly in its party platform that one of its goals is to strive for universal suffrage in 2007 and 2008? Meaningless, indeed! The DAB does not truly want to strive for universal suffrage. What is stated in its platform is bogus. Why has the DAB not revised its platform? It has been rumoured that the DAB is going to revise its platform. Wonderful! Mr LAU Kong-wah has already revised the platform for the DAB — "Be patient in striving for democracy". The problem is thus settled. Mr LAU has made it clear that the DAB has to be patient. This means that the Central Authorities shall decide on the DAB's policies and party line — "Be patient in striving for democracy pending the decision of the Central Authorities". This is most suitable and best for the DAB.

Madam President, we have been subject to enormous pressure lately. ZHU Yucheng said Hong Kong people wanted to seek independence or semi-independence. So he said. But no one in Hong Kong has ever said anything like that. Why should he raise this point? Actually, it is just that Hong Kong people feel that the Government is performing very poorly, both its level and governance standard are extremely low. What the Hong Kong people want is just democracy. I was not the only one who graded the governance

standard as poor. The Chief Executive, Mr TUNG Chee-hwa, was recently criticized by Mr Ronnie CHAN, chairman of Hang Lung Group, that he had three "nos": no political belief, political finesse and political charisma. I think this is the only thing I have in common with Ronnie CHAN. I completely share his view that TUNG Chee-hwa has three "nos". Yet, I would like to ask Mr Ronnie CHAN another question: If TUNG Chee-hwa has three nos — zero point in Chinese, English and Mathematics, how many points should be given to members of the Election Committee, who nominated the Chief Executive for another term? An answer of zero point will be incorrect because this is too simple and naïve. It is wrong to think that the Election Committee deserves a zero score. Actually, members of the Election Committee have scored 100 points in EPA. What is EPA? It actually stands for Economic and Public Affairs. When it comes to economic gains and their share of political power, members of the Election Committee have scored full marks. They have scored full marks at the expense of Hong Kong. Hong Kong people are calling for universal suffrage because they do not want this ridiculous system to continue, so that this group of people who have scored 100 marks in EPA will be stopped from controlling Hong Kong's political scene and sharing gains under an unfair system.

Madam President, the NPC's interpretation will not only affect the political system, but also polarize the community to such an extent of producing an invisible pressure, and even "Allen LEE" has been forced to shut up as a result. I think the programme "Teacup in a Storm" has got its name wrong; it was called "Teacup in a Storm" right from the beginning. When the storm really came, two cups were knocked down. We see that Hong Kong is in a very dangerous position in a climate like this. Thank you, Madam President.

**MR ABRAHAM SHEK:** Madam President, having taken into consideration Hong Kong's present situation, the Standing Committee of the National People's Congress (NPCSC) recently ruled out direct elections in accordance with the principle of gradual and orderly progress as prescribed in the Basic Law. Through it all, the democratic camp still has not accepted this decision, nor have they learned to work with the Government in a rational and pragmatic manner to resolve their differences on constitutional matters. This makes reaching a reasonable and practical plan for constitutional development very difficult. Instead, they have been persistent in intensifying their doggedly confrontational

approach, and swearing not to give up universal suffrage for elections in 2007 and 2008. This undoubtedly is their belief and conviction, but such conviction and belief have no place in Hong Kong today's political arena.

Now, society is embroiled in yet another confrontational atmosphere again. As the democrats continue to press the Government of the Hong Kong Special Administrative Region and the Central Government to concede to universal suffrage in 2007 and 2008, their method is to drum up public support by any means possible. This uncompromising affront will only bring chaos to constitutional development. This unfortunately is not a healthy game which they are playing. Not only does it put Hong Kong's stability and recovering economy at risk, but also, the opposition's move — despite what they think — is simply not working in the best interests of the people of Hong Kong.

I do realize that the NPCSC's ruling has not lessened political antagonism, and some Hong Kong people are deeply disappointed with the NPCSC's ruling which was made with the best intention for Hong Kong. They feel the NPCSC has ignored Hong Kong people's aspirations for democracy by directly imposing restrictions on constitutional development. In view of our present economic downturn and a weak government which we have been experiencing in the last six years, people generally believe that governance will improve with democratization and will thus lead to a fairer and more just society. This belief has provided a golden opportunity for the democratic camp to latch onto public sentiment and press the Government to quicken the pace of democratization.

I believe most Hong Kong people do not wish to see political instability. But time and a harmonic social atmosphere are of paramount importance for reviewing constitutional development. Abrupt changes to any political system might increase antagonism and further polarize society, and nobody wants that.

Madam President, there has been arguments in the community on whether the time is right to introduce universal suffrage in 2007 and 2008. I believe the answer is simple if we just look at our present situation. In the light of a large fiscal deficit, high unemployment rate, economic restructuring and social polarization, the recovering economy is so fragile that any political volatility might cause it to stumble and fall into new economic depths. In fact, radical political reform might bring about great uncertainty to Hong Kong. In view of the present economic and socio-political discord in Hong Kong, the NPCSC's decision to rule out the possibility of universal suffrage for the selection of the

Chief Executive in 2007 and the Legislative Council election in 2008 actually save the day. It aims to restore political calmness and sustains a favourable atmosphere of economic growth and prosperity. Although some people feel disappointed about the NPCSC's ruling, they should ask themselves whether they really want Hong Kong to gamble with its future by using it as a testing ground for radical constitutional reform.

The truth is, the NPCSC's ruling does not hamper the development of democracy in a gradual and orderly manner. Instead, now is the time to discuss how current election methods might be amended within the scope of the NPCSC decision. From the formation of the Election Committee to possible increases in the number of Legislative Council seats, these are all options to be considered. The Election Committee could be extended to allow more members from different community sectors to take part. Plus, there are genuine needs to increase the number of geographic and functional constituencies, and the scope for change here is wide as well. However, the opposition camp remains skeptical about it all, believing that any political change will be tailored-made for the pro-Government wing. This might also work for their benefits.

Madam President, the stance of the business community on the two elections is also very clear. They support the NPCSC's decision whole-heartedly. Nevertheless, the business sector has been condemned for being conservative and being one of the beneficiaries of the recent NPCSC decision. Such criticism is unfounded and without rationale.

Lastly, I sincerely hope that those involved in the constitutional debate can have calm, reasonable discussions to create useful proposals which are within the framework of the Basic Law and the NPCSC's decision. Ultimately, it is to nobody's benefit if we waste time on political quarrels.

With these words, Madam President, I oppose the motion.

**MS CYD HO** (in Cantonese): Madam President, destruction is always easy. The achievements made by the people of Hong Kong through labour over the past century or so have been severely damaged in less than seven years under the governance of the Government of the Special Administrative Region.

Hong Kong was originally moving slowly towards a modernized international cosmopolitan. However, we can now only watch our legal system,

human rights, and economic achievements disappear gradually. I believe many people who love Hong Kong fervently will feel heartbroken. Therefore, I would like to implore Members to take concrete actions to cherish these achievements. I hope we can, through implementing democracy as soon as possible, monitor the Government in concrete terms in order to improve governance and expeditiously remedy the damage already done.

Democracy is by no means "lofty, big and empty". Instead, it is closely related to our life in the reality. Some Members earlier cited some examples to illustrate their worries. They opined that if there were democratic elections and if pro-democracy Members gained more than half of the seats, Hong Kong would be paralysed. Madam President, these are precisely the examples I wish to use to put forward my counter-arguments.

I do not know whether Mr TAM Yiu-chung was referring to such paralysis when he said that the Amendment Bill to the Education Ordinance could still not be passed despite lengthy discussions. However, Madam President, you have always said that the scrutiny of legislation is a solemn business and must be dealt with very seriously. Should Members be asked to keep their eyes shut without discussing anything and say this is the best or most beneficial for Hong Kong by passing legislation after several meetings? Apart from the numerous meetings convened in connection with this piece of law, the executive has accepted 40 or so amendments. All this was agreed by the representatives of the Democratic Alliance for Betterment of Hong Kong in the Bills Committee. They were equally enthusiastic in the discussions at that time too. This proves that the scrutiny has borne fruit. If we blindly support the Government, healthy amendments like these will not appear. The legislation passed will also give rise to many self-contradictory policies.

I am a Member of this Council and, at the same time, a parent. I am obliged to harmonize various parties to ensure that various sectors can reach consensus on these new policies. Moreover, the legislation passed has to be fair to all parties to ensure smooth implementation. It must not rely on power and divide the community. Madam President, these are the reasons why I, as well as many people, aspire for democracy. If tiny room like this is not allowed in this Council, many terrible laws will be passed one after another, and the development of Hong Kong will be damaged constantly.

Recently, several news commentators have one after another taken themselves off the air for fear that the personal safety of their family members

will be threatened. At present, not only the progress of democratic reform is being curbed; our fundamental freedom of expression is being inhibited as well. The British used to say Hong Kong had no democracy but freedom. Even Mr DENG Xiaoping said that the Communist Party would not fall as a result of criticisms. However, we cannot say something like this now, for the commentators are being intimidated and bribed to keep their mouths shut. The worries harboured by Hong Kong people in the '80s have now come back to life to haunt us. We can now see that, without the monitoring by a democratic system, freedom can become unprotected and diminish slowly.

I believe Members can still recall the evening of 19 May, 15 years ago. Around 11 pm, LI Peng was reported on the television to have declared a curfew. Although the incident took place in Beijing, I could feel the fury of killing at that time. At present, such atmosphere has begun to spread in Hong Kong. A half-cooked frog may have lost all its might to jump out of a hot pot of water. But we are humans; we have the ability to distinguish right from wrong. I believe the people of Hong Kong will unite to save themselves, strive for democracy and will not give up.

**MR IP KWOK-HIM** (in Cantonese): Madam President, the Basic Law is a national law passed by the National People's Congress (NPC). It is a mini constitution for the Special Administrative Region of Hong Kong and the foundation of the rule of law in Hong Kong. The prosperity and stability of Hong Kong, its political, social and economic order, as well as its executive, legislative and judicial systems, are all protected and regulated by the Basic Law. Respect for the Basic Law is respect for the rule of law and this protects the well-being of Hong Kong people.

Article 11 of the Basic Law provides that the systems and policies practised in the Hong Kong Special Administrative Region, shall be based on Article 31 of the Constitution of the People's Republic of China. Article 31 of the Constitution provides that the systems to be instituted in special administrative regions shall be prescribed by law enacted by the NPC in the light of specific conditions. Article 67 of the Constitution provides that the NPCSC exercises functions and powers to interpret the Constitution, to enact and amend statutes enacted by the NPC, including the Basic Law. According to Article 158 of the Basic Law, the power of interpretation of the Basic Law shall be

vested with the NPCSC. When authorized by the NPCSC, the Courts of the Hong Kong SAR can only interpret on their own, in adjudicating cases, the provisions of the Basic Law which are within the limits of the autonomy of the SAR. All these are clearly laid down in the Constitution and the Basic Law.

Unfortunately, in recent months, the Hong Kong society has been filled with opinions which are in fact unrestrained interpretations of the Basic Law. These inaccurate messages sent to the people have destroyed the implementation of the Basic Law and the recognition of it. In the end, the people of Hong Kong and even their next generation will have to pay a price for it.

On 2 April, Mr Martin LEE wrote in an article to this effect: The interpretation of the Basic Law made by the Central Authorities is without doubt an attempt to change the arrangements under Article 158 of the Basic Law and to resume the power of Hong Kong Courts to interpret the Basic Law on their own<sup>1</sup>. Alan LEONG, SC, even pointed out that the act of interpreting the Basic Law is posing a threat to the original intention that the NPCSC will only interpret the Basic Law upon invitation by the Court of Final Appeal.<sup>2</sup> On 27 April, another senior counsel, Ronny TONG, questioned the binding effect of the interpretation of the Basic Law made by the NPC. In addition, Ms Audrey EU, a Member of this Council, pointed out that the act of the NPCSC was *ultra vires*.<sup>3</sup>

The first sentence of Article 158 of the Basic Law reads: "The power of interpretation of this Law shall be vested in the Standing Committee of the National People's Congress." Why does Mr Martin LEE fail to see this? On the point that the so-called original intention is that the NPC shall only interpret the Basic Law upon invitation by the Court of Final Appeal, is it merely a personal intention of Mr Alan LEONG himself? The Basic Law and the Constitution have in fact provided for the power of the NPC to interpret statutes, so how could the NPCSC have acted *ultra vires*? Where in the provisions is this idea of *ultra vires* found? As a matter of fact, the constitutional provisions are

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<sup>1</sup> p. E07, 2 April, *Apple Daily*.

<sup>2</sup> p. E07, 9 April, *Apple Daily*.

<sup>3</sup> p. A01, 27 April, *Apple Daily*.

laid before us, but why do our legal professionals pretend that they just do not see them? Does the rule of law still exist in Hong Kong? Those people who read meaning into those provisions of the Basic Law they like while turning a blind eye on others they dislike, or who make reckless demands to amend the Basic Law, are actually acting in contempt of the constitutional system.

To maintain social stability and protect the fundamental interests of the people of Hong Kong, all discussions on the constitutional system should be based on respect for the Basic Law and the Constitution. This is the least respect required of the rule of law. Remarks that the NPCSC has violated the Basic Law, that it has seriously undermined "one country, two systems" and "a high degree of autonomy", are nothing but pathetic lies to those of us who have cared to read the Basic Law and the Constitution at all.

On 17 April, Mr Frederick FUNG pointed out in a news commentary on Cable TV ( “飛常政經” ) that Members of the new term of the Legislative Council who belonged to the pan-democratic camp would employ the veto tactic to paralyse the Government.<sup>4</sup> On 27 April, Ms Emily LAU made a public remark to challenge the Central Authorities.<sup>5</sup> When will Ms LAU have to raise funds on the streets again so that she can file a lawsuit for free? On 1 May, Dr YEUNG Sum pointed out in an article that the addition of one functional constituency seat would pose an additional obstacle to the development of democracy.<sup>6</sup> I just want to ask the Democratic Party: Would it institute any disciplinary action against its three Members from the functional constituencies, that is, CHEUNG Man-kwong, LAW Chi-kwong and SIN Chung-kai, for posing obstacles to the development of democracy? On 11 May, the Constitutional Development Task Force issued its Third Report. Members from the democratic camp all criticized the report as lacking in substance. Mr CHEUNG Man-kwong criticized the Government of refraining from proposing any plans which would boost a higher turnout rate and help the democratic camp canvass more votes.<sup>7</sup> During the past month when the pan-democratic camp

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<sup>4</sup> p. A06, 18 April, *Wen Wei Po*.

<sup>5</sup> p. A02, 28 April, *Apple Daily*.

<sup>6</sup> p. A08, 1 May, *Ming Pao*.

<sup>7</sup> p. A02, 12 May, *Ming Pao*.



fought for universal suffrage, was there once when they did not make a call for voter registration or canvass votes in public?<sup>8</sup> So is this fight for universal suffrage a means or an end?

Respect for the Basic Law and the Constitution is the foundation of the upholding of the rule of law. Democracy is politics of accountability and tolerance. When Members of the Council blatantly hold the Constitution in contempt, create a constitutional crisis with their lies, claim that they will fight and resist, and to trade the prosperity and stability Hong Kong plus the welfare of the Hong Kong people with votes, can we cherish hope for the development of democracy in Hong Kong any more? When people masquerade their position as truth, when they suppress people holding different ideas with their extremist views and refuse to engage in any rational discussions on constitutional development, that is really the greatest obstacle to the development of democracy in Hong Kong.

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

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

**MR LEUNG FU-WAH** (in Cantonese): Madam President, when Mr Albert HO began to speak today, he called upon all Members to speak so that a record would be taken and we could all hold ourselves accountable to history. I now answer Mr HO's call.

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<sup>8</sup> In the 85th anniversary of the May Fourth Movement on 4 May, in a candlelight meeting to fight for universal suffrage, KWOK Ka-ki called for the participants to march on 1 July and vote on 12 September. (p. P07, 5 May, *Apple Daily*)

On 1 April in a meeting against the interpretation of the Basic Law organized by the Civil Human Rights Front, YEUNG Sum and Cyd HO came onto the stage to canvass votes. (p. A23, 2 April, *Ming Pao*).

On 20 October 2003, in a mass rally, CHU Yiu-ming said that the aim of the meeting was to encourage people to make the best use of their votes and in the meeting the people chanted "kick out the royalists". (p. P07, 20 October 2003, *Hong Kong Economic Journal*)

On 12 October 2003, 1 000 people took part in an anti-Tung rally held in Chater garden. Joseph CHENG called upon the people to vote in the district council elections the following month and the Legislative Council elections next year and to oust the royalists. (p. P06, 13 October 2003, *Hong Kong Economic Journal*)

On this motion moved by Mr Albert HO on "Regretting the decision of the Standing Committee of the National People's Congress to rule out universal suffrage in the years 2007 and 2008" to which an amendment has been proposed by Mr LEUNG Yiu-chung, I will vote against it. This voting decision is aimed at forestalling the Government of the Hong Kong Special Administrative Region (SAR) from plunging into the river of no return in making unconstitutional and unlawful acts, defending the Legislative Council of the SAR so that it will not relegate into being a tool for party politicians to put up a show or to grab votes, and preventing the turning of the relationship between the SAR and the Central Authorities from turning into one characterized by repulsion, thereby damaging the interests of Hong Kong and the state.

If this motion and amendment are passed, I cannot imagine how the 1.3 billion people all across the country will look upon this local government of a SAR which dares to put up a fight with the Central Authorities in such a blatant contravention of the Constitution and the law. I do not think it is a surprise if there are citizens in the state who suspect that the Hong Kong SAR is trying to resist the Central Authorities, seeking to gain a "high degree of autonomy" which is over and above the Basic Law and trying to become a political entity. So do not say that other people are making false accusations against you, you have to look at what you are doing first. The decision of the NPCSC on 26 April was made on the power vested in it by the Constitution, but you are asking the Legislative Council to pass a motion to deter the Government of the People's Republic of China from exercising its sovereignty in Hong Kong. This is the legislature of a local government trying to resist the Central Government in its lawful exercise of power, calling the latter a high-handed hegemonist. Is it a lawful and constitutional view?

There are criticisms that the democratic camp has been carried away by its victory. It has no plans. It does not know the art of making political compromises. It is asking too much and it is trying to turn the aspirations for democracy and various other aspirations of the people simplistically and arbitrarily into one single form of election — by universal suffrage. It seeks to achieve an instant realization of this demand by implementing it rashly as elections by universal suffrage in 2007 and 2008.

I would like to stress that, when Mr Albert HO and other Members wish to express their personal discontent with the NPCSC, their right is absolutely protected by the law. Only that they cannot use this legislature of a local

government, this Legislative Council of the SAR, as a tool to mislead the people and grab votes.

The word "regret" in the wording of the motion has implications of discontent and protest. We know clearly and Members in fact also know perfectly well that a decision made by the NPCSC is a decision made by the national legislature and by the highest organ of power of the state. It is therefore an act of state. Hong Kong is by contrast only a special administrative region of China. The Legislative Council is only a local legislature. According to the Constitution, one of the functions and powers of the NPCSC is to interpret statutes. As it is lawful for the NPCSC to interpret the statutes, it follows naturally that its decisions are lawful. If we in the Legislative Council do not accept a decision made by the NPCSC, and if some Members even try to act in such an arrogant manner as to express in the name of the Legislative Council regret for and discontent with the decision made by the NPCSC, this is in my opinion not only a contravention of the Basic Law but also of the Constitution of China. In the final analysis, this will seriously damage "one country, two systems" and the relationship between the Central Government and the SAR.

I wish to give an accurate depiction of the situation in Hong Kong now. This is: the agenda of increasing the number of seats returned by universal suffrage has been temporarily called off by the Central Government for the years 2007 and 2008 because of the contravention, non-compliance and failure to implement the various requirements laid down in the Basic Law by the opposition camp.

Let me remind Members that when we swore into office in this Chamber in 2000, each and every one of us swore, no matter in Chinese or English, to uphold the Basic Law of the Hong Kong SAR of the People's Republic of China and allegiance to the Hong Kong SAR of the People's Republic of China. But now some of them are opposing the decision made by the NPCSC in exercising its lawful functions and powers, as Mr Albert HO has put it just now, it was regarded as violence in law. I wish to ask Mr HO not to use such ambiguous rhetoric to deceive the people and to besmear a lawful act by the NPC.

I would think that the pursuit of democracy is consistent with the pursuit of good and beauty which is, after all, human nature. It is the driving force of

progress in civilization and society. But democracy should never be taken to mean the dominance of one's will over others. While the will of the majority is respected, the different views of the minority must also be protected. That is the true meaning of democracy. According to various opinion polls, the people do not have a uniform view on dual elections by universal suffrage in 2007 and 2008. Since no consensus has been reached on this question of dual elections by universal suffrage in 2007 and 2008, and this is not the will of all the people in Hong Kong, why do people from the opposition camp wilfully describe this as general aspirations? What has become of the wish of other people? How will those people who profess to be democrats protect the wish of the minority? This kind of extreme arrogance, this drawing up of definitions by themselves or simplifying democracy as universal suffrage are all tricks meant to deceive. They are manifestations of a democracy which is more like a hegemony inside.

The opposition camp are only making a pretext in fighting for dual elections by universal suffrage in 2007 and 2008. The essence of today's debate was laid bare and made clear by what Dr YEUNG Sum said earlier. He said that actually they did not care whether or not there would be elections by universal suffrage in 2007 and 2008. The reason they are moving this motion of regret and discontent today, the various moves to be made by the opposition camp tomorrow, all boil down to one thing, and that is, the votes of the people on 12 September. This is like the two home-made bullets that shot CHEN Sui-bian and Annette LU. The aim is not to take their lives but to send them to the seat of presidency, and that is all. May I advise those good-natured members of the public who wish to see a better Hong Kong that they should beware of the frustrations and dejections faced by the Taiwanese today and they should make sure that the same thing will not happen to Hong Kong in future.

Madam President, the decision made by the NPCSC on 26 April has prescribed the method for returning the third Legislative Council and it has also stated that the proportion of seats returned by functional constituencies and direct elections should remain unchanged. Some people have made vociferous claims that this is a retrogression of democracy and I do not agree with them at all. I hope very much that the public will understand that all their arguments and moves actually boil down to one thing, and that is, the votes of the people.

Thank you, Madam President. I so submit.

**MR FRED LI** (in Cantonese): Madam President, I am not answering the call of Mr Albert HO. I found it hard to control myself as I listened to the debate, and so I have stood up to air my views. Mr LEUNG Fu-wah said earlier that we were trying to grab votes by moving this motion. I hope the public will know that if we are trying to grab more votes by moving this motion, we must first make an assessment and be sure that the public will support us before moving a motion. For if we do not have their support, this will be a political suicide. If a motion like this cannot help in grabbing votes for us, would that not be a joke? For our aim is to grab more votes. If only after making an assessment and finding that the people would support us that we dare to move a motion, then it will be a contradiction to say that we do this only to grab more votes. If the people do not see the same thing, then how can we grab more votes?

As to the question of the minority, I agree completely that the minority should be protected in democracy. The result of the vote later will be most revealing, and I trust we will certainly lose. We are actually the minority. We democrats are aptly the minority in this legislature. Does it follow that our right to speak should be protected? I do not think you have done so. For you are always trying to suppress us, you want us to be silent, right? You are not being true to your words.

Today I have heard many friends of the DAB, such as Mr NG Leung-sing, call us the opposition camp, instead of the democratic camp. This is something we do not hear so often. In the past, they would talk about the democratic camp doing this and that, but now they are branding us as the opposition camp and they are talking this and that about the opposition camp. That is true, we are the opposition camp, for we are a minority. And you are the ruling camp, for you are the mainstream. You are one with the SAR Government and you are one with the Central Authorities. We can simply count the number of Deputies to the NPC and members of the Chinese People's Political Consultative Conference sitting here to know the kind of people, the kind of power, the kind of ideology and the kind of thoughts you stand for, right? We are the minority and so we are the opposition party, the opposition camp. In legislatures around the world, it is generally true that the ruling parties are greater in number while the opposition parties are smaller in number. Under this political system and this kind of elections which are oddities, and in the absence of universal suffrage, a political party like ours which attaches paramount importance to universal suffrage will naturally become a minority in the legislature.

Some Members such as Mr LAU Kong-wah mentioned our attempt to force through the border control point. I took part in that. I do not understand my travel document would be confiscated after it was issued and it was confiscated again after it had been issued again. As Members of this Council from Hong Kong, originally we did not want to force our way through the control points, but we have been refused entry even as we hold lawful documents. In order to express our views to members of the NPCSC who were then in Shenzhen to hear views from all quarters, we wished to go there though we were not invited. Though we held valid Home Return Permits, we were refused entry. Why? Is this country afraid of Members of this Council from the democratic camp? Is it afraid that we will go there and put up a show? Is it afraid that we will disrupt the consultation exercise?

Our friends from the DAB often tell us that as compared with the days before the reunification, we are now much better off. Our national leaders, including Mr LI Zhaoxing, the Foreign Minister, said that it was not democratic at all in the past, but now Hong Kong is much more democratic. But before 1997, we were a British colony, so why do we have to compare with the days when we were a British colony? It is only natural that there is no democracy in a British colony. So why should we compare with a British colony? Now we have been reunited with the Motherland and should we not be better off under the umbrella of the Motherland? This is only natural. Why do we have to invoke past memories and make a comparison with the past? This is the first fallacy.

Second, even though we used to be a colony, our district boards at that time, though being a political assembly at the lowest level, had already abolished the appointment system. The district boards were mostly returned by popular elections, except 27 ex officio members with rural backgrounds. All the remaining members of district boards which numbered a few hundred, were all returned by popular and direct elections. After the reunification in 1997, came 100 appointed members. Why? Before 1997, the two Municipal Councils composed mainly of popularly elected members were scraped and they were no more. The District Councils complained that powers were not delegated to them. The Legislative Council Members also raised the point that some matters which had been decided saw no participation by Members of the Council. Why? It was because there were no Municipal Councils in the middle. Was it a good thing when we did not have popularly elected Municipal Councils to

oversee municipal affairs? Was that democracy? I think people will recognize this when they compare what the situations were like before and after 1997.

As to public opinion, no matter the opinion polls conducted by the media or the University of Hong Kong or The Chinese University of Hong Kong, we can all see that even to date, more than half of the people think that, even though the NPC has rejected dual elections by universal suffrage in 2007 and 2008, there should be elections by universal suffrage in 2007 and 2008. In addition, many people oppose the decision made by the NPCSC. All these come from the opinion polls. Are they not public opinions? Do these not reflect the views of the Hong Kong people? But Premier WEN Jiabao said, "In the long run, the decision made by the NPCSC is for the interests of the Hong Kong people." Will only officials from the Central Government know what are the interests of the Hong Kong people, but those of us who are elected from among the people know nothing about them? Are those of us who are representatives of public opinion not clear about them?

Lastly, I wish to conclude by saying this. In March I went to Taiwan to observe the elections there. I was most impressed by a TV station interview of an old man. They asked him, "What do you think of the reunification between the two sides of the Strait? Will that influence your vote?" The old man answered in a very straightforward manner, "Now I can elect the president of Taiwan, but can Hong Kong elect its own Chief Executive? Can the people on the Mainland elect their leaders? No, they cannot. How can they reunite with us? At least I can elect my own leader." Just that point had broken my heart when I heard it. We are drifting farther and farther away from Taiwan.

If there are no elections by universal suffrage in Hong Kong, there will never be an example. Then how can the people of Taiwan turn to us? The matter cannot be solved by force, by aeroplanes and cannons. For the most important thing are the hearts. While Hong Kong is denied of universal suffrage, the people of Taiwan can elect the heads of their counties, their mayors and their president. Each person in Taiwan has one vote. It does not matter if the elections are clean, the people still have the right to vote. But what about Hong Kong? Will the Taiwanese say, talk to us when the election issue is settled in Hong Kong? I wish to tell Honourable colleagues, if we hope to be an example, we should have our elections. I so submit.

**MR JASPER TSANG** (in Cantonese): Madam President, in these passed few days we have often heard of the so-called political suppression and that the freedom of speech in Hong Kong has shrunk. Some even said that the freedom of speech in this Chamber has also shrunk. After listening to the speeches of so many Members, I think if someone is subject to political suppression, he is definitely not one of those sitting in this Chamber.

Madam President, a colleague had intended to move a motion with wording of condemning the NPCSC for violating the law, which was not allowed by you, Madam President. However, in the speeches of many Members who have spoken in the debate earlier, there are lots of castigation and condemnation of the NPCSC as well as accusation of its violation of the law. Although these are not the contents of the motion, I believe anyone who has listened to today's debate will not believe that freedom of speech has shrunk.

In regard to freedom of speech, we should not abuse it either. Just now Mr LEE Cheuk-yan, in teasing Miss CHOY So-yuk, said that in her eyes anything which was not black must be white. But at least, she can distinguish between black and white. The worst thing we could do is to confuse black and white when we exercise our freedom of speech. For instance, recently, some people equated the departure of some famous talk-show comperes with political suppression. Earlier many colleagues have repeatedly cited this example and even linked the incident with the NPCSC's decision. We have been paying attention to the so-called incident of "talk-show hosts taking themselves off the air" and heard only some vague allegations and some undisguised insinuations which were not supported by any facts or evidence. We have even urged the victims to state publicly the whole truth as this is the most effective protection for them. If they can state publicly the whole truth, state publicly who is suppressing, threatening and intimidating them, then who will dare to resort to such intimidation and threatening tactics? This is the best strategy of preventing and curbing this so-called political suppression. I do not know why they have chosen not to do so. On the contrary, they just hit the air with their fists and then left. Afterwards, a large number of people then said that this was political suppression. Such allegation is unfair.

Some colleagues even regarded the allegation that some mainland officials had forced some voters in Hong Kong to vote for certain parties as a fact and cited this in their speeches. They then linked the departure of several talk-show



hosts with the intimidation incidents mentioned by some Members, in an attempt to portray Hong Kong as a city in an age of darkness, an age of political darkness. Is this not very strange? We have been listening to a debate which is vigorous, amusing and eloquent. Can such a debate be held in an environment which is subject to serious suppression? For this reason, I feel we should not confuse right and wrong, should we?

Mr Albert HO said right from the beginning that ZHU Yucheng had equated democracy with independence. I am not obliged to defend him although the pronunciations of our names are so very similar. That said, sometimes when I saw some blatant distortion of facts, I would feel it hard to tolerate. Some Honourable colleagues said that ZHU Yucheng had equated democracy with independence, and universal suffrage with Hong Kong's independence. Some even mentioned "somebody" had said that Hong Kong people wanted to seek independence for Hong Kong. Probably, this "somebody" must be referring to ZHU Yucheng. Here I would like to quote the words of ZHU Yucheng to see what he had said. ZHU Yucheng said to this effect, "Some people ignore the attitude of the Central Authorities and still stick to their old way by incessantly interfering with Hong Kong's normal constitutional development, challenging the authority of the Central Authorities and doing their utmost to exclude the Central Authorities' leading position in Hong Kong's constitutional development. They proclaimed with high-sounding words that it was for the democracy and the future of Hong Kong. In fact, their real intention is to turn Hong Kong into an independent or semi-independent political entity." This is the version of ZHU Yucheng.

I believe colleagues who have spoken earlier will not admit that they are interfering with Hong Kong's normal constitutional development. Neither will they admit that they are challenging the authority of the Central Authorities and doing their utmost to exclude the Central Authorities' leading position in Hong Kong's constitutional development. Ms Emily LAU said that she wished to challenge the Central Authorities. But she did not say that she wanted to do her utmost to exclude the Central Authorities' leading position in Hong Kong's constitutional development. So why did somebody take the condemnation personally? What is more, some even said that the above statement was trying to say that all Hong Kong people attempted to seek independence. Who has said such words? Mr Martin LEE said that no one in Hong Kong had strived for independence. Similarly, I have not heard any official in the Mainland or from the Central Authorities say that Hong Kong people want to seek

independence. Why was such statement further inflated to an extent that it had become an accusation on Hong Kong people? Mr Martin LEE said that no one had wanted to fight for independence. However, some Hong Kong citizen said that he had the right to elect the Chief Executive of Hong Kong, he had the right to elect the Chief Executive of the Hong Kong Special Administrative Region of the People's Republic of China, but he was not Chinese. Hong Kong belonged to him, but he was not Chinese, under no obligation to fulfil the duties of a Chinese.

If Members are interested, I can make photocopies and distribute the article to them for reference. It was written by a Hong Kong citizen. So, Mr Martin LEE has to think about it seriously. If he advises officials from the Central Authorities not to say anything but just listen on their visits to Hong Kong, it cannot dispel their worries about implementing universal suffrage in Hong Kong if these are the voices they hear. Thank you, Madam President.

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

**MR ANDREW CHENG** (in Cantonese): Madam President, as Mr LEUNG Fu-wah has also spoken in response to Mr Albert HO, I should do so for I have been sitting next to Mr Albert HO for so many years. In fact, every Member should speak on such an important issue today.

Madam President, just now Mr Jasper TSANG has made an impassionate speech. As some Honourable colleagues mentioned today, the pro-China camp used to call us the democratic camp in the past. But today, the democratic camp has become the "opposition party" or the "reactionaries". So I do not call them pro-China camp any more either. Instead, I will call them the "yesmen". It is clearly spelt out in the manifestoes of the Liberal Party and the Democratic Alliance for Betterment of Hong Kong (DAB) that they support the implementation of universal suffrage in 2007 and 2008. But once the granddad blows the whistle, the "yesmen" return to the pro-Government side. After returning to the pro-Government side, they have given up their principles, saying that we who uphold the principles are the "reactionaries". In apparent seriousness, Mr LAU Kong-wah expresses moderate views whenever he speaks and seems to be affable. He speaks in a harmonious tone, but every sentence he speaks is full of sarcasm and provocation. He said, "When the opposition party

has seized power, Hong Kong will come to an end." (I have tried my best to mimic his tone). I would like to return the following sentence to the "yesmen": "When the 'yesmen' are in power, people can go nowhere to air their grievances."

As to why people can go nowhere to air their grievances when the "yesmen" are in power, the departure of several famous talk-show hosts or their refraining from writing articles is the answer. The media which represent freedom of speech have become the sacrifice of the failure of our constitutional reform. Our media people are suppressed just because they have performed their duties of expressing the views of Hong Kong people and telling what is right and wrong. Our media people, on behalf of Hong Kong people, are suppressed because they hope Hong Kong people can distinguish between right and wrong.

Mr Jasper TSANG said, "Please produce evidence to substantiate political suppression." I would like to ask Mr Jasper TSANG in return — Madam President, I wish to ask him this question through you — what are the worries of those Hong Kong people who emigrated from Hong Kong to other countries in spite of becoming second-class citizens in the past decade or so? Would you please ask them whether they can produce factual evidence and what their worries are? It is really difficult to produce factual evidence to substantiate white terror. If you do not dare to face white terror but somebody has been subjected to it, and you accuse us of distorting the fact with such faces, then who has distorted the fact, Madam President? What is the meaning of a seizure of power? We in the democratic camp or the opposition party as you may name it, just wish to make use of a democratic election or the victory under a democratic election. Can this be called a seizure of power? We only wish to change the unfair system by the implementation of universal suffrage. Can this be called seeking independence of Hong Kong? Who has distorted the fact? Who has confused right and wrong? Who has misled the people? And then, we were accused of being conceited and "talking nonsense after having achieved some success". Please tell us whether the words of those who compared Hong Kong people to "dogs over-fed with dog biscuits" are conceited or the words of those who said "you refuse a toast only to drink a forfeit" are conceited. Do these words indicate that they have achieved some success? A certain businessman was even more marvellous! He said that those who were discontented with the present situation could at the worse leave Hong Kong! Is he talking nonsense?

Madam President, such words make us cannot help asking a question: Have the "yesmen" carefully considered, if it is for the good of Hong Kong, whether we should act in a way that we show mutual respect to each other? Even though you have given up your principle, which is your right, we in the democratic camp still have the obligation to reflect the people's aspirations for universal suffrage. We should all hope to perform our respective duties in the overall interest while upholding our principles. Your principle may be discarding your own principle, but ours is to strive for universal suffrage, which is a fair, open and just system.

There is an accusation that we are putting up a struggle in order to canvass votes. I am very much puzzled by it. If you believe Hong Kong people are really patriotic, how will they elect those who do not love the country? Why are we accused of putting up a struggle so as to solicit the people's support when we canvass votes? If the constituents dislike us, thinking that we are really putting up a struggle in an attempt to act against China and stir up troubles in Hong Kong, do you think we will be elected?

So, Madam President, in today's debate, Dr David CHU made a very short speech. But he asked us if we had gained anything. On hearing that, I felt as if I was in the church because whenever I was in the church, the priest or pastor would ask: Have you gained anything? I think we definitely have gained something as we did in past debates. The more the truth is debated, the clearer it becomes even though some words may be very sharp. Yet, there should be mutual respect instead of mutual exclusion. In my understanding, the speakers in the parliamentary assembly of any advanced economy often give tit for tat for each other. But they are for the good of their people. So, Madam President, I have gained in today's debate for I have seen the "yesmen" in their true colours.

Thank you, Madam President.

**MRS SELINA CHOW** (in Cantonese): Madam President, Mr Andrew CHENG urged us to tell the truth and not to distort the facts in this Chamber. Now I have to point out that a while ago, he has distorted the facts. When he mentioned the Liberal Party's view on universal suffrage, he referred to a metaphor "granddad blowing the whistle". I do not know what he meant by "granddad blowing the whistle", nor do I know when granddad will blow the whistle. However, I would like to tell him clearly that he is either having a bad

memory or not reading the newspapers. Or perhaps he takes no note of or scorns to know what the Liberal Party has been working on. I wish to make it clear that regarding the implementation of universal suffrage in 2007 and 2008, we have already offered a full account to the Liberal Party internally and to the public as well. After one year's internal discussion, we published the outcome in June 2003. We arrived at the conclusion after extensive consultation and due discussions both inside and outside the Party.

At that time, we fully explained our views. With regard to the implementation of universal suffrage in 2007 and 2008, we in fact made it clear that to achieve the goal in one step might not be suitable for Hong Kong, based on the information we had collected both inside and outside the Party. We made this statement well before the Hong Kong Government conducted a consultation early this year and the three-member Task Force started to work.

In my opinion, a crucial element of democracy is that different views can be expressed freely and are respected. But unfortunately, what I have often heard about the so-called democratic fighters under the banner of democracy are entirely undemocratic. They always mention "we Hong Kong people, we Hong Kong people", am I not a member of Hong Kong people? But I do not think anything they say can represent my views.

Meanwhile, I would like to mention the issue concerning the departure of some famous talk-show comperes. I believe the departure of several famous talk-show hosts has taken some people by surprise or even let them down. But as to why they have to take themselves off the air, it is impossible for us to trace the reasons. Nor have we heard of any explicit explanation from them. However, there is one famous talk-show host who has not taken himself off the air and it is Mr Andrew CHENG. I believe nothing can make him take off the air because of his long-standing principle. I hope he can continue to do what he thinks he should do in front of our microphone because, I believe, no one can prevent him from doing so. Thank you, Madam President.

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

**MR JAMES TO** (in Cantonese): Madam President, today's debate on the interpretation and decision of the National People's Congress (NPC) makes me

think of a caricature I saw a few days ago. It made me laugh, but there were tears behind the laughter. Published in *Ming Pao* on 16 May, it was a caricature by Zunzi (尊子) who expressed his views on the NPC's interpretation and decision. As we all know, many hikers have been robbed and bound on trees for 10 to 20 hours recently. In the caricature, a couple on a hike were unfortunately robbed and bound on a tree. The husband told his wife, who was weeping and wailing, to stop behaving like that because they, being left alone, were in fact enjoying a high degree of autonomy they never had before in these 10-odd hours despite the suffering of being bound on a tree. They were certainly given autonomy because the robbers had all fled and they were entirely helpless. I think the caricature has portrayed a scenario which makes the readers laugh, but there are tears behind the laughter. I have also shared the caricature with many friends during the past few days.

Mr QIAO Xiaoyang said that it was the beginning of democracy after the NPC had given its interpretation and decision. In my opinion, he should not have said such words because, with regard to the most basic principle of gradual and orderly progress, even though the proportion of directly elected seats has increased from 50% to 51% (which can be achieved on an extremely calculating basis) in a comparison between 2007-08 and 2003-04, it can be said to have made gradual and orderly progress. I remember Mr Raymond WONG once said in a programme that according to his calculation, members of the Election Committee for selecting the Chief Executive would reach several millions in around 2040 if the number of its members could be increased proportionately from 800 to 1 600, and then from 1 600 to 3 200, and then from 3 200 to 6 400, and so on and so forth.

With regard to the principle of gradual and orderly progress, a friend of mine said that it was not so simple because the structure could be designed in an extremely calculating way. The typical example is to increase two seats in the functional constituencies and one seat for direct elections — no, it is the reverse — two seats for direct elections and one seat in the functional constituencies. So, in 2007 and 2008, the proportion of directly elected seats can be increased to 51% or even 52%. This is possible. In regard to functional constituencies, it can simply create two functional sectors, for instance, one representing the Chinese enterprises and the other one which can be manipulated. In doing so, these two seats can be surely won. As for directly elected seats, even though there may be three seats, you can take two and I can take one. In the final analysis, I can still gain more. Having said that, I think

there is no progress at all even in the most basic aspect of the proportion of directly elected seats under the NPC's interpretation and decision. How can it claim that the Basic Law has been complied with?

A while ago, Mrs Selina CHOW said that if Mr Andrew CHENG continued to be a guest host of a radio programme in the morning, then she believed he could continue to uphold the freedom of speech. But I am not so optimistic. I know Mr Andrew CHENG well. If someone threatens his wife and his two lovely daughters, I dare not say that he will definitely continue to host the programme. I do not know the reason for Mr Allen LEE announcing today that he would take himself off the air. But it is inconceivable that Mr Allen LEE had to make such a sudden decision. It is utterly inconceivable. Someone may say that this does not mean anything and there may be many possibilities. Perhaps he has suddenly devoted to a faith and felt impelled that he should not continue with the job, lest something disastrous or evil would happen to him. What is the reason? Somebody said that he was in his usual high spirits when he was met at three o'clock yesterday afternoon, but seemed to be very down and extremely depressed at six. What had happened to him in those several hours? Why did he even resign as a local NPC Deputy today after consideration last night?

I can only confirm that I had attended Mr Raymond WONG's programme twice over the last couple of weeks. He asked me, "Ah TO, you specialize in security matters. I am in my middle age and not so mindful about things. But if those who give orders lay a finger on my children and my wife, I will not play hero." One attendance was made before Albert CHENG's departure and the other one after his departure. I hope the Government or the parties concerned can consider whether Hong Kong and Hong Kong people should be treated in this way, although I understand that the Communist regime was founded on the lives and blood of the martyrs. But now, is it a time when the existence of the regime hangs in the balance that it has to resort to such means? In any case, I think it has gone too far.

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

**MR CHAN KAM-LAM** (in Cantonese): Madam President, in tonight's debate, Honourable Members seem to be very interested in discussing the issue

concerning several talk-show hosts taking themselves off the air. So I would like to turn on my microphone to talk about the freedom of speech too.

According to Mr James TO, some famous talk-show hosts said that should those who gave orders lay a finger on their children and wife, they would take themselves off the air. Frankly speaking, such allegation, as Mr Andrew CHENG said, is a kind of white terror which is difficult to prove with substantive evidence. In a society where people enjoy freedom of speech, can they abuse such freedom? Mr Winston CHU said that he had received an intimidation letter. Then he has to show it, right? If some said that they took themselves off the air because of political pressure, then who had exerted the pressure on them? Can they tell us? Now as Mr LEE Cheuk-yan said, the crucial question is that people have confused black and white. And it is most unfortunate that people are often misled. To our disappointment, freedom of speech has been so-called molested. What is freedom of speech? In fact, many people do not understand it.

What are the genuine reasons for the departure of several famous talk-show hosts one after another? After the departure of Albert CHENG and Raymond WONG, Mr YEUNG Yiu-chung and I have wondered if the police can step up their efforts in investigating the causes behind it all because we have to protect the freedom of speech and some people's personal safety as it is our duties. What is the reason behind their departure? An editorial of *Ming Pao* published a few days ago is indeed a piece of good article, which pointed out that they should come out and explain whether their departure was really due to political pressure or some other reasons such as financial or other problems. They should do justice to the community. We should not put the blame on political pressure or persecution to create an atmosphere pessimism so as to curry public sympathy.

A few days ago, Mr Frederick FUNG went to a police station, reporting that he had been intimidated because he had tried to force his way through the boundary and his banners hanging in the streets had been vandalized. Madam President, frankly speaking, many of my banners have also been vandalized. They are so many that I have lost count. Banners hung today will disappear tomorrow. Eyes, nose and mouth of my picture were vandalized on numerous occasions. What kind of threat is that? This shows that Hong Kong society has tended to be more emotional and polarized. Some people called it division. Yes, indeed it is.



What has today's debate illustrated to us? The Democratic Party, as my usual criticism of them, has been acting against China and stirring up troubles in Hong Kong. Although the decision of the NPCSC to interpret the Basic Law concerning the constitutional development of Hong Kong in 2007 and 2008 is constitutional, rational and reasonable, it will definitely meet with opposition from the Democratic Party. To me, their opposition is not unexpected at all. I believe no one will object that we should continue to strive for democracy. However, they incite the public by vigorous actions against the Central Government, thus creating chaos in Hong Kong. Now even the Standard & Poor's considers the political and economic prospects of Hong Kong negative, making both international and local investors as well as the general public worry. If Hong Kong continues to develop this way, even the wage earners will find it hard to make a living, not to mention investors. What benefits can Hong Kong get then?

Mr Albert CHAN loves making accusations and he has just demonstrated his distinctive character of "talking through the back of his neck". I fail to understand why he mentioned that the share price of the Oriental Overseas Group had multiplied, thus leading to the increase of its asset value by many times. I fail to understand: What is the relationship between the success of an enterprise and the governance of Hong Kong in the past few years? Is it because Mr TUNG Chee-hwa has abused power for personal gains since he has become the Chief Executive, and as a result, the share price of the Oriental Overseas Group has kept rising? What is the purpose of such insinuations? If Mr Albert CHAN can produce any substantive evidence, then I wish we can request the Independent Commission Against Corruption to conduct a fair investigation. Otherwise, his aimless criticisms will just give us an impression that he is harsh and unreasonable when we are having a rational discussion.

Mr Martin LEE said that if the leaders in Beijing could trust Hong Kong people, then all problems could be solved. I believe the leaders of the Central Government will not give Hong Kong such strong support when it is in great difficulties if they do not trust it. I think they will not trust those who have overseas affiliations, those who oppose China and stir up troubles in Hong Kong, those who put up vigorous resistance against the Central Government, and those who stick to their own way despite being advised on the contrary. How can the Central Authorities place trust in those people? So, as many people have said,

the further development of Hong Kong's democratic political system is stifled mainly because of the Democratic Party or the democratic camp.

Thank you, Madam President.

**MR ANDREW WONG** (in Cantonese): It is not my turn to speak, is it?

**PRESIDENT** (in Cantonese): Mr Andrew WONG, the meeting is still in progress. If you are feeling ill, you may leave, or you may speak if you wish.

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

**MR SZETO WAH** (in Cantonese): Madam President, it is not Mr Albert HO who encouraged me to speak, rather, it was Mr CHAN Kam-lam. (*Laughter*)

Mr CHAN Kam-lam said he had not been surprised that the Democratic Party opposed China and stirred up troubles in Hong Kong. Of course, he will not be surprised because he will say that we in the Democratic Party oppose China and stir up troubles in Hong Kong even when he is in a dream. So it is strange if he feels surprised. He will say these words even though we have done nothing. As I have just said, he will say these words even in a dream.

Earlier in the debate, many Members mentioned the incident concerning the departure of some famous talk-show hosts, such as Albert CHENG and Raymond WONG. Today, Allen LEE has also taken himself off the air. They demanded these famous talk-show hosts to produce substantive evidence to prove that their departure was due to political pressure and the freedom of speech had shrunk. I think if they are able to tell the reason behind it all, then there is no political suppression and the freedom of speech has not shrunk. And they will not take themselves off the air either. Are the three of them being pressed for payment of debts at the same time? Are the three of them being involved in sex scandals at the same time? Have they taken themselves off the air because they want to canvass votes for the Democratic Party? If they have taken themselves

off the air in order to canvass votes for the Democratic Party, then it proves that many voters think that the Democratic Party upholds the freedom of speech and therefore they support the Democratic Party.

Many Honourable Members from the DAB have mentioned "grapping votes". I remember about 10 years ago when there were directly elected seats in the legislature for the first time, some said that we engaged in vote canvassing, grapping votes. I rebuked them immediately by saying that it was legal to canvass votes, but it was illegal to buy votes, say \$300 per vote. It was also illegal to take a snapshot of people's votes with a cellular phone so as to prove which candidate they have chosen. Many thought that this was pure fabrication. Then why not tell them to come forth? If they dare to come forth, such things will not happen in our society. It is precisely in a time when white terror is spreading that such things will happen and these people dare not come forth.

Earlier, Mr Jasper TSANG mentioned that his name was similar to ZHU Yucheng's, with only some difference in the characters. The other day, I criticized ZHU Yucheng on a television programme that he had framed Hong Kong people and the two characters in his name also meant "frame-up", right? *(Laughter)* Mr Jasper TSANG said that we had taken the condemnation personally. He said that some people were striving for an independent or semi-independent political entity. In fact, he is throwing out a hat onto other people's heads. Some people's heads are not big enough to fit the hat but ours are big enough to fit it. In fact, I have heard of the term "independent and semi-independent political entity" long time ago. What does it really mean? It really beats me. If striving for universal suffrage is equivalent to striving for an independent or semi-independent political entity, then Hong Kong will eventually become an independent or semi-independent political entity, because according to the Basic Law, the ultimate aim is to implement universal suffrage in Hong Kong. *(Laughter)* As the Basic Law stipulates that this will be the ultimate aim, then this will be the ultimate outcome. Am I right? What is wrong with that?

**PRESIDENT** (in Cantonese): Would Members please keep quiet and listen to Mr SZETO Wah's speech?

**MR SZETO WAH** (in Cantonese): So, we are not taking the condemnation personally, rather, someone has thrown out a hat and put it on our heads. In fact, he has to make it clearer who has the intention to do so. They demanded the famous talk-show hosts to tell the truth. I believe, in the current situation of Hong Kong, they dare not do so. However, ZHU Yucheng fears nothing, why does he not present the facts? Firstly, he is a high-ranking official; and secondly, he will leave right after telling the truth and return to China under the protection of the People's Liberation Army. What is he afraid of? Present the facts to us! Do not frame other people just because of his name.

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

**MR SIN CHUNG-KAI** (in Cantonese): Madam President, a while ago an Honourable colleague said that he was worried that the credit rating of Hong Kong by Standard & Poor's would remain to be negative after the Legislative Council elections. In fact, regarding the press release by Standard & Poor's, I have read it thoroughly many times. It made it very clear that the worry was that the Legislative Council, after the elections in September, did not have the determination to eliminate the deficit. It particularly mentioned tax reform. In fact, regarding the so-called tax reform, there is only one outstanding issue, which hangs on whether or not a sales tax should be introduced. As for other issues relating to tax reform, the Government has already done what should be done. The only relatively major reform is the introduction of sales tax. As regards environmental tax, the Democratic Party in fact supports the Government although we opine that it is insufficient for the Government to introduce a tax on tyres only.

If the outlook is negative after the Legislative Council elections in September, then it is because of only one problem, and that is, sales tax. Regarding sales tax, Mrs Selina CHOW from the Liberal Party has raised the strongest objection. I am sorry I have mentioned her, but she does oppose sales tax. So, I just want to say that if it is related to sales tax, then it has nothing to do with the Legislative Council elections in September because the Legislative Council will oppose sales tax no matter it is before or after the elections unless somebody has changed his position. In the past four years, all major political parties of the Legislative Council have raised objection in all discussions on sales tax. Do not accuse the others by making use of Standard & Poor's comments

unless their position has also changed after the elections in September. Please look at their own stance first before criticizing others, otherwise, it would criticize themselves as well. I hope Members will discuss this issue in a responsible manner and look at their own position before mentioning it. Standard & Poor's is one of the three credit rating agencies. Another credit rating agency, Fitch, has already upgraded Hong Kong's outlook from negative to positive.

I, of course, think that a government returned by universal suffrage will get wider public support which will be conducive to more stable economic development. This is because a Chief Executive returned by universal suffrage will make a strong undertaking for whatever reforms to be proposed before the election, through which his undertaking will be affirmed by the voters. Hence, any reform measures to be implemented will also be affirmed by the voters and eventually obtain the support of the Legislative Council. I therefore think that the dual elections by universal suffrage, including the election of the Chief Executive and the Legislative Council by universal suffrage, will make the prospects of our economic development more stable instead of negative.

I so submit.

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

**MR WONG SING-CHI** (in Cantonese): Madam President, I would like to express my views by sharing my son's experience with you. My son came home one day and said, "Dad, I am very unhappy." I asked him why. He told me that he had been "framed" by four class monitors for saying offensive words. My son rarely says offensive words. So I asked him why the class monitors had "framed" him. He said he did not know. Maybe the monitors had to make it up because nobody had been punished for the whole week. As a result, they had to choose one or two classmates to make up the number to the teacher. I asked my son the reason. He told me that those four monitors were chosen by the teacher and so they did whatever they could in the hope that they could be chosen by the teacher in the next selection. They were willing to assist the teacher in carrying books and maintaining classroom order. Even though the classmates behaved, the monitors had always taken some actions.

There was another occasion when my son came home and told me that he had been punished by the monitor, but he was not as sad as the last time. I asked him why. He said that the monitor had accused him of leaving his seat. I asked if he had really left his seat. He said yes. He had actually left his seat. I asked him why the monitor had punished him but he did not mind. He said that since the classmates opposed the nomination of monitors by the teacher, the monitors were subsequently elected by the classmates. He told me that he had also run for the candidacy, but he had secured only three votes and therefore failed. As there were several classmates who had gained more votes than him, he felt they were justified to be the monitors. My son clearly told me that the punishment was acceptable as the monitors had been elected by the class and that he had also been at fault. If he was not at fault, he could actually bring it up to the monitor's attention so that the monitor would judge whether he had committed any mistake.

Even a primary school student knows that the monitor will not punish the classmates at will if he is elected by the class. He knows that if he still wants to be the monitor next time, he may have to rely on the continuous support of his classmates. If he erroneously punishes a classmate, the classmates may not support him in the next election. If the monitor fawns on one or two classmates, it will simply do him no good. Thus, he has to please the whole class. In order to please the whole class, he has no choice but to carry out his duties by the book, which means he cannot "frame" anyone he wishes. If the monitors are chosen by the teacher, they can easily fawn on their teacher and there is no way of knowing whether the things they did were right or wrong. When a classmate complains, the teacher will only tend to believe the monitor whom he has chosen instead of believing that other students are innocent.

Even a child knows that in a good system, if he wants to stay happy at school, his rights must be exercised. Why do the adults still believe that the privileged and those appointed can really do something for the people of Hong Kong without bias? We did not choose our present Government. The people of Hong Kong are unhappy because they cannot change the composition of the Government although they have seen so many problems in its governance. Even though the social condition has improved, I believe there are still many people who are discontented. If the Government was elected by the people, in spite of the bad social condition, I think the people are still willing to accept it and work together relentlessly for a better Hong Kong. If we really wish Hong

Kong well, I think we should not continue to let these privileged few possess and exercise the powers to which we are entitled.

The NPCSC has completely ignored the feelings of Hong Kong people. We recognize that the legal status of the NPCSC has empowered to do so, however, if the people of Hong Kong want to have a bright future and live a happy life, they have to exercise their own rights. Only through universal suffrage can we lead a happy life here in Hong Kong. Unfortunately, the NPCSC has brutally trampled on Hong Kong people's right to elect their own Legislative Council and Chief Executive. I believe Hong Kong people are not convinced.

Recently, we have discussed the incident concerning several famous radio talk-show hosts who took themselves off the air. I believe these talk-show hosts must have gone through some experience before making such painful decisions. Unfortunately, some Honourable colleagues and some people are so unsympathetic that they have demanded these friends of ours, to produce supporting evidence regardless of their difficult times and situations. If they cannot produce evidence, then they are not worthy of trust. Let us think about it for a while: As an adult with social status and as a man of influence, there must be a reason behind his resolute decision to give up the work he loves at this juncture. But we do not care about the reasons. Even worse, we do not trust them and we suspect if they have a conspiracy. What kind of society is this? What kind of people are they? They are a bunch of apathetic and selfish people who only take care of their own interests, regardless of the pain and difficulties that other people face. We cannot tolerate these people.

**PRESIDENT** (in Cantonese): Before inviting Mr Andrew WONG to speak, I would like to say, as you may be aware indeed, that Mr Albert CHAN has proposed another motion to discuss the incident concerning individual compères who have taken themselves off the air. Members may express their comments on that day. Based on the contents of the speeches today, I will determine if there is any repetition. Mr Andrew WONG.

**MR ANDREW WONG** (in Cantonese): Madam President, I could not hear what you just said.

**PRESIDENT** (in Cantonese): You could not hear me?

**MR ANDREW WONG** (in Cantonese): Because I did not turn on the earpiece.

**PRESIDENT** (in Cantonese): What did you say?

**MR ANDREW WONG** (in Cantonese): I would like to speak.

**PRESIDENT** (in Cantonese): Do you wish to speak?

**MR ANDREW WONG** (in Cantonese): Yes, Madam President, I would like to speak but I shall be brief. I am very unhappy with today's motion. I am also very unhappy with the amendment proposed by Mr Martin LEE on the last occasion. I am sorry, Madam President, I do not intend to be disrespectful to you but I do not think the whole issue should be dealt with from such a perspective. In my opinion, the Hong Kong SAR and the Central Authorities are in a relationship such that we are subordinate to them. As a result, there must be a difference between the two, as one is the superior and the other one is the inferior. So, under the circumstances that we have no intention to stage a revolution, we must not be disrespectful to the Central Authorities. But this does not mean that we must fully agree to the views of the Central Authorities.

Madam President, here I am somewhat "playing foul". It seems that I am commenting on your ruling. Yet, I still wish to say a few words.

**PRESIDENT** (in Cantonese): Mr WONG, as you know it is "foul play", then you should not do so. *(Laughter)*

**MR ANDREW WONG** (in Cantonese): In fact, it is my practice to "play foul". I have no alternative. But I am fair. I have told you, Madam President, that I am "playing foul". *(Laughter)*



**PRESIDENT** (in Cantonese): Mr Andrew WONG, in fact, when you were the President of the Legislative Council, you made a ruling that if a Member did not agree to the President's ruling.....

**MR ANDREW WONG** (in Cantonese): I know.....

**PRESIDENT** (in Cantonese): Would you please let me finish? Your ruling at that time is that the Member should propose a direct and formal motion. Now, with my permission, you may speak. But I hope you could be concise because it is already 11.20 pm. Please continue with your speech.

**MR ANDREW WONG** (in Cantonese): Thank you, Madam President. I do not intend to comment on the ruling. In regard to the ruling, it may be more appropriate if it is discussed under a substitute motion.

But I am not going to discuss that issue. What I want to say is actually very simple, and that is, I think there is a problem with the motion *per se*. What are we actually doing? In this motion, I think, we cannot say anything disrespectful to any organs of the Central Government. Even though this has been allowed in the motion under the President's ruling, such remarks should not be contained in our speeches because, in my opinion, this is unconstitutional. These are the main points I wish to make.

I personally feel that if an organ of the Central Authorities — it so happens that this time it is the Standing Committee of the National People's Congress — has made a wrong decision, then I will consider it unwise. If I say it is wrong, then I may be said to be challenging it. But when it has made a mistake, I will not say it is wrong, rather, I will only say that it is unwise or it has acted in an unwise way. It is just a way of expressing my view by giving it a piece of advice and I still maintain my view.

So, I think although I dislike the wording of the motion because the word "regret" is inappropriate and it will be even more inappropriate if the word "condemn" is used. It is inappropriate to use either "regret" or "dissatisfaction", so what we can say is that we disagree with its decision. I think this is the most appropriate way of putting it. I think basically this is the

spirit of the motion. Given that the wording "regret" has been allowed by you, Madam President, I am willing to support the motion as well as the amendment moved by Mr LEUNG Yiu-chung because it has enriched the contents of the motion. I have made my position clear for the record. Thank you, Madam President.

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

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): Mr Albert HO, you may now speak on Mr LEUNG Yiu-chung's amendment. You have up to five minutes to speak.

**MR ALBERT HO** (in Cantonese): Madam President, I speak in support of Mr LEUNG Yiu-chung's amendment of urging the Chief Executive to request the State Council to propose to the NPCSC the withdrawal of its decision. Under Article 43 of the Basic Law, the Chief Executive shall be accountable not only to the Central People's Government, but also to the Hong Kong Special Administrative Region. But this time, in the process of dealing with the whole consultation in respect of the constitutional system, I can only see that he has been accountable to the Central Authorities and has almost become a tool of the Central Authorities. Everything done by him entirely ties in with the NPCSC's action. In my opinion, the Chief Executive and the Task Force under him have not tried their level best in fighting for our due right to speak. Neither have they done their utmost to ensure that our aspirations for democracy are considered and realized.

I remember that on 26 March when the NPCSC announced its interpretation, the Chief Executive and the Constitutional Development Task Force advised us, in response, to support the NPC's interpretation. But when I asked them, including Chief Secretary Donald TSANG, "Do you know the contents of the NPC's interpretation and have you read the text of the interpretation?" Chief Secretary Donald TSANG answered in the negative. Without reading the text or any knowledge of the interpretation, how could he advise us to support such an interpretation? More regrettably, one of the key points the interpretation lies in the meaning of the phrase "if there is a need" in Annexes I and II. Afterwards, we all realized that something significant had

been embodied therein and a mechanism had thus been developed on the basis of the phrase "if there is a need". In regard to such an important issue concerning the interpretation of the Basic Law, the Hong Kong people have never been invited to submit their views on the interpretation of the phrase "if there is a need" during the consultation from January to March. Nevertheless, I think this is another subject.

On 6 April the NPC announced its interpretation. On 8 April, Deputy Secretary-General of NPCSC, QIAO Xiaoyang and two other officials from the Central Authorities came to Hong Kong to explain the significance behind the NPC's interpretation. At that time, we immediately urged the Chief Executive to expeditiously consult the Hong Kong people before submitting his report so as to absorb their views into his draft report as fully as possible. So, the consultation is very important. Most unfortunately and much to our regret, the Chief Executive published the contents of his report only after it had been submitted, thus barring us from expressing our views to him. As Mr Fred LI said earlier, the whole task had been completed as swift as a thunderbolt. On 26 April when the NPCSC announced its decision, we suddenly realized that the blueprint of Hong Kong's constitutional development had been drawn there and then. So, the Chief Executive has not striven for our due rights or ensured that our views would be given consideration. In order to mend the fold after the sheep have been lost, the Chief Executive should, as demanded by Mr LEUNG Yiu-chung, through the State Council, request the NPCSC to withdraw its decision and listen to the views of the Hong Kong people again. Otherwise, what we can anticipate is a wanton trampling of public opinions, a suppression of democracy and damage of the system.

Madam President, I of course know the chances of this motion being passed, and we all have a pretty clear idea of this. However, the records of our votes and speeches will offer an important account to the people and the history of Hong Kong. I urge Members to support Mr LEUNG Yiu-chung's amendment.

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Madam President, at the beginning of the debate, the Secretary for Justice already explained to Members the role of the Central Government in the constitutional development of Hong Kong, as well as the constitutional basis for the interpretation made by the Standing Committee of the National People's Congress (NPCSC) on 6 April and its decision on 26 April. The Secretary for

Justice also told Members that the NPCSC, before making its interpretation and decision, had fully considered the views of Hong Kong people. In this regard, I would like to make a few more points.

The original motion states that the "NPCSC completely ignores Hong Kong people's general aspiration for democracy". To judge whether this statement is true or not, we must clearly know what Hong Kong people's general aspiration for democracy is all about, and also whether a consensus has already been reached or whether there is still a divergence of opinions in the community on constitutional development.

Some people may point out that the opinion polls have provided an answer to everything. They may say that according to these opinion polls, all along been a considerable number of respondents have indicated support for universal suffrage in 2007 and 2008.

But in fact, according to the public views collected by the Task Force over the past few months, while it is true that many people support the early implementation of universal suffrage, many organizations and individuals consider that an excessively quick pace of constitutional development will be counter-productive and detrimental to the long-term prosperity and stability of Hong Kong.

These polarized views have pointed to a fact. That is, although Hong Kong people generally agree with the ultimate aim of universal suffrage for constitutional development as provided for in the Basic Law, views are still rather diverse in the Hong Kong community as to the speed and way to achieve this ultimate aim.

To establish a broad consensus on universal suffrage, we must take into account the general views in the community as well as the views of different sectors and strata. It is because of this consideration that Annexes I and II to the Basic Law provide that any amendment to the method of election must have the endorsement of two thirds of all Members of the Legislative Council and the consent of the Chief Executive. This can ensure that the directly-elected representatives of geographical constituencies and those of functional constituencies can fully reflect the general views of the community and the views of different sectors. This can also ensure that "balanced participation" is brought into play in the community of Hong Kong in the process of establishing a consensus.

In the course of work of the Task Force over the past few months, various organizations and individuals have explicitly expressed to us their wish for changes, hoping that changes can be made to the existing electoral system. This not only answers the requirement of "gradual and orderly progress" in the Basic Law. It further shows that members of the public actually hope that changes can open up new horizons and help improve the governance of Hong Kong.

The decision of the NPCSC on 26 April affirms that the electoral methods for 2007 and 2008 can be amended. This is a direct and positive response to Hong Kong people's aspiration for changes. Therefore, we cannot agree with the point in the original motion that the decision completely ignores the people's aspiration for constitutional development. For the same reason, we cannot accept Mr LEUNG Yiu-chung's proposal which requests for the withdrawal of the decision.

Madam President, according to the relevant provisions of the Basic Law and the decision of the NPCSC on 26 April, the Third Report of the Task Force published last Tuesday sets out the areas in which the electoral system can be amended. In respect of the election of the Chief Executive, the areas that can be amended include the number of members of the Election Committee and the composition of the Election Committee, and also the delineation and size of the electorate of the Election Committee. As for the election of the Legislative Council, areas which may be considered for amendment include the number of seats in the Legislative Council, the delineation and size of the electorate of functional constituencies, and the arrangements allowing people with right of abode in foreign countries to run in the election. Views on issues outside these areas can also be put forward to the Task Force anytime. We will be glad to listen to such views.

To facilitate consideration and discussion of the relevant issues, the Task Force will hold a number of seminars jointly with the Central Policy Unit in May and June, inviting members from all sectors of the community to put their heads together to explore in concert ways to design a set of electoral methods for the election of the Chief Executive in 2007 and the election of the Legislative Council in 2008 which accords with the NPCSC's decision and gives due regard to the long-term interests of Hong Kong. We are now making arrangements for the first seminar to be held on 24 May.

Madam President, after the publication of the Third Report of the Task Force, different parties and factions in society have different responses. Some organizations stated that they would actively participate in the consultation conducted by the Task Force and put forward proposals to us. Any such proposal is welcome for submission to the Task Force before 31 August. If necessary, we will arrange meetings with the relevant organizations and individuals to discuss their views.

On the other hand, individual organizations and people consider that this consultation is nothing more than a number game. There is also the view that the report is shallow and fails to address the problem at root. Some organizations have stated that they are not prepared to participate in the consultation conducted by the Task Force. Regarding these comments, Madam President, I would like to make the following response.

First, no doubt the specific proposals to be put forward and the issues to be examined by us will involve numbers in several aspects. For instance, there is already the suggestion that the number of members of the Election Committee and that of Members of the Legislative Council should be increased. But these numbers actually carry a deeper meaning, for they mean that the base of the electorate can be further widened and the elections of the Chief Executive and the Legislative Council be further opened up, so that more people who wish to serve Hong Kong people can take part in the elections, participate in public services and be elected to the Legislative Council. All these are very meaningful and are more than just numbers.

Second, we agree with the views of some people that we must address squarely the problems of governance faced by Hong Kong at the moment. The Task Force has not evaded these problems. In the Second Report we have already stated our views in detail. We agree that to make improvement to governance, we cannot only target actions on the electoral system. Rather, more objective conditions are required to support such an attempt. The community must discuss these issues and decide what follow-up actions to take.

However, as this is a long-term project, we have, therefore, in the Third Report invited the public to first focus on the electoral system in their discussion. But as I said just now, suggestions outside the scope of the electoral system are always welcome.

Third, some organizations and individuals have stated that they will not participate in the consultation work of the Task Force. In fact, electoral matters will affect every sector and every stratum in Hong Kong and so, every sector and every stratum should actively participate in the discussion. We sincerely hope that these organizations and individuals can reconsider their position rationally and calmly and shoulder responsibilities by working in concert to build up a consensus in Hong Kong.

Madam President, universal suffrage is the ultimate aim for constitutional development as stipulated in the Basic Law. This is an unchangeable fact and an objective repeatedly reiterated by the Central Authorities on various occasions. After the publication of the Third Report, the focus of our discussion should no longer remain on whether or not there is universal suffrage. Rather, our focus should be shifted to how, on the existing basis, the electoral systems for 2007 and 2008 can become a transit point in the path leading to universal suffrage.

In considering this issue, we must on the one hand maintain the element of "balanced participation" and on the other, we also hope to further open up the system for more people who wish to participate in electoral affairs, in order to enhance the representativeness of this system.

Different people have different views on the priorities of these two objectives, the importance to be attached to them and also on how to strike a balance between them. Therefore, we believe a wide range of electoral models and proposals will be put forward in future. At the meeting of the Panel on Constitutional Affairs on Monday, a Member asked whether the Task Force would provide further guidelines to tell what proposals would be considered in compliance with the decision of the NPCSC and what proposals would not.

At the present stage, the Task Force has no plan to provide supplementary information in this regard because we hope that the public can design and discuss various proposals in the greatest flexibility.

Having said that, however, I can tell Members that the decision of the NPCSC is very clear, that is, the elections of the Chief Executive and the Legislative Council to be held in 2007 and 2008 respectively in Hong Kong shall not be by means of universal suffrage. Therefore, a proposal suggesting the

implementation of universal suffrage by way of indirect elections may be in conflict with the decision of the NPCSC, and it will be difficult to reach a consensus among the three parties as required by the Basic Law.

If we expend time to think in this direction, I am afraid it would be wrong and fruitless, and it would only stand very limited chance of success. Any proposal to be worked on in the future must be put forward in accordance with the Basic Law and within the parameters of the NPCSC's decision on 26 April.

Today, Madam President, many people have mentioned the freedom of speech. With your indulgence, I would like to make a few points in response.

I have all along admired the style and eloquence of the writings of Mr CHEUNG Man-kwong, and I think his literary standard is comparable to the literary elegance during the May Fourth Movement.

**PRESIDENT** (in Cantonese): Mr WONG, what is your question? Please state your question first.

**MR ANDREW WONG** (in Cantonese): My question is: The Secretary mentioned just now the meeting of the Panel on Constitutional Affairs on Monday. Does that meeting bear no relation to this topic today? I hope he can elucidate this point.

**PRESIDENT** (in Cantonese): Secretary, the Member has sought your elucidation. But you may choose not to elucidate.

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Madam President, I will elucidate this point. I made that comment because Ms Emily LAU had earlier on mentioned an argument in this connection. So, I think there is a need for me to reiterate my position before the end of this debate.

**PRESIDENT** (in Cantonese): Please go on.



**MR ANDREW WONG** (in Cantonese): Madam President, if he had made such remarks, people who had participated in the discussion then should be given a chance to speak. I think he was unwise to say "someone".

**PRESIDENT** (in Cantonese): Please sit down. Secretary, you may go on.

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Thank you, Madam President.

However, while admiring the literary grace of the writings of Mr CHEUNG Man-kwong.....

**MR ANDREW WONG** (in Cantonese): Madam President, regarding the point made by me just now, do you accept it?

**PRESIDENT** (in Cantonese): I do not accept it. Please sit down, will you?

**MR ANDREW WONG** (in Cantonese): Madam President, I think this is not right. As he has made those remarks, I should be given a chance to speak.

**PRESIDENT** (in Cantonese): Mr Andrew WONG, I do not accept your request. Please sit down and listen to the speech of the Secretary, will you?

**MR ANDREW WONG** (in Cantonese): Madam President, if you do not accept my request, I would like to know the reason. He said that someone had made such remarks, but other people also made other remarks, and he did not cite all the remarks that had been made then. This is unfair to the Panel of which I am the Chairman. I wish to express this view.

**PRESIDENT** (in Cantonese): If you wish to express your views, you are not allowed to express them here. You can express them outside this Chamber.

Now I have to let the Secretary for Constitutional Affairs to continue with his speech. It is already very late now and I do not wish to keep Members here. I would appreciate it if you could just sit down.

**MR ANDREW WONG** (in Cantonese): Madam President, I know it is very late now, and I do not wish to cause any delay. I only wish to be treated more fairly. He referred to what happened at that time. Will you, Madam President, be fairer?

**PRESIDENT** (in Cantonese): Mr Andrew WONG, in fact, it will never be too late for you to say that the Secretary is unfair after he has finished his speech. He has not even started to go into it, and he had only said "someone", but you already kept on interrupting him. Please think about whether what you had done is fair. Please sit down, so that we can continue to listen to the Secretary's speech.

**MR ANDREW WONG** (in Cantonese): Madam President, he has finished his comments on it.

**PRESIDENT** (in Cantonese): Secretary for Constitutional Affairs, please go on.

**MR ANDREW WONG** (in Cantonese): She thought that I was joking.

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Thank you, Madam President.

However, while admiring the literary grace of Mr CHEUNG Man-kwong's writings, I take exception to his judgement on the current situation of Hong Kong.

Over the past 20 years, many people have continuously predicted the downfall of Hong Kong. In 1983, we saw that US\$1 was exchanged for HK\$9.6; in 1987, we saw the stock crash; after 1992, many people worried

about the future of Hong Kong because of controversies over the political system; in the '80s and '90s, there were several exoduses of people emigrating abroad. But today, Hong Kong can still stand firm and has remained a very successful society and economy. Why? It is because Hong Kong people have proven their worth, and we could remain calm in weathering storms. Today, we should uphold the same spirit to face up to this more difficult and controversial issue of constitutional development.

Let me now come back to the freedom of speech. Madam President, for a few years in the past, I had engaged in the work of information co-ordination. The media sector, journalists in the front line, colleagues and friends whom I know have always exerted themselves and worked untiringly in covering and reporting news. As a common saying goes, they are like having "feet made of iron, eyes of a stallion and a magical stomach". The editors had experienced the Asian financial turmoil, and every newspaper, radio station and television station had faced financial difficulties and worked under pressure and yet, they remained committed to defending the freedom of the press and their professionalism and laboured on. So, I believe they should not identify with the alarmist comments made by some people. There is freedom of speech in Hong Kong precisely because of these thousands of members of the press and the media and therefore, it is not going to be damaged. These friends of mine are committed to, have high aspirations for and will persevere with the freedom of speech and their professionalism.

Therefore, I can say that as long as there is the media sector in Hong Kong, and as long as there is the Legislative Council, and as long as colleagues in the Government of the Hong Kong Special Administrative Region are prepared to be accountable to the media, the Legislative Council and the general public and to answer questions from them, the freedom of speech will certainly continue to exist in Hong Kong and Hong Kong society will surely remain vibrant and dynamic.

Therefore, Madam President, to conclude, I think history will actually prove that Mr CHEUNG Man-kwong's forecast of the future of Hong Kong society is wrong.

**SECRETARY FOR CONSTITUTIONAL AFFAIRS:** Madam President, I also would like to take the opportunity to respond to a few points which the Honourable Audrey EU has made. It is unfortunate that she is not here at this moment.

She made comments on the statement made by the Secretary for Justice. I have three points to make. Firstly, the powers of the Central Authorities to deal with Hong Kong's constitutional development are derived not just from the Basic Law, and certainly not just from Annexes I and II to the Basic Law. They flow from the Constitution of the People's Republic of China. Articles 31, 62 and 67 have been referred to by the Secretary for Justice.

Secondly, the Honourable Audrey EU has also called for voluntary restraints on the part of the Standing Committee of the National People's Congress in exercising the Standing Committee's powers. On some occasions, she or some of her friends have suggested that the Standing Committee should undertake not to exercise this power again in future. I have to say the constitutional powers as enacted are to be exercised constitutionally. No individual, not even the Standing Committee of the National People's Congress, will be in a position to volunteer non-exercising of such powers.

Thirdly, I am very surprised that the Honourable Audrey EU has suggested that the concept of original intent does not exist and it is unknown to the common law. Clearly the common law rules of construction or interpretation exist to help us identify the legislative intent. Precedents such as *Pepper vs Hart* are authorities which enable us to use ministerial statement to clarify legislative intent.

These rules are familiar to any common law lawyer. They are part of our tool box. So I wish to place these points on the record.

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Madam President, over the past few days, many people have talked about the issue of independence, and this issue is also mentioned by Members in today's debate. Here, I wish to reiterate our position. We consider that the overwhelming majority of Hong Kong people are patriotic; they support the reunification and recognize the development of our country. I also believe any position advocating the independence of Hong Kong simply has no market here in the community of Hong Kong and will not have the support of the people.

Earlier on Mr Jasper TSANG already cited the remarks of Mr ZHU Yucheng, setting out the entire scenario very clearly. In fact, with regard to the handling of matters relating to constitutional development, an important perspective is that Members must accept that work must be carried out in accordance with the Basic Law and the Constitution of our country. The

Central Authorities have powers and responsibilities in respect of Hong Kong's constitutional development and they also have the powers to make decisions and to take the lead. But as to what political stance Members and the political parties represented by them will take under this general principle, the decision will rest with Members themselves and Members should be accountable to the public for any decision made.

Madam President, after the NPCSC made a decision on the methods for the elections in 2007 and 2008, we must work within the parameters of its decision. Hong Kong people, who are always pragmatic, will look forward, and they will think that they should fully utilize as much latitude as they can strive for. In fact, the community of Hong Kong expects the Legislative Council, the Chief Executive and the Central Authorities to perform the roles and functions conferred on them by virtue of the Basic Law and to work in concert to open up new horizons for the future constitutional development of Hong Kong.

Some people said that "politics is an art of consensus-building". It cannot be more appropriate to apply this saying to the challenges faced by us now. If there are still people among us who neglect the reality that a tripartite consensus must be reached and insist on their views and ways and refuse to budge an inch and even resort to channels other than rational discussion in an attempt to change the situation, then I believe the chance of success is very slim. If this happened, I believe the people of Hong Kong would be all the more disappointed, and we might also fail to duly perform the functions and responsibilities expected of us as political leaders in society.

Therefore, given the present situation, I think it is most important for us to do solid work, rather than being unceasingly bogged down by meaningless bickering. In fact, I believe that as long as we are prepared to do something for Hong Kong and to set aside prejudices, show sincerity, spare no efforts in exploring solutions to problems and step into others' shoes in considering problems in order to understand the views of all sides, chances are a consensus will be reached one day.

With these remarks, Madam President, I urge Members to oppose Mr Albert HO's original motion and Mr LEUNG Yiu-chung's amendment. Thank you, Madam President.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the amendment, moved by Mr LEUNG Yiu-chung to Mr Albert HO'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 LEUNG Yiu-chung rose to claim a division.

**PRESIDENT** (in Cantonese): Mr LEUNG Yiu-chung has claimed a division. The division bell will ring for three minutes.

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

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

Functional Constituencies:

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

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

Geographical Constituencies and Election Committee:

Ms Cyd HO, Mr Albert HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mr James TO, Mr LEUNG Yiu-chung, Mr Andrew WONG, Dr YEUNG Sum, Mr LAU Chin-shek, Ms Emily LAU, Mr Andrew CHENG, Mr SZETO Wah, Mr Albert CHAN, Mr WONG Sing-chi, Mr Frederick FUNG and Ms Audrey EU voted for the amendment.

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

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 25 were present, four were in favour of the amendment and 21 against it; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 29 were present, 17 were in favour of the amendment and 11 against it. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the amendment was negated.

**PRESIDENT** (in Cantonese): Mr Albert HO, you may now reply and you have two minutes 53 seconds.

**MR ALBERT HO** (in Cantonese): Madam President, earlier Mr Jasper TSANG said that while we enjoy freedom of speech, we should not abuse such freedom. Yes, he is right. The National People's Congress (NPC) does have the power to interpret the laws. But we should tell it such power be not abused. The logic is the same. As our country upholds a unitary system, political powers come from the Central Authorities. This is right. But this does not mean that

the Central Authorities can abuse the power, using it in an arbitrary manner. Nor does it mean that they can ignore the fairness of procedures, the constitutional principles and the logic of jurisprudence. Nor does it mean that they can ignore the explicit meaning of the provisions, giving interpretation in an arbitrary manner and in a purely fictitious way. This is the rationale of our complaint and our objection.

Just now, Secretary Stephen LAM, in his response to Ms Audrey EU, said that legislative intent also existed in the Western world and cited the case *Pepper vs Hart* as an example. If you have read the judgement on *Pepper vs Hart*, then you would know how narrow the scope of its applicability is. Only the statement of the minister who proposed the bill could be used as reference. Please take a look at the judgement. Now, what is the approach adopted by the Chinese Government or our country? The statement of any individual, including members of the Basic Law Drafting Committee, or what is mentioned in any documents can be taken as the legislative intent. Can this approach be regarded as the same as the above case? Can this approach be regarded as comparable with the above case? What is more, QIAO Xiaoyang came to Hong Kong this time not for giving us an explanation on the legislative intent, instead, he came to tell us the supposed meaning of the provisions, which would change according to the situation. This is a new standard which is known as the legislative principle. Please read the books. So, this is an entirely different matter. Now, there is no more mention of legislative intent. What is the explanation for this?

What the Secretary for Justice had said took me by surprise precisely because of the frequent changes of these principles. She said that since the NPC had the final vetting power, advanced vetting would be just the same because it would be more desirable than being found to be unconstitutional after the subject matter had been submitted to the NPC. By this logic, can the Central Authorities, which have the power to appoint the Chief Executive after selection, say that there must be a right candidate for it to appoint before the selection can take place. Can the Central Authorities do so? According to Secretary for Justice Elsie LEUNG, they can. What is this approach? Is this legislative intent, or giving interpretation according to changes in times and situation?

I would like to respond to Mr TAM Yiu-chung's comments. He said that advocating one-party dictatorship was wrong because the Communist Party had



guaranteed "one country, two systems". He is wrong because he has confused a political party with the State. It is the Chinese Government which has assured "one country, two systems", not the Communist Party. His standard is much too low, and he should differentiate the state from the party.

I so submit.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the motion moved by Mr Albert HO, as set out on the Agenda, be passed.

**PRESIDENT** (in Cantonese): Will those in favour please raise their hands. *(Somebody was making some noises)* Honourable Members, the meeting is still in progress. 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 Albert HO rose to claim a division.

**PRESIDENT** (in Cantonese): Mr Albert HO has claimed a division. The division bell will ring for three minutes.

**PRESIDENT** (in Cantonese): Will Members please proceed to vote. Mr Andrew WONG, will you please proceed to vote. You may choose not to vote.

**PRESIDENT** (in Cantonese): Members have cast their votes. Are there any queries? If not, voting shall now stop and the result will be displayed.

Functional Constituencies:

Mr CHEUNG Man-kwong, Mr SIN Chung-kai, Dr LAW Chi-kwong and Mr Michael MAK voted for the motion.

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

Geographical Constituencies and Election Committee:

Ms Cyd HO, Mr Albert HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mr James TO, Mr LEUNG Yiu-chung, Mr Andrew WONG, Dr YEUNG Sum, Mr LAU Chin-shek, Ms Emily LAU, Mr Andrew CHENG, Mr SZETO Wah, Mr Albert CHAN, Mr WONG Sing-chi, Mr Frederick FUNG and Ms Audrey EU voted for the motion.

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

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 25 were present, four were in favour of the motion and 21 against it; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 29 were present, 17 were in favour of the motion and 11 against it. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the motion was negatived.

**NEXT MEETING**

**PRESIDENT** (in Cantonese): Good morning. I now adjourn the Council until 2.30 pm on Wednesday, 2 June 2004.

*Adjourned accordingly at five minutes past Midnight.*

## Appendix I

## WRITTEN ANSWER

**Written answer by the Financial Secretary to Dr Raymond HO's supplementary question to Question 1**

As regards the details of the 159 implemented helping business initiatives on lands, buildings, works and fire services businesses, the information is set out at the Annex for Members' reference.

Annex

Summary list of completed helping business projects/studies  
and implemented improvement measures  
(Lands, Buildings, Works and Fire Services)

<i>Title of Projects/Studies</i>	<i>No. of Recommendations Implemented</i>	<i>Summary of Implemented Measures</i>
Departmental business study for Fire Services Department	3	<ul style="list-style-type: none"> <li>- Do away "bring up inspections".</li> <li>- Streamline inspection procedures for licensed premises.</li> <li>- Improve communications with the industry regarding fire safety requirements.</li> </ul>
Outsourcing the maintenance of portable fire fighting equipment in government premises	1	Business opportunities provided to the private sector in the maintenance of fire fighting equipment in government premises.
Regulatory impact assessment on proposed amendments to the Dangerous Goods Ordinance	1	Assessment on the impact of the proposed amendments on the community and recommendation made on alternative options.

**WRITTEN ANSWER — Continued**

<i>Title of Projects/Studies</i>	<i>No. of Recommendations Implemented</i>	<i>Summary of Implemented Measures</i>
Advertisement on slope	1	Government slopes opened up to the advertising industry to erect advertisements.
Applications for short term waiver under land grants or lease terms	7	<ul style="list-style-type: none"> <li>- Departmental processing of short term waiver applications streamlined with processing time shortened.</li> <li>- Delegation of authority to district land offices for approval of waiver applications.</li> <li>- Publication of standard waiver conditions and application form.</li> <li>- Issue of guidelines on application procedures and fee calculations.</li> <li>- Setting codified priorities and services for lease enforcement actions.</li> </ul>
Approval of general building plan submission under the design, disposition and height clause and other lease conditions	12	<ul style="list-style-type: none"> <li>- Centralized handling of the more complex Building Committee III cases.</li> <li>- Setting new performance pledges to reduce the processing time of various types of general building plan submissions.</li> <li>- Further review of other performance pledges, targets and achievements.</li> <li>- Improved decision making process and notification system to applicants.</li> <li>- Series of new measures to facilitate Authorized Persons to prepare submissions and obtain building plan approvals.</li> </ul>

**WRITTEN ANSWER — Continued**

<i>Title of Projects/Studies</i>	<i>No. of Recommendations Implemented</i>	<i>Summary of Implemented Measures</i>
Review of procedures regarding consent to sale of uncompleted buildings	18	<ul style="list-style-type: none"> <li>- Improved processing by issue of clear and comprehensive guidelines on requirements.</li> <li>- Case-managers assigned to facilitate communications with applicants.</li> <li>- Setting performance targets and priorities.</li> <li>- Acceptance of submission of ownership records certified by solicitors, or Land Registrar.</li> <li>- Focus put on substantive, rather than minor issues regarding Government, Institution and Community (GIC) accommodation.</li> <li>- Improved procedures for resolving complicated inter-departmental disputes.</li> <li>- Issue of statements under the Consent Scheme and other instructions to align understanding of the procedural arrangements.</li> <li>- Certification or statutory declaration scheme introduced.</li> <li>- Improved procedures under the Property Strategy Group to resolve dispute cases affecting GIC facilities and to strengthen the application handling capabilities.</li> </ul>
Departmental business study on the Planning Department	35	<ul style="list-style-type: none"> <li>- A central policy group set up to resolve policy issues.</li> <li>- More flexibility allowed under the Territorial Development Strategy.</li> </ul>

**WRITTEN ANSWER — Continued**

<i>Title of Projects/Studies</i>	<i>No. of Recommendations Implemented</i>	<i>Summary of Implemented Measures</i>
		<ul style="list-style-type: none"> <li>- Shortened and simplified process for sub-regional plans, with a fast-track approach for minor applications under the Town Planning Board which reduced the processing time by 25%.</li> <li>- Simplified and improved procedures for applications to the Town Planning Board as well as those under the Planning Department.</li> <li>- Series of measures introduced to facilitate the processing of rezoning proposals.</li> <li>- Options provided for short-term renewable planning approvals.</li> <li>- Guidelines and other measures launched to enhance the user-friendliness of the regulatory regime.</li> <li>- Competencies of professional staff improved through training.</li> <li>- Office automation.</li> </ul>
Feasibility study on advertising on lamp posts and bridge structures	1	Feasibility and market situation explored on opening up government lamp posts and bridge structures for the advertising industry to put up advertisements. The study outcome made good reference for similar initiatives in future.
Feasibility study on the bulk billing functionality for rates and government rent	1	Bulk billing options implemented to facilitate property developers, multi-property management companies and owners in processing rate and government rent payments.

**WRITTEN ANSWER — Continued**

<i>Title of Projects/Studies</i>	<i>No. of Recommendations Implemented</i>	<i>Summary of Implemented Measures</i>
Identification of possible options for private sector participation in the provision of efficient and cost-effective water supply services	1	Options for private sector participation in water supply services assessed.
Information booklet on application procedures for drainage connections	1	Easy-to-use leaflet published to facilitate application for Drainage Connection Permits.
Information leaflet on Excavation Permits	1	Easy-to-use leaflet published to facilitate application for Excavation Permits.
Internet project for promoting environmental protection in the construction industry	2	Websites set up to promote environmental protection and to share green construction technologies among developers and contractors.
Review of land exchange and lease modification procedures	26	<ul style="list-style-type: none"> <li>- The Lands Department carried out an assessment of the appropriate method to effect changes, for example, through modification, exchange, deed of variation.</li> <li>- Target timescale and milestones set for reaching basic terms.</li> </ul>



**WRITTEN ANSWER — Continued**

<i>Title of Projects/Studies</i>	<i>No. of Recommendations Implemented</i>	<i>Summary of Implemented Measures</i>
		<ul style="list-style-type: none"> <li>- Improved interactions with applicants.</li> <li>- Delegation of decision making process for land exchange and lease modification applications.</li> <li>- More transparent and objective review system introduced for premium assessments through the Valuation Conference.</li> <li>- Computerization measures to reduce idle time and streamline process.</li> <li>- Training for staff and external professionals to improve understanding and working methods.</li> <li>- Series of practice Notes issued both within the Government and external practitioners to effect the changes.</li> </ul>
More flexible land use of carpark for car showroom purpose	1	More flexibilities for the trade to make use of carparks for car showroom purposes, thus enhancing their business opportunities.
Pilot project on electronic retrieval of approved building plans	1	Approved building plans of the Yau Tsim District converted into electronic form for convenient and speedy retrieval by the public. Building plans retrieval time reduced from weeks to a few days.
Review of prescribed window requirements in bathrooms	1	More flexible requirements introduced in line with modern practices. Development costs of buildings also reduced as a result.

**WRITTEN ANSWER — Continued**

<i>Title of Projects/Studies</i>	<i>No. of Recommendations Implemented</i>	<i>Summary of Implemented Measures</i>
Private sector participation in providing utility connections and building run-ins	1	Private sector participation in providing utility connections and building run-ins so that developers could have better control of building programmes, thus enabling earlier completion of units.
Procedures for water supply applications to enhance transparency and user-friendliness of the process	25	<ul style="list-style-type: none"> <li>- Processing procedures streamlined and speeded up.</li> <li>- Requirements for approval of commencement of indoor service works waived.</li> <li>- Delegated authority for on-site approval of simple cases.</li> <li>- Computerization of the excavation permit application processing system.</li> <li>- Improved interaction with the trade.</li> <li>- Simpler guidelines to applicants and improved customer services measures.</li> </ul>
Provision of portable water meters to the construction industry	1	Contractors on private works allowed to use portable water meters for construction activities.
Provision of quality homes for the elderly at vacant quarters at the Prince of Wales Hospital	1	Vacant government quarters made available to the private sector for use as quality homes for the elderly.

**WRITTEN ANSWER — Continued**

<i>Title of Projects/Studies</i>	<i>No. of Recommendations Implemented</i>	<i>Summary of Implemented Measures</i>
Regulatory impact assessment on the introduction of permit fee and financial disincentive scheme for road opening works	1	Impact of the regulatory proposal on the business community assessed and recommendations made on alternative options.
Relaxing the restriction on sales of service apartments	1	Restrictions uplifted on the sale of individual units of service apartments through amendments in the standard land documents.
Review of building regulation on lighting and ventilation	1	Measures identified to relax the lighting and ventilation requirements in domestic buildings and to provide clearer guidelines on requirements for non-domestic buildings.
Review of industrial land use	1	Enhanced flexibility and more effective use of industrial land through rezoning of industrial land to allow for commercial uses, thus expanding the scope of permitted uses in "Industrial" zones to include information technology, telecommunications, entertainment and educational/institutional uses.
Review of Electricity Ordinance relating to prohibition of socket outlet in bathrooms	1	Restrictions uplifted so that safe socket outlets can be installed in bathrooms.

**WRITTEN ANSWER — Continued**

<i>Title of Projects/Studies</i>	<i>No. of Recommendations Implemented</i>	<i>Summary of Implemented Measures</i>
Speeding up the retrieval of approved building plans	1	Electronic imaging system adopted to help reduce plan retrieval time.
Study on licensing and other regulatory requirements of the construction industry	10	<ul style="list-style-type: none"> <li>- Improved guidelines introduced to facilitate application of construction noise and road excavation permits.</li> <li>- Improved co-operation between government departments and utility undertakers to reduce need for road excavation work.</li> <li>- Streamlined processing for tree-felling and landscaping proposals and applications for consent to commence works.</li> <li>- Formal industry consultation mechanism enhanced.</li> </ul>
Water-cooled air-conditioning systems (pilot scheme)	1	A pilot scheme implemented to allow energy saving fresh water-cooled air-conditioning systems at selected districts, thus helping to significantly reduce the operating costs of business and individual users.

**Appendix II****WRITTEN ANSWER****Written answer by the Secretary for Education and Manpower to Mr Andrew WONG's supplementary question to Question 3**

Leung Shuen Bay Public School will cease operation with effect from 1 September 2004. The Education and Manpower Bureau does not have any plan for converting the school premises at Leung Shuen Bay, Sai Kung for other education purposes.

According to the information provided by the Lands Department, Leung Shuen Bay Public School is covered by Government Land Licence No. S11493 (GLL). The Lands Department will arrange for the cancellation of the GLL and return of the land according to the conditions of the GLL after the closure of the school. The future use of the land is yet to be determined.

**Appendix III****WRITTEN ANSWER****Written answer by the Secretary for Financial Services and the Treasury to Mr SIN Chung-kai's supplementary question to Question 6**

As regards the seizure of counterfeit cigarettes by the Customs and Excise Department (C&ED), starting from May 2003, the C&ED has been using computers to record the quantities of counterfeit cigarettes seized in significant smuggling cases (that is, smuggling cases with seizure of cigarettes worth \$150,000 or above). Statistics show that there were 13.4 million sticks and 9.4 million sticks of counterfeit cigarettes during the periods from May to December 2003 and from January to March 2004 respectively, both accounting for 50% of the cigarettes seized.