

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 23 June 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 JAMES TIEN PEI-CHUN, G.B.S., J.P.

THE HONOURABLE CYD HO SAU-LAN

THE HONOURABLE ALBERT HO CHUN-YAN

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

THE HONOURABLE LEE CHEUK-YAN

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

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

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

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

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

THE HONOURABLE NG LEUNG-SING, J.P.

THE HONOURABLE MARGARET NG

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

THE HONOURABLE JAMES TO KUN-SUN

THE HONOURABLE CHEUNG MAN-KWONG

THE HONOURABLE CHAN KWOK-KEUNG, J.P.

THE HONOURABLE CHAN YUEN-HAN, J.P.

THE HONOURABLE BERNARD CHAN, J.P.

THE HONOURABLE CHAN KAM-LAM, J.P.

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

THE HONOURABLE LEUNG YIU-CHUNG

THE HONOURABLE SIN CHUNG-KAI

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

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

THE HONOURABLE WONG YUNG-KAN

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

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

DR THE HONOURABLE YEUNG SUM

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

THE HONOURABLE LAU CHIN-SHEK, J.P.

THE HONOURABLE LAU KONG-WAH, J.P.

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

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

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

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

THE HONOURABLE CHOY SO-YUK

THE HONOURABLE ANDREW CHENG KAR-FOO

THE HONOURABLE SZETO WAH

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

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

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

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

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

THE HONOURABLE LI FUNG-YING, J.P.

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

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

THE HONOURABLE MICHAEL MAK KWOK-FUNG

THE HONOURABLE ALBERT CHAN WAI-YIP

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

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

THE HONOURABLE WONG SING-CHI

THE HONOURABLE FREDERICK FUNG KIN-KEE

THE HONOURABLE IP KWOK-HIM, J.P.

THE HONOURABLE LAU PING-CHEUNG

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

MEMBERS ABSENT:

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

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

THE HONOURABLE HUI CHEUNG-CHING, J.P.

THE HONOURABLE MA FUNG-KWOK, J.P.

PUBLIC OFFICERS ATTENDING:

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

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

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

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

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

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

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

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

CLERKS IN ATTENDANCE:

MR 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>
Public Health and Municipal Services Ordinance (Public Markets) (Designation and Amendment of Tenth Schedule) Order 2004.....	117/2004
Declaration of Markets Notice (Amendment) Declaration 2004.....	118/2004
Banking (Specification of Public Sector Entities in Hong Kong) (Amendment) Notice 2004	119/2004
Road Traffic (Construction and Maintenance of Vehicles) (Amendment) (No. 2) Regulation 2002 (L.N. 147 of 2002) (Commencement) Notice 2004	120/2004
Road Traffic (Safety Equipment) (Amendment) Regulation 2002 (L.N. 148 of 2002) (Commencement) Notice 2004.....	121/2004
Fixed Penalty (Criminal Proceedings) (Amendment) Regulation 2004 (L.N. 103 of 2004) (Commencement) Notice 2004.....	122/2004
Fixed Penalty (Criminal Proceedings) Ordinance — Resolution of the Legislative Council (L.N. 114 of 2004) (Commencement) Notice 2004	123/2004
Mutual Legal Assistance in Criminal Matters (Ukraine) Order (L.N. 110 of 2004) (Commencement) Notice 2004.....	124/2004

Other Papers

- No. 91 — Annual Report 2002-2003
Hong Kong Broadcasting Authority
- No. 92 — Report of the Public Accounts Committee on Report No. 42 of the Director of Audit on the Results of Value for Money Audits and Supplemental Report of the Public Accounts Committee on Report No. 41 of the Director of Audit on the Results of Value for Money Audits
(June 2004 - P.A.C. Report No. 42)

Report of the Bills Committee on Buildings (Amendment) Bill 2003

Report of the Bills Committee on Merchant Shipping (Security of Ships and Port Facilities) Bill

Report of the Bills Committee on Electronic Transactions (Amendment) Bill 2003

ADDRESSES

PRESIDENT (in Cantonese): Address. Dr Eric LI, Chairman of the Public Accounts Committee, will address the Council on the Committee's Report on Report No. 42 of the Director of Audit on the Results of Value for Money Audits and on the Committee's Supplemental Report on Report No. 41 of the Director of Audit on the Results of Value for Money Audits.

Report of the Public Accounts Committee on Report No. 42 of the Director of Audit on the Results of Value for Money Audits and Supplemental Report of the Public Accounts Committee on Report No. 41 of the Director of Audit on the Results of Value for Money Audits

DR ERIC LI: Madam President, on behalf of the Public Accounts Committee (PAC), I have the honour to table today our Report No. 42, which corresponds with the Director of Audit's Report No. 42 on the results of value for money audits, which was tabled in the Legislative Council on 21 April 2004.

At the time when the PAC's last Report was tabled, our deliberations on the subject "The acquisition and clearance of shipyard sites" were continuing. The PAC has now concluded its deliberations and has tabled the supplemental report on this chapter together with this Report.

In considering this chapter, the PAC is dismayed that the Government has no legal authority to enter private sites for conducting environmental impact assessment investigations. As such, it had to incur an estimated cost of \$440 million for the decontamination work on the Penny's Bay shipyard site after a detailed site investigation revealed that the level of contamination there was more serious than originally expected. The PAC is also gravely dismayed that the Lands Department had not critically evaluated the potential risks and financial implications of accepting the "as is" clause, or included an indemnity clause in the Deed of Surrender of the site, when it should have been aware of the possibility of a greater extent of contamination at the site.

On the Director of Audit's Report No. 42, as in previous years, the PAC has selected for detailed examination only those chapters which, in our view, contained more serious allegations of irregularities or shortcomings. The Report tabled today covers our deliberations on the five chapters selected.

I now turn to the substantive issues covered in this Report.

Hong Kong Harbour Fest (Harbour Fest)

The various problems encountered during the organization of the Harbour Fest have led to a great deal of negative publicity and widespread public concern. Following the publication of the Audit Report, the Independent Panel of Inquiry on the Harbour Fest submitted its Report to the Chief Executive on 15 May 2004. It was made available to the Legislative Council on 17 May 2004.

The PAC has held four public hearings to receive evidence from the Administration on the findings and observations of the Audit Report. As Chapters 2 and 4 of the Inquiry Panel's Report are directly relevant to Audit's review, the PAC drew on the materials contained therein, where appropriate, at its third and fourth hearings.

I now report on the PAC's main conclusions and recommendations.

In respect of project conceptualization and approval, the PAC is gravely dismayed that the Economic Relaunch Working Group (ERWG), chaired by the Financial Secretary, had approved too hastily the proposal of the American Chamber of Commerce in Hong Kong (AmCham) for the Government to sponsor the Harbour Fest. As such, it had put the substantial amount of \$100 million of public funds at risk as early as the inception stage of the event.

In arriving at this conclusion, the PAC has had regard to the fact that before agreeing to support the proposal in principle at its meeting on 2 July 2003, the ERWG had failed to thoroughly assess the complexity and risks involved in organizing the Harbour Fest, as well as the benefits. It failed to ask for a proper business plan from the AmCham, thus depriving itself of the detailed information required for conducting a proper project appraisal.

The PAC notes that at a meeting on 26 June 2003, the relevant government departments had already commented that the concept of the Harbour Fest was ambitious. During the ERWG's discussion on 2 July 2003, the Commissioner for Tourism had also expressed the view that sufficient lead time must be available for marketing the Harbour Fest. The Committee considers that such comments of the departments should have alerted the ERWG to the need to properly assess the risks involved in the AmCham's proposal. However, the ERWG still failed to call for the views of experts within the relevant departments on the feasibility of the Harbour Fest despite their initial reaction.

In addition, the ERWG appointed Invest Hong Kong (InvestHK), which had little hands-on experience in organizing such mega event, as the subject department without considering other available options. It also failed to explore the options of organizing the concerts in-house, outsourcing to the private sector through a competitive selection process, or co-organizing the Harbour Fest with the AmCham.

As regards project monitoring, the PAC condemns the Director-General of Investment Promotion (DGIP) for the following reasons:

The PAC notes that the ERWG gave its in-principle approval on 2 July on the condition that InvestHK scrutinized and satisfied itself that the AmCham's detailed budget for the Harbour Fest project was reasonable and acceptable to the Government. However, during the critical initial stages of budget-vetting and monitoring processes, the DGIP failed to take positive steps to consult the

government bureaux and departments with expertise in the entertainment field. Neither did he engage outside show business experts, or make reference to their relevant practices.

The DGIP also failed to seek the Department of Justice's advice on the three Memoranda of Understanding (MOUs) with the AmCham, which are legally binding. Each MOU effected payment of \$25 million, or 25%, of the total sponsorship to the AmCham. He even rejected the Department's advice to include provisions, in the agreement with the AmCham, for access to documents in the AmCham's possession.

Moreover, the DGIP failed to adhere to the basic management principles and to put in place an appropriate system of cost control or monitoring to oversee the project. In particular, he failed to adequately supervise InvestHK in the discharge of his responsibilities over the Harbour Fest. This was evidenced by the fact that he was absent from Hong Kong for 60 days during the three-month lead-up to the Harbour Fest, as well as by his ignorance of the signing of two legally binding MOUs during his absence, and of the payment of \$50 million to the AmCham.

The DGIP failed to conduct any due diligence checks on the AmCham and the Red Canvas Limited. He also failed to inquire into the AmCham's ability to pay the difference between the cost of the Harbour Fest and the government sponsorship.

The DGIP failed to ensure that there were proper risk management and contingency planning for the Harbour Fest. Instead, he chose to rely on a liberal interpretation of "sponsorship" in order to justify his monitoring the event from a distance.

In this connection, the PAC notes the Financial Secretary's comment that irrespective of whether the Harbour Fest is financed by the Government through sponsorship or other modes of subvention, the responsibilities of the Controlling Officers remain the same, that is, they should satisfy themselves that an appropriate system of cost control or monitoring is in place. The PAC concurs with this view.

As for the ERWG, the PAC is seriously dismayed that it failed to carry out appropriate supervision over such crucial matters as InvestHK's scrutiny of the

budget for the Harbour Fest and its monitoring of the actual progress in the organization of the event. The ERWG also failed to ensure that the DGIP exercised the appropriate level of supervision over the sponsorship of the Harbour Fest, which is effectively close to its full cost. Neither had it considered downsizing the scale of the event.

To follow up the matter, the PAC urges InvestHK to liaise with the AmCham to make arrangements for the Government to have access to all Harbour Fest records of the AmCham, the Red Canvas Limited and the project subcontractors, in order to facilitate any necessary follow-up actions by the Government and the Audit Commission. The PAC also invites the Director of Audit to consider conducting a value for money audit on other events and activities sponsored by InvestHK, to ensure that they did not similarly suffer from the lack of proper cost control.

In addition, the PAC urges the Administration to consider taking disciplinary action against the DGIP, having regard to the gravity of his failure in discharging his duties.

I should mention here that the PAC has examined the minutes of the ERWG's meetings, including those held on 2 and 12 July 2003, to ascertain the details of the ERWG's discussion on matters relating to the Harbour Fest. The PAC discovers that the minutes were brief. There was no record of the matters raised with the AmCham representatives, or details of the ERWG's deliberations. The scanty information contained therein fell far short of recording the rationale behind the ERWG's decisions. The PAC considers that the records of such high-level committees as the ERWG should contain sufficient detailed information to be the basis for audit trails of the decisions made.

The PAC also has cause for concern about the approach adopted by the Administration in monitoring high-risk projects. To the PAC, in deciding that the Government would act as the sponsor only for the Harbour Fest, the ERWG had intended to distance itself from the project and to limit its role.

Funding of projects under the Applied Research Fund (ARF)

On the "Funding of projects under the Applied Research Fund", the PAC is dismayed that the Applied Research Council's existing management agreements with fund managers give them absolute discretion on matters

concerning the disposal of the ARF investments. They might in their absolute discretion realize, or sell, any of the investments of the ARF at such times and prices and in such manner as they might decide. Thus, the Applied Research Council could lose control of the disposal of the investments. The PAC is also dismayed that the three management agreements concluded in November 1998 did not make co-investment a requirement. The absence of such a requirement renders the agreements open to abuse by fund managers. The PAC is therefore seriously concerned that the money of the ARF has not been safeguarded. The ARF investments have not been subject to close monitoring commensurate with the risky nature of the investments.

The PAC is also seriously concerned that, as at November 2003, the ARF had a large cash balance of \$434 million. The PAC is dismayed that such a large amount of surplus funds was earning a relatively low rate of return. The PAC considers that such funds, being public funds and having been left idle for a significantly long time, should earn a rate of return which should at least be comparable to that earned by the Government on the fiscal reserves placed with the Exchange Fund. The PAC therefore urges the Commissioner for Innovation and Technology to consider measures, in consultation with the Director of Accounting Services, to improve the rate of return for the surplus funds.

Harbour Area Treatment Scheme Stage I

On the subject "Harbour Area Treatment Scheme Stage I", the PAC is seriously dismayed that, despite the various guidelines, the Drainage Services Department (DSD) did not reduce the approved project estimates (APEs) of the three tunnel completion contracts even though the accepted tender prices were much lower than the estimated contract sums in the APEs. The DSD only informed the Finance Committee (FC) of the shortfall for Contract E without revealing the true total cost increase. It failed to inform the FC of the over-provision in the APEs for Contracts C and D at all. Neither had it informed the FC that it had used such over-provision to cover the cost increase of these two contracts, which was largely used for settling claims submitted by the contractors concerned.

The PAC considers that the heads of works departments are given too much discretionary power to decide whether or not to adjust the APE even when the accepted tender price was much lower than the estimated contract sum in the

APE. In particular, the APE might be used to cover huge sums of highly uncertain dispute settlements and contract variations.

To ensure the Legislative Council's effective monitoring of the use of funding for works projects, and to minimize the possibility of works departments' covering up of their administrative bungles and settlement of claims of substantial amount, the PAC recommends that the following arrangements be put in place:

The works departments concerned should inform the Legislative Council, with full justifications provided, when the difference between the accepted tender price and the estimated contract sum in the APE is \$15 million or more. This should be done irrespective of whether or not there will be any substantial variations in the contract cost which may warrant an adjustment of the APE or which may require the FC's approval of an increase in the APE to cover the ultimate outturn price. The works departments concerned should also inform the Legislative Council when the expenditure relating to dispute settlement under a works contract amounts to \$15 million or more.

Regarding the claims arising from the use of forfeited plant, the PAC notes that the three contractors had been given the opportunity to inspect the forfeited plant, including the mucking systems, before tendering. The decision to use the plant had been taken by them voluntarily and effected by the provision of an exclusion clause in the contract and the signing of a No Claim Statement which clearly stipulated the contractor's liability in connection with the use of the forfeited plant. The PAC is seriously dismayed that, despite all these safeguards, the DSD subsequently incurred an additional cost of \$135.7 million in settling the claims by the contractors for replacement of the defective mucking systems, in order to avoid further delays of the works.

It appears to the PAC that it is the Government's policy not to take legal proceedings against contractors of public works projects as far as possible in order to avoid causing delay in works, incurring significant legal cost and festering its working relationship with the contractors. The PAC urges the Administration to critically examine the circumstances and merits of each case when deciding whether legal action should be pursued, as undertaken by the Secretary for the Environment, Transport and Works.

Concluding remarks

Madam President, as always, in performing our duty, the PAC is mindful of its role in safeguarding the public interests by continuing to prod for the delivery of high-quality public services in an efficient and cost-effective manner.

DR ERIC LI (in Cantonese): Madam President, my address today may be the last time I speak on the report of the PAC, so I know you will probably bear with me in switching to another language to talk briefly my personal feelings. I have to thank you for your indulgence.

I have been the Chairman of the PAC since 1995, for nine years altogether. Among the 42 reports released, 18 were handled by me. It is not a short period indeed. I personally consider this one of the most substantive and meaningful jobs I have undertaken during my many years in the Legislative Council. However, this substantive and meaningful accomplishment cannot be achieved all by myself. Over the years, there are several issues that I consider worth remembering.

First, among the 18 reports, not a single one has carried the concern of a minority group of people. This proves that the PAC is able to conduct its discussions in a very amicable, rational and constructive manner to reach unanimous conclusions. Unanimous conclusion is a very power weapon to the Legislative Council, and the message it sends out is very strong. I believe all Members have gained particularly valuable experience from this co-operative and pragmatic style, and the status of Members of the Legislative Council in the public's mind has been enhanced. This co-operative style also enables us to enlist full co-operation from the Government. I am glad that during the past nine years, insofar as the 18 reports handled by me are concerned, the PAC was able to get the full co-operation of the parties concerned without resorting to its statutory power, in particular its power to summon witnesses before the PAC. In this connection, I have to thank all Honourable colleagues for their hard work and government officials for their co-operation. These, I must say, are my heartfelt thanks.

Many colleagues said, with me leaving after nine years of chairing the PAC, the experience gained over these years may fade. I remember when I first took up the work of the PAC, it was no easy task. Many aspects of the

work were quite new to me, and I had to build up my experience gradually. However, during the past nine years, I have seen the professionalism level of the Secretariat advancing. Let me explain it briefly. We are now on autopilot. As the Chairman of the PAC, I do not have to do much indeed. Staff members of the Secretariat can perform in the most professional manner to undertake most of the work. This is surely grateful. The only point I find noteworthy is that the Legislative Council should consider enlisting assistance from a financial expert, which I remember I had put forth in the last Session or the one before. Legal experts have provided substantial assistance to us. That is why I think assistance in the financial aspect has to be considered at a certain stage. This suggestion does merit further consideration by colleagues.

We have the co-operation of government officials, assistance of Secretariat staff and teamwork of colleagues, and last but not least, the active participation of all Members. I know Members consider the work of the PAC very difficult, and I have been a dictatorial chairman who has convened several marathon meetings over the years. I have to thank Members for their tolerance, in particular, Ms Emily LAU who has shown persevering support over these years. In fact, she works longer hours than I do. More often than not, as the Deputy Chairman of the PAC, she has been zealous in delivering her task than I do. I hope she will continue to render her assistance to enable the PAC to scale new heights.

Madam President, finally, I have to express my deepest thanks to you, for you have been so tolerant of me when I gave a lengthy address every time I submitted a PAC report. I hope this is the last time I do so. I will miss the work of the PAC and keep an interest in the work of the PAC in the Legislative Council in future. Thank you, Madam President.

ORAL ANSWERS TO QUESTIONS

PRESIDENT (in Cantonese): Questions. First question.

Residential Child Care Service

1. **MS CYD HO** (in Cantonese): *Madam President, it was reported that a child, who had been placed in a residential nursery since birth before she was returned to the custody of her family at the age of two, died last year at home*

allegedly because of abuse by her parents, just nine weeks after she had returned home. In this connection, will the Government inform this Council:

- (a) of the number of cases, in the past three years, in which children were provided with the residential child care service through the central referral system and, among them, the number of those involving child abuse, the whereabouts of the children after they ceased to receive the service as well as the number of cases in which children who became victims of child abuse again after ceasing to receive the service;*
- (b) whether social workers are deployed to follow up the situation of the children after they have ceased to receive the service; if so, of the ratio between the social workers and the children and how long the social workers will continue to follow up their cases, as well as the average time the social workers spend every month on meeting the children and their parents respectively; and*
- (c) of the services or mechanisms currently in place to protect the children who have ceased to receive the service from being abused; regarding the child abuse cases involving children who have ceased to receive the service and have subsequently been placed under the care of their families, whether the Social Welfare Department (SWD) will convene case conferences to review the problems identified in the course of handling the cases, so as to improve the relevant child protection services or mechanisms; if not, the reasons for that?*

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

- (a) According to the Central Referral System for Residential Child Care Services (CRSRC) maintained by the SWD, there were 1 556, 1 678 and 1 689 admissions into residential services in 2001-02, 2002-03 and 2003-04 respectively, due to different reasons such as family relationship problems, parental conflicts, lack of adequate care, or behavioural problems. Among these cases, 156, 171 and 155 were identified as child abuse cases respectively in the three years

mentioned, which made up around 9% to 10% of the total admission caseloads over these three years.

There were 1 406, 1 546 and 1 515 discharge cases in 2001-02, 2002-03 and 2003-04 respectively. Among these cases, around 62% were discharged for home restoration. Around 28% were discharged for alternative placement for different reasons, such as the children involved exceeded the age limit for the particular types of service units; or their behavioural or adjustment problems warranted a transfer to other service units. The remaining 10% were discharged for other reasons such as adoption, hospitalization, overseas study, or attainment of adult status at 18 years old.

As regards the number of children who were abused after they had stopped receiving residential service in the past three years, the SWD had carried out a snapshot fact-finding exercise. As at 14 June 2004, four children had been abused after being discharged home from residential care, out of around 1 300 active child abuse cases currently being handled by the Family and Child Protective Services Units (FCPSUs) of the SWD (some of these cases were transferred to FCPSUs by other service units after the abuse incidents).

- (b) A continuum of services is available to assist the children and their families who make use of residential child care services. The welfare needs of each child requiring residential service are closely looked after by the social workers of the relevant casework units (such as Family Services Centres/Integrated Family Service Centres, Medical Social Services Units, FCPSUs) run by the SWD or non-governmental organizations.

After a child's admission for residential service, the responsible social worker will work closely with the residential care staff and other related professionals (such as school teachers, psychiatrists and clinical psychologists) to ensure that the child can benefit from residential service. The social worker will also monitor the child's relationship with the parents and/or other family members during the child's separation from them, and render appropriate assistance

(such as counselling on parent-child relationship) to the child's family with a view to formulating a feasible discharge plan for the child.

If and when a child ceases to receive the residential service, the subject social worker will continue to follow up the case to safeguard the best interest of the child by conducting home visits and physical contacts with the child. The duration of follow-up and the frequency of the social workers' contacts with the child and his/her family members vary from case to case, having regard to relevant considerations such as the child's conditions at home and the level of support required by the parents or other family members responsible for taking care of the child.

With regard to the social worker to child ratio, as mentioned above, the cases discharged from residential service are followed up by social workers from different service units depending on the situation of the individual case. Given that the provision of manpower in the service units varies; and the number of children served by each service unit differs and may change from time to time, there is no fixed ratio covering the number of cases followed up by one social worker. The fundamental principle is that every case will be followed up by social workers and the care and attention rendered is in tandem with the specific needs of each child.

- (c) A child receiving residential service will only be discharged home when there is evidence showing that the child can adequately be taken care of by his/her family members. The responsible social worker will also provide follow-up service in the form of home visit, office interview and collateral contact with concerned parties (for example, relatives, school personnel, and so on) to keep in view the child's conditions at home and render assistance to his/her family to ensure proper care of the child. The supervisor of the social worker will also oversee the handling of individual cases. If a child is suspected of being abused, immediate and decisive action will be taken and these include the convening of multi-disciplinary case conference on child cases to decide on the nature of the suspected abuse incident(s) and formulate a feasible welfare plan for the child.

When there is any incident involving death or serious injury of children being handled by the SWD service units, internal review will be conducted by senior officers in the SWD. As I have explained in the Legislative Council on 12 May 2004, the Director of Social Welfare is examining the proposal of setting up post-event multi-disciplinary review committees on child abuse cases in which family violence has caused serious injuries or deaths for the purpose of identifying improvements in the light of recent events, and the related technicalities such as when and how such post-event committees should be convened, having regard to relevant considerations, including the need to ensure that the investigation conducted by the police and any subsequent court proceedings would not be prejudiced during the process.

Furthermore, a number of key initiatives are being taken with a view to facilitating early identification and handling of suspected child abuse cases, such as strengthening the multi-disciplinary training programmes, reviewing the Procedures for Handling Child Abuse Cases and commissioning a study on child abuse and spouse battering to enrich and update our understanding of the problems which would shed light on the development of strategies and services to combat family violence.

MS CYD HO (in Cantonese): *Madam President, 20 patches of injuries are found on the child victim of this case, including a bruise on her head and the left side of her face, spreading across an area of 12 cm times 9 cm by 7 cm. Had the authorities followed the procedures mentioned in parts (b) and (c) of the main reply in handling the case, they would not have failed to notice that the child had been abused for nine weeks in a row. Madam President, may I ask the Secretary if he knows whether any service organizations, owing to resource constraints, have not complied with the procedures mentioned in the Secretary's reply earlier in following up cases of discharged children? Have the authorities put in place any mechanism to supervise those organizations to ensure their strict compliance with the procedures? If those organizations are subject to supervision, why such cases still occurred?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, today, I am not going to comment on individual cases. Since the judicial process of some cases is still pending, I do not want to influence the process concerned. However, I can assure Ms HO that the SWD has conducted a comprehensive review of those cases.

On the surface, the occurrence of some cases seems to be of no reason. However, according to the initial study conducted by the authorities and me, those cases were not as simple as they appeared in the reports of the media. Some cases which had been followed up for several years did not show any problems at first, incidents only happened several years later. As for some other cases, the children concerned were not admitted to residential homes because they had been abused, they suffered abuse only after they had been discharged. The challenge and pressure faced by social workers are thus very enormous. However, we can assure Members and the public that we will handle each case seriously to review why abuse incidents happened after the children had been discharged. The Director of Social Welfare will seriously review and improve the procedures to be adopted in future, and conduct training, with a view to minimizing the number of child abuse cases.

MS CYD HO (in Cantonese): *Madam President, I understand that we cannot focus on a specific case today for the judicial process concerned is still pending. However, the question I posed to the Secretary earlier is whether he knew that some service organizations had not complied with the procedures strictly in handling those cases. Does he know it or not? Are there such cases?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, as I have mentioned in my earlier reply, a significant number (90%) of child abuse cases are followed up by the SWD, and only a small number (about 10%) of them are handled by non-governmental organizations. Nevertheless, cases of a serious nature are referred to the SWD for handling. The SWD has put in place its own supervisory mechanism, and supervisors of the social workers concerned will review each case. For child abuse cases, multi-disciplinary review committees will be set up. However, is it adequate? I have also requested the SWD to review the situation. Besides, sometimes problems may be attributable to assessment rather than failure to comply strictly with the procedures. We have to review whether we can be more cautious.

Sometimes we fail to be watchful, while sometimes we tend to focus on the long-term welfare of children, such as strengthening their relationship with their family members, in making judgement. I thus believe the Director will follow up in the light of various factors. Madam President, we will definitely review the entire system again to examine if there is room for improvement.

MR WONG SING-CHI (in Cantonese): *Madam President, the Secretary said earlier that if problems emerge, the SWD will conduct reviews to confirm whether the social worker or organization concerned has failed to stay fully vigilant and resulted in the unsatisfactory handling of some cases, or whether the focus has been placed on the handling of the family problems only. I would like to understand whether the Secretary has discovered if certain organizations or social workers have made mistakes in handling these issues from time to time. Have such situations ever been discovered? When such situations are discovered, how will the Government handle such cases? Will the organizations or social workers involved be punished or required to receive retraining? By what means can the authorities ensure that those social workers or organizations will not make mistakes again?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, according to the information I have received from the Director of Social Welfare so far, there is no report of any mishandling of cases. He is now conducting detailed reviews of the several cases that occurred lately, but the official analysis report on the causes of the problem has not yet been submitted. I have checked some of the information initially, and discovered that some cases are not as simple as they appeared. As I have explained earlier, in some cases, the children concerned suffered abuse only after discharge, and no record in this respect has been filed during their stay in or before their admission to the residential home. As to whether any peculiar background of the case will remind us to maintain a higher degree of alertness, surely, this may be so. The background of some cases does possibly pose some inherent risks.

Have social workers ever tried to contact the subjects? According to the information I have today, social workers of residential homes do contact their subjects, but it just happens that the subjects sometimes cannot be contacted. Do we have other alternatives? We must first analyse the many other factors. In case human negligence is confirmed, an appropriate procedure for punishment

has already been put in place under the government structure. In the professional aspect, the professional committee will tackle the relevant problem. As for non-governmental organizations, though we are not their direct employers, their direct employers should take proper actions. In case of human negligence, we will also take proper actions.

MISS CHAN YUEN-HAN (in Cantonese): *Madam President, in his reply, the Secretary mentioned time and again that the entire procedure must be reviewed. May I ask the Secretary, under the existing system, whether assessments have to be done when problems related to the children and their family members arise? For example, to ensure proper arrangements are made for the children after discharge, should these assessments be conducted by a professional committee? Madam President, we have recently discussed the issue of family violence in this Council and mentioned those procedures. I hope the Secretary will conduct a really thorough review to identify whether human negligence or procedural problems may arise in the entire process?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, in my reply to Ms HO earlier, I mentioned that the existing procedure is rather comprehensive. The authorities have put in place an assessment procedure to understand the background of the children concerned with a view to providing assistance to them during their stay in residential homes. The assessment work includes home visits and other visits by social workers aiming to understand the relationship between the children and their family members, which may help to assess whether the children's families have adequate resources and whether their parents are capable of taking care of them once they are discharged. Guidelines and principles on these aspects have been laid down and incorporated into the whole mechanism. Assessment is not conducted by a social worker alone; he must discuss with his supervisor before the entire plan is formulated. During the children's stay in residential homes, social workers have to regularly assess the progress of the children and their progress with their family members. The children should be discharged only when there is evidence showing that their family members are capable of taking care of them.

Therefore, a comprehensive procedure is already in place. But we have to consider whether there is room for improvement in respect of the follow-up work for discharged children. Is there any system to handle cases of higher

risk? For example, consideration may be given to enable higher risk subjects to be discharged at a later stage. In conducting these reviews, the entire system has to be taken into account, and the reviews should be handled professionally. Therefore, though a comprehensive assessment plan is already in place, it is a case of whether the assessment system can be enhanced, as Miss CHAN has queried. Moreover, in respect of follow-up work, we have to conduct studies to identify areas that require further co-ordination and enhancement. For example, how should we handle in future issues we have already come across? As I have explained earlier, in some cases, it was not because the social worker failed to contact the subject, but rather because the subject could not be contacted. As in cases involving single-parent families, if their parents cannot be contacted, the cases will be very difficult to follow. What mechanism should be applied in handling such cases? Should we enlist assistance from their neighbours? All these issues warrant further consideration.

PRESIDENT (in Cantonese): We have spent more than 20 minutes on this question. Though Members have only asked a main question and two supplementary questions, I can allow only one last supplementary question.

MS EMILY LAU (in Cantonese): *Madam President, in the captioned case, the baby girl was discharged for she had reached the age of two. The Secretary also said that, every year, children of more than a thousand cases have to be discharged home as they reach a certain age. May I ask the Secretary on what criteria is that two-year-old limit set? Is this limit comparable to that of other places? Besides, is there a possibility that children are forced to be discharged as they reach two years of age owing to shortage of manpower and resources?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, I have explained this in the main reply already. Decisions related to these cases are made in the best interest of the subject child after assessment by the social workers concerned. Definitely, the situation is not caused by the shortage of residential places. The captioned case, like any other cases, must undergo the assessment of the social worker concerned and his/her supervisors. The subject child was discharged home only when it was shown that the child could be well taken care of by his/her family members. Moreover, a follow-up plan to oversee the situation of the child had also been formulated.

MS EMILY LAU (in Cantonese): *The Secretary has not answered my supplementary question. In the main reply, the Secretary said that children had to return home for they had exceeded the age limit. So, is this arrangement not comprehensive? For, other than the criterion of exceeding an age limit, many other considerations have to be taken into account. The Secretary's reply at the moment seems to be at variance with his main reply.*

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

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, in the main reply, I actually said that 62% of the cases were discharged for home restoration. It is stated that 28% were discharged for different reasons, such as age reason, and the age limit referred is generally higher. For some residential homes, the age limit is set at 12 years; upon the attainment of 12 years of age, children have to be transferred to other residential homes. The specific case involving the two-year old child has nothing to do with age.

PRESIDENT (in Cantonese): Second question.

Ma On Shan to Tai Wai Rail Link

2. **MR ANDREW CHENG** (in Cantonese): *Madam President, the Kowloon-Canton Railway Corporation (KCRC) is building the Ma On Shan to Tai Wai Rail Link, and the Government is also conducting local consultation on the proposed public transport service plan in anticipation of the commissioning of this rail line. It is learnt that the relevant District Councils and local communities strongly object to the reduction of franchised bus routes proposed in the plan. In this connection, will the Government inform this Council:*

- (a) *whether the KCRC has adjusted the estimated ridership since the commencement of the planning for the line; if so, of the number of adjustments made and the estimated ridership concerned, as well as the current estimated daily ridership;*

- (b) *of the number of test runs conducted on the trains which will serve this rail line; whether any of these trains has had failures; if so, of the number and the causes of the failures; and*
- (c) *whether it will reduce the franchised bus routes according to the above proposal in the plan, particularly those between Ma On Shan and Hong Kong Island?*

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

- (a) In making patronage forecasts for new railway lines, the KCRC makes use of a computer transport simulation model, which is based on the Government's published assumptions on economic growth, population growth and distribution, housing development, employment opportunities, bus route development, and so on.

The KCRC was invited by the Government to proceed with the detailed design and planning of Ma On Shan Rail (MOS Rail) in September 1998. According to the KCRC's forecast at that time, the daily patronage of the MOS Rail was estimated to be around 290 000 in 2011.

In end-1999, the KCRC revised the patronage forecast for the MOS Rail based on the latest planning figures released by the Government at that time and estimated that there would be 295 000 passengers per day in 2011.

The KCRC's latest patronage forecast is based on the planning figures released by the Government in 2003. The projected population for 2004 was reduced from 7.4 million to 6.9 million. The Corporation therefore forecast that the MOS Rail would have a daily patronage of about 200 000 by the end of the first year of operation, and about 100 000 during initial operation.

- (b) The KCRC commenced a series of testing of the MOS Rail in early April this year. The testing mainly comprises three stages. The first stage focuses on the testing of individual functions and

performance of the trains and individual systems with a view to ensuring that the performance of the trains and all the systems is up to the required standard. The second stage will focus on the interface and integration among different systems to ensure that they work well together. The final stage is known as "Trial Operation", during which the trains will run according to the actual operation timetables to ensure successful testing and to fully prepare for revenue operations.

The MOS Rail is currently undergoing the first stage of testing, in which vigorous testing of the train and individual systems is taking place. All the tests are making good progress. The KCRC expected that the second stage of testing will commence in early July as scheduled and the Trial Operation will start in the fourth quarter this year.

- (c) As regards the adjustment to franchised bus services, since the commissioning of the MOS Rail will increase the external transport capacity of the area concerned by 34%, it is necessary for us to rationalize the franchised bus services in order to reduce road congestion and improve air quality. On the other hand, our rationalization proposals retain appropriate competition and provide choices to passengers.

Early this year, the Transport Department (TD) started local consultation on the public transport plan to be implemented upon the commissioning of the MOS Rail. Consultation work includes attending meetings of District Councils, conducting Area Consultative Forums, and holding meetings with local groups and representatives, and so on. We understand that the local residents have reservation about or objection to some of the proposals to discontinue bus routes. Taking into account the above views, the TD is considering modifying the controversial proposals. As regards the cancellation of bus routes plying between Ma On Shan and areas of Hong Kong Island, we will consider replacing the cancellation proposals by frequency reduction and relocation of the termini of the routes concerned from Central/Sheung Wan to Admiralty in order to improve the traffic conditions of the busy

corridors in Central. We plan to launch the second round of local consultation on the revised proposal in July.

MR ANDREW CHENG (in Cantonese): *Madam President, according to the forecast mentioned in part (a) of the main reply, the MOS Rail will have a daily patronage of about 100 000 when it initially comes into operation at the end of this year. Will this turn the MOS Rail into another "white elephant" on the heels of the West Rail and make the KCRC suffer heavy losses? If the KCRC incurs heavy losses, in fact the public will also suffer. Has the Government considered enhancing the bus service first, as well as waiting until the Sha Tin to Central Link or the Sha Tin to Hung Hom Link has come into operation, so that residents in Ma On Shan can take the MOS Rail direct to Hong Kong Island, thus making the MOS Rail more attractive and competitive, before full operation is launched?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): Madam President, we estimated from the change in passenger numbers that at the initial stage, there will be a daily patronage of about 100 000, however, it can also be seen that there is a monthly increase of 3% in patronage of the West Rail. That is to say, the estimated patronage for this year is 200 000, however, during the initial period, the patronage for the whole year is estimated to be 50% of the estimate. This level of 50% will not remain constant throughout the year but will increase gradually. Members of the public will switch to using a certain railway line after getting used to using it. Of course, I have also requested the KCRC to step up promotion and improve its feeder transport service. However, it takes time for people to change their habits, therefore, the patronage of 100 000 is only an initial estimate.

Concerning whether the MOS Rail will follow the footsteps of the West Rail and suffer the same losses in its operation, it must be noted that the West Rail is far longer than the MOS Rail and has a greater number of stations, so its operating cost is naturally higher than that of the MOS Rail. Assuming that the patronage of the MOS Rail can indeed reach 100 000, of course we have to calculate the level of the fares according to the operating cost in relation to the number of passengers, but we have not yet determined this. We believe that this project has been better executed. Furthermore, after learning a lesson from the experience of the West Rail, we hope that the MOS Rail can meet its own

operating cost without the need for any subsidy. However, if we were to wait until the entire railway project has been completed, this would be a very distant matter and I think residents in Ma On Shan would not let us off.

MR ANDREW CHENG (in Cantonese): *Madam President, the thrust of my supplementary is not about whether residents in Ma On Shan will "let us off" but.....*

PRESIDENT (in Cantonese): Mr CHENG, which part of your supplementary has not been answered?

MR ANDREW CHENG (in Cantonese): *Madam President, sorry about that. What the Secretary failed to answer is that, if the patronage of 100 000 will make the KCRC suffer heavy losses, whether or not the Government will give serious consideration to expediting the construction of the Sha Tin to Central Link and the Sha Tin to Hung Hom Link, at the same time of enhancing bus services, so that residents in Ma On Shan can take the MOS Rail direct to Hong Kong Island and look upon the MOS Rail as more competitive and attractive, before full operation is launched.*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): Madam President, I have already replied that I do hope the MOS Rail will have greater competitiveness and what is more, it has to do a good job in providing a feeder bus service so that members of the public will find it convenient. This is in fact a lesson learned from the West Rail experience, that is, it is not simply a matter of the fares or any other matter, but rather, convenient connections have to be provided to members of the public and this is the incentive that makes people take the rides. As regards whether direct access to Hong Kong Island is the only draw, I do not think this is the case because it only takes five minutes now to go from the MOS Rail station in Tsim Sha Tsui to the MTR Tsim Sha Tsui Station. It is convenient because there will be people movers and passengers will not need to walk. They only have to stand still and, what is more, they can enjoy the air-conditioning. I think this will be very convenient and will give members of the public another option to cross the harbour.

MS MIRIAM LAU (in Cantonese): *Madam President, the experience gained from the MTR Tseung Kwan O Line is that the bus routes were rationalized or the frequencies of the routes were reduced in view of the actual circumstances only after the commissioning of the line. However, it can be seen from part (c) of the main reply that it seems the Government has different ideas concerning the MOS Rail and is already thinking about rationalizing bus routes, reducing frequencies, changing the locations of termini, and so on. Could the Secretary say clearly what the present specific timetable and plan for the rationalization of bus routes are?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): *Madam President, we are actually conducting a consultation. According to the results of the consultation, we found that the rationalization of certain routes, such as route Nos. 681 and 680, was strongly opposed by all residents, therefore, we have accorded priority to these routes in our discussion. However, on scaling down bus service, we will adopt an approach similar to that in dealing with the Tseung Kwan O Line and the West Rail and will gradually modify the transportation services after the railway line has come into operation and after monitoring the changes in passenger demand for transportation services on site.*

MR ALBERT CHAN (in Cantonese): *Madam President, every time the Government ran into a problem, it would say that it had learned a valuable lesson and that improvements would be made the next time. However, when the next time came, often it still adopted the same approach. The Secretary has also mentioned the experience of the West Rail, which is plagued by serious problems, one of the main reasons being its fares and the many inadequacies in its feeder service. How can the Secretary convince us that in future, in the actual development in relation to Ma On Shan, the problems encountered by the West Rail, in particular those concerning fares and inadequate feeder service, will not occur in the case of the MOS Rail?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): *Madam President, I have also mentioned the issue of fare level and we have requested the KCRC to conduct a detailed study with particular reference to the West Rail experience. Of course, Mr Albert CHAN may also be aware that the KCRC has given away hundreds of thousands of tickets but in*

the end, only one tenth of the people used the West Rail. In other words, people may not necessarily take the ride even if it is free. Therefore, it is a profound subject as regards to what level the fares have to be reduced before people who commute by motor vehicles will switch to the KCR.

On the other hand, we have also requested the KCRC to examine if the feeder service arrangements are convenient and adequate which is more important. After we had provided additional minibus connections at the Tsuen Wan Station, the daily number of passengers increased by several hundreds within a month. It was a significant improvement. Therefore, we are keenly aware that in considering the commissioning of a railway line, it is necessary to refer to past experience and apply it to the present plan. Moreover, the more the information, the better the execution of the plan will be. I can tell Members that we have been actively examining with the KCRC how the patronage can be increased, since this is also beneficial to the KCRC.

MR LAU KONG-WAH (in Cantonese): *Madam President, there are great differences between the Tseung Kwan O Line and the MOS Rail. After conducting a number of consultations, the Government wanted to reduce bus frequencies or the number of routes. This is tantamount to sapping the business of bus routes and creating public discontent. In fact, the estimates on passengers of the MOS Rail are just estimates. Since it will be possible to ascertain the actual situation only after the MOS Rail has come into operation, may I ask the Secretary if serious consideration can be given to conducting consultations on the proposals only after the commissioning of the MOS Rail? This may be a more constructive approach.*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): Madam President, I have already said that our practice is to make actual changes only after the launch of service. However, I believe that on the discussion of these issues, many members of the public have also requested that we begin the discussions early. If we do not, then we will not know what the public are most concerned about. I believe to start the discussion now does not constitute a problem, however, we do not have any final plan yet. Furthermore, we have also made an undertaking that we will implement our plan only after the MOS Rail has been commissioned and after we have observed the transport

situation and the changes in public demand. We will also consult the District Councils, and so on.

DR RAYMOND HO (in Cantonese): *Madam President, several types of signalling systems are used in our existing railway network. In the past, it was often the case that when new railway lines came into operation, problems with the signalling systems occurred and railway service was paralysed. Have the Government and the KCRC learned lessons from past experience and applied them to commissioning the new MOS Rail to ensure that no problem similar to those in the past will occur?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): Madam President, I believe that the prime consideration for every system, be it the communications system or the mechanical system, must be safety from an engineering point of view. This is the most important thing. As regards reliability, we will definitely do our best within the possibilities of engineering. I believe Dr Raymond HO will also agree that it is not possible to make things completely foolproof and there is always a small percentage of possibility that problems may occur. I do not mean that the Government is trying to shirk responsibility by saying that errors will occur anyway. In respect of reliability and stability, we will do our best. In trial operations and testing, we have set very high standards and targets. As Dr Raymond HO has said, in the light of past railway operation, if we notice areas where things will go wrong easily, special attention will be given to them. As regards how control, repairs and maintenance can be carried out properly after the commissioning of railway lines in future, I believe the Hong Kong Railway Inspectorate will step up supervision and maintain a reasonable and high standard of service.

PRESIDENT (in Cantonese): We have spent more than 17 minutes on this question. Last supplementary.

MR LEUNG FU-WAH (in Cantonese): *Madam President, the Secretary provided some figures in part (a) of the main reply and it was estimated that in 2011, the average daily patronage of the MOS Rail will be 290 000, however, in*

the population projection, the estimate on the population in 2004 has been reduced by 7% from 7.4 million to 6.9 million. Firstly, the population projection for 2011 was not provided; secondly, this railway line is definitely different from the West Rail or other railway lines in that it will only attract passengers going to central Kowloon and those crossing the harbour, but for those who want to go to Kowloon East and Kowloon West, I believe they will not take the MOS Rail because switching to the MTR is quite expensive. May I ask the Secretary how the Government derived the population for 2011? If we look at the Government's estimates on the number of passengers, the difference between them is very great.

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): Madam President, I have already mentioned in the main reply that in the parameters for the MOS Rail, in 1998, we began to make estimates on the population and on how many people will take the MOS Rail by 2011. Recently, in 2003, the rate of population growth was reduced from 7.4 million to some 6 million plus. In fact, our past figures were based on the past estimate of 7.4 million people.

PRESIDENT (in Cantonese): Third question.

People's Trust in Government

3. **MS EMILY LAU** (in Cantonese): *Madam President, in April this year, the Standing Committee of the National People's Congress (NPCSC) decided against the election of the Chief Executive and Members of the Legislative Council in 2007 and 2008 by universal suffrage. In this regard, an organization plans to hold a procession on 1 July this year to continue to strive for the election of the Chief Executive and Legislative Council Members by universal suffrage. In May, several hosts of radio programmes took themselves off the air one after another and many people are of the view that Hong Kong is currently under a trough of political low pressure. According to the results of an opinion poll conducted in April, indicators of people's trust in the Central Government and the Government of the Hong Kong Special Administrative Region (SAR), as well as some freedom indicators have shown a downward trend. In this connection, will the executive authorities inform this Council:*

- (a) *whether they have assessed the reasons for the downward trend in the indicators of people's trust in the Central Government and the SAR Government; if so, of the assessment results, as well as the remedial measures in place; and*
- (b) *whether they will convey to the Central Government the aspirations of some people for the election of the Chief Executive and Legislative Council Members by universal suffrage and for freedom?*

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Madam President, regarding part (a) of the question, the Government has been monitoring public opinion through a wide range of channels as well as different methods and opportunities. These include opinion polls, the mechanism of liaising with established contacts and collating public views, and monitoring the views reflected by the mass media. The Government appreciates that since the "1 July" demonstration last year, people still have grievances and dissatisfaction in four main areas.

First, although the overall economic environment has improved and many economic indicators are on an upward trend, some people have not benefited personally from the economic recovery.

Second, even though the Government has strived to improve governance since 1 July last year, there is still a body of opinion which considers the progress made is not significant enough.

Third, the NPCSC made an interpretation and decision in April on the methods for selecting the Chief Executive and for forming the Legislative Council. There are some who have not been able to accept the interpretation and decision, and feel disappointed that universal suffrage will not be introduced in 2007-08.

Fourth, following the departure of several radio phone-in programme hosts in May, some people are concerned that the freedom of speech in Hong Kong may be affected.

The SAR Government will be very prepared to accept criticisms put forth by the public, review our adequacies and redouble our efforts on dealing with the

economy, livelihood issues and governance. We will also strengthen communication with different sectors of the community and make our best endeavours to create a harmonious environment and enhance the cohesiveness of the community.

Over the course of last year, the SAR Government has adopted a number of measures to revitalize the economy. These include implementing the Mainland/Hong Kong Closer Economic Partnership Arrangement signed with the Mainland, putting in place the Pan-Pearl River Delta co-operation framework among Hong Kong, Macao and nine mainland provinces, and further promoting the scheme of mainland people travelling to Hong Kong on an individual basis and developing the Renminbi business. Following the economic growth of 6.8% recorded during the first quarter of this year, we forecast that in the second quarter, growth will be higher than 6.8%, or may reach or exceed double digit. The SAR Government will apply itself fully in developing Hong Kong's economy, improving the livelihood of the public, and increasing job opportunities.

Although the economic situation has improved, we are aware that some people remain unemployed, and some wage earners are still uneasy about the high unemployment rate. The Government fully understands and appreciates their situation. We hope that the public will understand that it will take some time for the economic recovery to lead to further improvement in the employment situation.

As for constitutional development, the Basic Law has stipulated that universal suffrage is the ultimate aim. Although we are not in a position to implement universal suffrage in 2007 and 2008, we still have room to improve the methods for selecting the Chief Executive and for forming the Legislative Council. The Constitutional Development Task Force (the Task Force) will continue to explain to the public through various channels to address their concerns. Our community has now entered the phase of substantive discussion on constitutional development. The Task Force will continue to encourage different sectors of the community to put forth their views. We hope that by enhancing the understanding of various parties who hold different views through rational and constructive discussion, this will be conducive to establishing consensus on the methods for selecting the Chief Executive in 2007 and for forming the Legislative Council in 2008. Following the two constitutional development seminars held earlier on, we will organize a series of cross-sectoral

focus group discussion in coming weeks. We will continue to work in this respect.

As for freedom of speech, at the policy level, the Chief Executive and the Principal Official colleagues have made it clear in the last few weeks that freedom of speech is an inalienable part of the lifestyle and core values of Hong Kong. This is also a right protected under the Basic Law. The SAR Government will strive to defend and safeguard the right of Hong Kong people to express themselves freely. At the operational level, the police are conducting thorough investigations to establish whether any criminal element is involved in the incidents of radio programmes hosts taking themselves off the air, as well as members' offices being smeared and damaged. The police will pursue the case proactively.

Regarding part (b) of the question, in March and April this year, when the Task Force submitted the first and second reports to the NPCSC, we had also handed over to the NPCSC for consideration the views collected from various sectors of the community in the last few months. These include the views which are in support of and those opposed to the early introduction of universal suffrage. As a matter of fact, in the decision announced on 26 April, the NPCSC stated clearly that they had fully grasped and were fully aware of the concerns expressed recently by the Hong Kong community about the methods for selecting the Chief Executive and for forming the Legislative Council after 2007. These include the views of certain organizations and individuals who wished to see the selection of the Chief Executive and the election of all Legislative Council Members by universal suffrage in 2007 and 2008 respectively.

As for freedom of speech, the Chief Executive had earlier on made enquiries of the Central Authorities. They have stated clearly that it is the staunch and fundamental policy of the Central Government to safeguard "one country, two systems", "Hong Kong people running Hong Kong" and "a high degree of autonomy". The Central Government will not do anything to undermine "one country, two systems" and the interests of Hong Kong. The Central Government also supports the SAR Government to take action to safeguard the freedom of expression and of the press in accordance with the law.

MS EMILY LAU (in Cantonese): *Madam President, in the main reply, the Chief Secretary for Administration mentioned that since the "1 July"*

demonstration last year, people still have grievances and dissatisfaction in many respects, including in the political aspect, in their feeling towards the performance of the Central Authorities, in respect of freedom and administration, and so on. May I ask the Chief Secretary if he has estimated the turnout of the 1 July march this year? Would he ask Prof LAU Siu-kai to ask that organization to calculate the number of participants in the march?

PRESIDENT (in Cantonese): Ms Emily LAU, "estimate" seems to point to a hypothetical question.

MS EMILY LAU (in Cantonese): *Madam President, if he has done so, that will be a fact.*

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): According to the organization which has applied to hold the march, there will be 300 000 people taking part in this year's march. As to whether we will look into the turnout of the march, it will depend on whether there is such a need at that time. The Central Policy Unit always carries out in-depth studies on matters concerning the policies of Hong Kong and matters of concern to the people.

MS EMILY LAU (in Cantonese): *Madam President, my supplementary question is whether the authorities have carried out investigations to assess the turnout of this year's 1 July march.*

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): We will keep on conducting studies to understand what matters the people are concerned about. However, the most reliable messages and information still come from the estimation of those people who organize this rally.

MR LEE CHEUK-YAN (in Cantonese): *Madam President, Ms Emily LAU's question is mainly on assessing the aspects in which the people are dissatisfied with and what remedies there are. However, in his reply, the Chief Secretary*

for Administration mentioned four points. First, regarding the economy and employment, his reply was like asking the people to wait for luck to come; second, regarding improving governance, he said he would strive to

PRESIDENT (in Cantonese): Mr LEE, please raise your supplementary question direct.

MR LEE CHEUK-YAN (in Cantonese): *I will raise my supplementary question. Regarding the third point on the National People's Congress (NPC), it is disappointing but nothing whatsoever has been done; and the fourth point on freedom of speech, it is also the routine answer.*

PRESIDENT (in Cantonese): Mr LEE, stop making comments. Please put your supplementary question.

MR LEE CHEUK-YAN (in Cantonese): *I hope the Chief Secretary can be more specific in his reply. Can he propose some concrete remedies? This is because what he said was all very vague, with no concrete measures good enough to reduce the grievances of the people. Does the Chief Secretary consider that eventually more people should come out to join the march to continue their expression?*

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): With regard to the people's dissatisfaction with the current economic situation and political circumstances, I have earlier mentioned four reasons which I sincerely consider very real. In respect of each reason, I have also outlined the work done by the Government in the past few months or even within this year and the solutions. I think each of them is specific. If Members consider that we have omitted anything, we will surely make reference to their opinions.

MS CYD HO (in Cantonese): *Madam President, in the last paragraph of the main reply, the Chief Secretary mentioned that as regards the freedom of speech, the Chief Executive had earlier on made enquiries of the Central Authorities.*

Which departments of the Central Authorities are in fact related to or have influence on the freedom of speech in Hong Kong? What departments has the Chief Executive made enquiries with? Presently, too many people are coming out to make comments, but on what comments by people from which departments can we count on? If the comments by a lot of people are not to be counted on, can the SAR Government tell the people of Hong Kong whose comments we cannot take?

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Within the SAR, we can count on the words of the Chief Executive of the SAR.

MS CYD HO (in Cantonese): *Madam President, the Chief Secretary can relax somewhat for the first part of my supplementary question is about which departments of the Central Government are related to the freedom of speech in Hong Kong. This is because in the main reply, it was mentioned that the Chief Executive had made enquiries of the departments concerned. What are those departments?*

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): The freedom of speech in Hong Kong is protected under the Basic Law. This is the affair of the Hong Kong SAR Government. Every department of the Central Authorities ought to safeguard the implementation of the Basic Law and support the Basic Law provisions which stipulate the protection of freedoms in Hong Kong.

MS CYD HO (in Cantonese): *Madam President, I believe you will agree that the Chief Secretary has not answered which the concerned departments are. Could he simply give us the names of the departments?*

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

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): You would have to excuse me. She asked which departments were concerned but I can only say that it is the responsibility of the Hong Kong SAR Government to

implement policies stipulated in the Basic Law. As regards which departments affect Hong Kong's freedoms, I just consider that any department of the Central Authorities has the duty to maintain, uphold and safeguard the Basic Law, and the stipulations in the Basic Law relating to the protection of freedoms is also the duty of every department of the Central Authorities.

MS CYD HO (in Cantonese): *Madam President, thank you for allowing me to follow up this supplementary question again because the answer in fact is not to the point. The main reply said that "the Chief Executive had earlier on made enquiries of the Central Authorities", in that case, which departments had the Chief Executive contacted? Which departments are among those departments concerned? Madam President, I believe there can be an answer to this question.*

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): If this is the question, it is simple. The department we have contacted is the Hong Kong and Macao Affairs Office (HKMAO) of the State Council.

MR JAMES TO (in Cantonese): *Madam President, the last paragraph of the main reply pointed out that "As for freedom of speech, the Chief Executive had earlier on made enquiries of the Central Authorities. They have stated clearly that to safeguard "one country, two systems"". Ms Cyd HO just now asked which the concerned departments were and the Chief Secretary replied that it was the HKMAO of the State Council. Apart from the HKMAO, are there no other departments? That is to say, the departments concerned are only of the level of the HKMAO. Has any enquiry been made with the Central leaders?*

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): The leaders of the state are those in charge of the HKMAO. For the affairs of Hong Kong, we will definitely make enquiries through the HKMAO of the State Council as this is the proper channel. If other departments of the Central Authorities are involved, we will also make enquiries with these departments through the HKMAO. Their replies to Hong Kong have already reflected the views of the Central Authorities.

MR JAMES TO (in Cantonese): *I am afraid there might be some misunderstanding. Could the Chief Secretary point out if the person with whom enquiries were made of the HKMAO is of the rank of a state leader? This is because officials in the HKMAO are of different ranks and levels. Could he point out clearly who that person was?*

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Normally, I will not ask the Chief Executive clearly on what day and at what time he has handled affairs with which official of the HKMAO. According to the conventional practice, the Chief Executive's counterpart is the Director of the HKMAO, Mr LIAO Hui. They usually discuss this issue and other affairs of Hong Kong in their conversation. He is the counterpart of the Chief Executive.

MR JAMES TO (in Cantonese): *Madam President, can we have a written confirmation that it is the Director of the HKMAO, Mr LIAO Hui?*

PRESIDENT (in Cantonese): Mr James TO, please sit down.

MR JAMES TO (in Cantonese): *This is because what he said was the general case. I am afraid the reply may not be very clear to the public.*

PRESIDENT (in Cantonese): I think he has answered your supplementary question.

MR JAMES TO (in Cantonese): *Madam President, what he said was the conventional practice but we have a fact here in the main reply. That is reference to a fact because it mentioned "earlier on". This is where the problem lies. This is not something common. It is about the freedom of speech.*

PRESIDENT (in Cantonese): He has answered your supplementary question.

MS EMILY LAU (in Cantonese): *Madam President, the Chief Secretary earlier said that the organizer expected a turnout of 300 000 for this year's march. We of course hope that more people can participate as the scene will then be very impressive. The Secretary for Security may perhaps answer this question. May I ask what arrangements the police will put in place on that day? This is because some people have said they would make provocations, thus some other people are worried there may be incidents. Moreover, the police will always count the people. How in fact are they going to handle the situation that day?*

PRESIDENT (in Cantonese): Which Secretary is to answer? Chief Secretary for Administration.

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Let me tackle it first. I think on that day, we will have a sufficient number of police officers on site to take care of the wishes of the participants of the march to express their opinions about freedom in a lawful manner. Furthermore, during the process, some lawful actions will not interfere with or over-disrupt the normal life of the other people, nor will they cause excessive traffic congestion. The police have sufficient experience in this regard, and after the 1 July march of last year, we also have confidence in the police and trust that they can make arrangements for and handle any contingencies.

MS EMILY LAU (in Cantonese): *Madam President, my question was: If someone provokes or causes trouble, how will it be handled by the police?*

SECRETARY FOR SECURITY (in Cantonese): Madam President, the police have all along maintained communication with the organizer and discussed with it how order can be maintained on the day of the march. This is not the first instance of communication between the police and the organizer. The organizer has held various rallies and marches in the past, and between the police and the organizer, an understanding and a relationship of co-operation have been developed. With regard to this march, if I am asked to give a detailed account on the communication with the organizer, I would have to ask an expert of the Hong Kong Police Force to come here. He may need an hour to do that and has

to refer to the route map of the march in his explanation. Therefore, I cannot explain the process to Members here. However, communication between the police and the organizer has all along been good. So far, everyone is confident that on that day, the march will take place in a peaceful and orderly atmosphere. Of course, the organizer has assured the police that there will be pickets (it undertakes to have 500 pickets in place) around on the day of the march to maintain order. The police will be responsible for order not related to the procession. If there happens to be incidents of sabotage or actions in breach of the law, they will be handled by the police.

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

MR JAMES TO (in Cantonese): *Madam President, can the Chief Secretary confirm that when the Chief Executive had earlier on made enquiries of the relevant department of the Central Authorities, it was only the HKMAO, and if it was only the HKMAO, enquiries were only made with Mr LIAO Hui? Can he confirm this?*

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): With regard to the details of the contact between the Chief Executive and the Central Authorities, I cannot make comments here. All I can say is under normal circumstances, the Chief Executive's counterpart is Mr LIAO Hui.

MR JAMES TO (in Cantonese): *Madam President, he has not answered my supplementary question. What I am asking is a fact. I am hoping that the Government can put down in black and white this fact. I am not asking the Chief Secretary to make comments, but only to act in accordance with this fact. The Chief Executive had earlier on made enquiries of the relevant department of the Central Authorities, and that department is the HKMAO — only of the HKMAO and of Mr LIAO Hui of the HKMAO. That is all. Why does the Government have to withhold this? Their reply is clearly to uphold "one country, two systems", why does the Government have to withhold it or hide it? This is a fact, is it not?*

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

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): I have not withheld anything, I have told the fact. My reply is all factual, and there has been contact with the relevant department of the Central Authorities. I hope the President and Members can appreciate that I cannot discuss on this public occasion the details and contents of the discussions with the Central Authorities and the level of the counterparts.

MR JAMES TO (in Cantonese): *Madam President, I wish you can make a ruling. I have not asked him to give the details of which he has already mentioned. Rather, I am asking to whom the enquiries were made of. Is he not able to tell us name of the person? Is it because it involves a state secret or is it due to other reasons? Madam President, please make a ruling on this. I am following it up again and again simply because I want to know clearly the fact. Why did he say this would affect communication?*

PRESIDENT (in Cantonese): Mr James TO, I understand that you are not satisfied with the Chief Secretary for Administration's reply. However, just as it is the normal case during Question Time, the President is not in a position to instruct the official representing the Government as to how he should answer questions by Members. You have raised your supplementary question and he has given his reply in his way. To me, this should be all there is to it.

PRESIDENT (in Cantonese): Fourth question. Mr LAU Kong-wah.

(Mr LAU Kong-wah was not in the Chamber)

PRESIDENT (in Cantonese): We now proceed to the fifth question first. Dr Raymond HO.

Implementation of Complementary Proposals on Professional Development

5. **DR RAYMOND HO** (in Cantonese): *Madam President, regarding the implementation of complementary proposals on professional development, put forward by the Chief Executive in paragraph 38 of this year's policy address, will the Government inform this Council:*

- (a) *whether a work schedule has been worked out for various professional services to establish business platforms in the Mainland; if so, of the details, including the priority of engineers among the many professions;*
- (b) *of the measures in place to ensure that the Government will inject an average of about \$29 billion per year for capital works projects for the next five years; and*
- (c) *of the specific measures in place to minimize obstacles for local small and medium-sized professional organizations to participate in various tenders and consultancy contracts for government works?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): Madam President,

- (a) To promote the joint economic prosperity and development of the Mainland and the Hong Kong Special Administrative Region (SAR), the Central Government and the SAR Government signed the Mainland/Hong Kong Closer Economic Partnership Arrangement (CEPA) on 29 June 2003. The major commitments under CEPA have been implemented since 1 January 2004. Regarding trade in services, the Mainland will liberalize market access for 18 sectors, including construction and related engineering, real estate, accounting, insurance, legal, medical and dental, securities and other professional services. In addition, the two places have also agreed to encourage mutual recognition of professional qualifications under CEPA. In general, the measures in CEPA allow local service providers to provide professional services on the Mainland through reciprocal recognition or the establishment of enterprises.

CEPA adopts a building-block approach, allowing Hong Kong and the Mainland to pursue consultation on the fostering of trade liberalization in respect of professional services and incorporate the agreed liberalization measures into CEPA. The SAR Government is holding consultations with the mainland authorities with a view to making progress in different areas as soon as possible. At this stage, the Central Government and the SAR Government have not laid down any timetable or prioritized various professions for consultation with the Mainland.

As far as the construction industry is concerned, Hong Kong contractors and consultancy firms have already been permitted to set up wholly-owned operations on the Mainland according to their own timetable since CEPA came into effect. Nevertheless, the SAR Government is making great effort in co-ordinating the implementation of CEPA. We have been maintaining close contact with the stakeholders of the construction industry and seeking their views on the implementation of CEPA and the problems they have encountered. We have held several meetings with the Ministry of Construction, that is, the Ministry of Construction of the Central Government, to discuss the concerns of the industry in depth. We understand that it is the hope of the industry that the threshold for entering the mainland market can be lowered for Hong Kong companies. The SAR Government will continue to discuss with the Ministry of Construction matters including lowering the entry requirements for contractors and consultants, simplifying the procedure for applying qualification certificate and permit to commence work, the residence requirements on Hong Kong professional and managerial staff and the timing for injection of capital.

On the mutual recognition of professional qualifications in the construction-related sector, the SAR Government has been maintaining close contact with the professional bodies in Hong Kong, the Ministry of Construction and related mainland professional bodies. We have been actively promoting and co-ordinating the discussions on mutual recognition. To advance the discussions, we have led several times representatives from the relevant professional bodies in Hong Kong to meet officials from the Ministry of

Construction and related mainland professional bodies in Beijing at joint working conferences. Thanks to the efforts of all parties concerned, concrete progress in the mutual recognition of professional qualifications in the construction-related sector has been achieved. For example, the professional bodies of estate surveyors and architects of the two places have signed reciprocal recognition agreements in November 2003 and February 2004 respectively. The first round of training and tests were held in March and May 2004 respectively under the agreements.

We have also made good progress in the mutual recognition of qualifications of engineers. The relevant professional bodies of the two places signed a draft reciprocal recognition agreement for structural engineers in February 2004.

As arranged by us, the Hong Kong Institution of Engineers and the China Association of Engineering Consultants are discussing the qualification requirements of the mainland construction supervising engineers. In addition, we have also arranged for the preliminary exploration of the mutual recognition of electrical and geotechnical engineers by the two places.

In order to promote and hasten the mutual recognition of qualifications of the construction-related professions, we, together with the representatives from the relevant professional bodies in Hong Kong, plan to hold another working conference with officials from the Ministry of Construction and related mainland professional bodies in Beijing late this month. We hope that a formal reciprocal recognition agreement for structural engineers can be reached and signed at an early date and consultations on other professional qualifications can continue.

- (b) Regarding capital works projects, the Government will take into account its policy objectives, the established procedures, the development needs and the aspirations of the public in preparing a priority list of essential infrastructure projects. Proposals submitted by different departments are considered at the annual high-level resource allocation meetings in the light of available resources. New projects that need to be undertaken and should

commence within five years will be included in the Capital Works Programme.

According to the 2004-05 Estimates, there was an outstanding commitment of about \$115.8 billion in respect of Category A projects as at 31 March 2004. During the 2004-05 financial year, works will start on new projects currently in Category B in the Public Works Programme with an estimated total value of about \$24.3 billion. The total value of these projects amounts to \$140.1 billion, most of which will be paid within five years. Including the estimated expenditure of the minor works and other items under planning and design which will commence within five years, the Government will reserve about \$29 billion per year for capital works projects for the next five years.

- (c) Under the List of Approved Contractors for Public Works, contractors are divided into three groups according to their financial and technical capabilities. Contractors in each group (that is, Group A, B or C) may tender for works contracts of different value. Group A contractors may bid for contracts up to \$20 million; Group B contractors may bid for contracts up to \$50 million; and Group C contractors may bid for contracts of any value exceeding \$50 million. This system can ensure that small and medium-sized companies have the opportunity to tender for contracts in keeping with their capability.

To further encourage small and medium-sized contractors to bid for large projects, the Government allows them to form a joint venture company and submit a single tender on condition that the contractors can jointly satisfy the requirements listed on the tender documents and each of the contractors has the technical knowhow to carry out the part of the works for which it is responsible.

The Government may also split a single contract into smaller ones as far as possible so as to encourage the participation of small and medium-sized contractors. In determining whether a contract should be split into smaller ones, various factors are considered, including feasibility, interface problems, access problems, land

availability, various impacts (environmental, drainage and so on), availability of works areas, quality of works and economic benefits.

Regarding consultancy services, our procurement guidelines specify that only small consultancy firms with up to 10 professional staff are allowed to bid for small and simple consultancies with estimated consultancy fees not exceeding \$4 million, except for specialized projects. Architectural consultants are also divided into two groups according to their experience and staff size. Companies in each group may only bid for certain contracts. These measures can ensure as far as possible an even distribution of work among consultancy firms of different scale.

DR RAYMOND HO (in Cantonese): *Madam President, I thank the Secretary for spending more than 10 minutes reading out the detailed main reply. I also understand that the Government has made a lot of efforts and done a lot of work in mutual recognition of qualifications. However, although now that the professional bodies of architects and estate surveyors have already signed the final agreements on mutual recognition of qualifications, in the engineering sector where there are 16 disciplines and structural engineers are in the first place, even in the mutual recognition of qualifications of structural engineers, only a draft agreement has been initialled and the final agreement has yet to be reached. Can the Secretary tell us when final agreements can be reached for all the 16 engineering disciplines? It is because the WTO-related arrangements will be formally implemented very soon. In regard to the timetable concerned, will there be clearer directions for us to follow?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): Madam President, insofar as the mutual recognition of qualifications of the professionals is concerned, I believe, the progress will be different for different trades and sectors. At present, agreements have been signed for two professions, that is, architects and estate surveyors. However, the Government has not accorded any priority to any profession or favoured any profession in particular. We only provide the opportunities and framework to facilitate professionals of various sectors to undertake discussions within this framework. It is because each profession, for example, electrical engineers and geotechnical engineers in the engineering sector, may have different concerns.

For their area of interest, that is, the qualifications, their concerns may be different. There are questions such as the qualifications of which place are recognized to be higher or lower, and whether the one with the higher recognition should accommodate the one with lower recognition, or *vice versa*. Or in terms of the number of people and employment opportunities, how mutual recognition will be affected in future? Estate surveyors and architects have very different views even in this aspect. These cannot be led by the Government but have to be discussed by the professions concerned in the light of conditions reckoned to serve their respective situations well while maintaining the professionalism and trade standards. Therefore, I am unable to answer Dr Raymond HO's supplementary, that is, how we can map out a plan on when a consensus can be reached for the 16 disciplines. When both sides find the conditions appropriate, a consensus can certainly be reached. We only provide the opportunities and framework to facilitate their discussion.

MR YEUNG YIU-CHUNG (in Cantonese): *Madam President, may I ask the Secretary, in the case of some major projects that cannot be broken down into smaller projects, if it is possible to provide in the contract that local companies should have a certain degree and ratio of participation, or provide in the contract that the technology concerned should be transferred to local companies? I hope the Secretary can answer this question.*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): Madam President, I think Mr YEUNG Yiu-chung was asking about the procurement agreement, was he not? In regard to requirements concerning procurement and large-scale projects in government tenders, as the provisions concerning government procurement of the World Trade Organization have already come into effect in Hong Kong since 19 June 1997, we have a provision in which the basic principle is non-discrimination. Under this principle, we have to lay down some assessment criteria for public works contracts to which the agreement is applicable. In other words, we cannot give preferential treatment to local contractors, otherwise, we may be queried as discriminating against overseas contractors. As regards this Government Procurement Agreement (GPA), it is being actively studied. Indeed, concerning works projects, our hands are tied in some measure, but in consultancy projects, there is no such limitation and this is very clear. Therefore, we want to use other measures to encourage overseas contractors

investing in Hong Kong to hire Hong Kong professionals as their contractors. At the same time, concerning technology transfer, Hong Kong professionals also need to work hard. For instance, we have built two bridges, Tsing Ma Bridge and Ting Kau Bridge. Their construction also involved technology transfer. We did not require the companies to do so. We only made a conscientious effort to grasp the technology concerned in the process so that we could continue to develop this kind of new technology in Hong Kong.

MR LEE CHEUK-YAN (in Cantonese): *Madam President, our main concern is the number of infrastructure projects. There are about 200 000 workers in the entire construction industry in Hong Kong. After seeing part (b) of the main reply, I want to ask the Secretary what the employment prospects of these 200 000 workers will be like in future. The main reply says that there will be projects valued at \$115.8 billion in future, and there will still be about \$29 billion on average per year. However, I believe that the Secretary also knows that recently, the Hong Kong Construction Association, the industry and the Government have conducted discussions on the issue. An association for consultancy firms expressed that the total value of projects that they got was 70% less than that in the past, and only 30% was left. If consultancy firms are the first or the main contractors (that is, government projects are firstly contracted to consultancy firms to carry out the lead stage of work), and if the total value of their projects is also reduced by 70% while only 30% is left, they will feel that the prospects of the entire industry are very miserable. I would like to know whether the Secretary has an answer to them in this aspect. Given that there is so much money, and while the Government has said that it will use such money, why is the total value of projects taken up by the consultancy firms so small? What is the problem? We cannot get an answer so far and I hope that the Secretary can furnish an answer to us.*

PRESIDENT (in Cantonese): Mr LEE Cheuk-yan, when you ask questions again in future, please be concise, as you have just used about two minutes for your supplementary.

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): Madam President, I understand that Mr LEE Cheuk-yan is very much concerned about the issue of employment opportunities. On many different occasions, we have had discussions on this issue. The construction

industry is a hard-hit area, being one of the industries where the unemployment rate is the highest. We have to look at this issue from two perspectives. From one perspective, we can look at the number of positions for manual labour provided by government infrastructure projects. From the other perspective, we cannot forget that since a majority of the hundred thousands of construction workers are engaged in the construction of real estate property, the construction of such kind of property is their major projects and government projects only account for a proportion of their works. The number of positions of manual workers provided annually by our infrastructure projects are about 36 000, plus another 3 600 positions of professional technical staff. Under the latest planning, we estimate that insofar as the existing and newly commenced works projects are concerned, in the coming five years, 41 000 manual labour and another 4 200 professionals will be needed per year. In terms of the projects, Members should understand that the number of manual workers needed for infrastructure projects is smaller than that needed for real estate property projects. The building of bridges and roads is not labour intensive. Hence, various kinds of government projects, whether Category A projects or minor projects, are introduced as far as possible during this period of time when the economic conditions are not so desirable, in the hope that our target can be attained, which is to employ 36 000 workers in the first few years and to employ 41 000 in the following five years. However, the entire construction industry cannot only rely on government projects to give all workers jobs. We hope that the economy will revive. If more buildings are constructed, the employment opportunities of workers will increase. The second part of Mr LEE's supplementary is related to the Government's undertaking of spending \$29 billion. Is the Government's continual spending on works projects helpful to improving the situation? In fact, our projects are not brought forward simply for employment purpose. The infrastructure of Hong Kong is of the utmost importance to the future development of Hong Kong. If we do not plan properly, insist on continuously carrying out infrastructure projects when there are still a lot of constraints in the economic environment, we are afraid that when the economy revives in future, we will be unable to catch up. Therefore, the arrangements for these projects should be persistently maintained.

MR LEE CHEUK-YAN (in Cantonese): *Madam President, the part of my supplementary that the Secretary has not answered is that as far as the construction projects are concerned, the total value of projects taken up by*

consultant firms has been reduced by nearly 70%, and they doubt very much whether some infrastructure projects have really been brought forward. They even doubt whether the Government has genuinely set aside \$115.8 billion, because if this is true, they should immediately have got some work to do and the consultants should have started the design work. However, they have no work to do. They want to know very much why it would be like this.

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): Madam President, I do not know which engineering consultants Mr LEE has discussed with. In this market, there is bound to be competition. Some people will get more projects while some will get less. Some people will do better and their chances of getting more projects may thus be greater. There are altogether 270 projects under planning or at the detail design stage. In 2003-04, a total of \$31.4 billion was spent, and in 2004-05, the estimated expenditure will be \$32.9 billion. These figures can prove that the infrastructure projects of the Government have been coming on stream.

PRESIDENT (in Cantonese): We have spent more than 21 minutes on this question. Last supplementary.

MISS CHOY SO-YUK (in Cantonese): *Madam President, in his answer to the supplementary of Mr YEUNG Yiu-chung, the Secretary said that the Government would take various means to encourage foreign companies to co-operate with Hong Kong companies in submitting tenders. May I ask the Secretary whether there are any more innovative and effective measures to really encourage co-operation between foreign companies and Hong Kong companies in bidding for some major construction works projects? Can the technology transfer mentioned by the Secretary be mandated?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): Specifically, I can only think of some cases. For instance, our major water treatment plant is being operated under a joint venture between a Japanese-invested company and a Hong Kong company (that is, being Hong Kong-invested). The Hong Kong company can provide labour, mechanical and

engineering professionals. But in water treatment technology, the Hong Kong company has to rely on foreign assistance. This is a very good example of co-operation. In terms of operation, of course, a foreign company, when tendering for a project, could make use of the advantageous conditions of the local company in being familiar with the local situations and hiring local workers. It naturally would have an edge in the tender price (as we have to take tender price into account). Therefore, since its technology is up to standard while it is in the most favourable position in terms of tender price, it can naturally bid for the tender successfully. I believe that in these aspects, we will have different ways to handle each and every case.

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

MISS CHOY SO-YUK (in Cantonese): *Yes. I asked whether the Government had any measures, not any example.*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): In my reply to Mr YEUNG earlier, I said that in regard to the GPA, we are in the process of studying. But there are a lot of restrictions. We cannot openly express that local workers or local companies must be employed, as this will be in breach of the principles under the GPA and I do not want to be involved in any lawsuit. Therefore, in this aspect, we have to figure out how this can be done technically instead of binding them to do so on contract.

PRESIDENT (in Cantonese): Sixth question.

Electronic Waste

6. **MISS CHOY SO-YUK** (in Cantonese): *Madam President, regarding electronic waste, will the Government inform this Council:*

- (a) *of the quantities of electronic waste generated in Hong Kong in each of the past three years, broken down by component material, and the*

respective percentages of various types of waste component materials in the total quantity of electronic waste generated, as well as the quantity of electronic waste transported to landfills for disposal each year;

- (b) whether there are channels for the recovery of electronic waste; if so, of the relevant details and the total quantity of such waste materials recovered over the past three years; and*
- (c) whether it has new plans in the future to handle electronic waste?*

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

- (a) The Government does not have information on the quantity of electronic waste generated in Hong Kong in the past three years. However, according to a survey conducted by the Environmental Protection Department (EPD) in 2002, over 1.5 million units of computers and domestic appliances are discarded in Hong Kong each year.

We do not have a breakdown of the types of electronic waste disposed of at landfills. In the past three years, the total quantity of electronic waste (including used electrical appliances) disposed of at landfills each year was 22 800 tonnes, 24 200 tonnes and 18 700 tonnes respectively, most of them being domestic appliances and electronic products, computers, monitors and circuit boards.

- (b) According to the findings of the above mentioned survey conducted by the EPD, a large proportion (about 70%) of the electronic products and electrical appliances which had been thrown away were reused or collected by recyclers and sold as second-hand goods. Only a small proportion (about 30%) of them was dumped.
- (c) The EPD has engaged Caritas (Hong Kong) and St. James' Settlement to promote a territory-wide trial programme to recover computers and electrical appliances respectively since January 2003. The trial programme aims at exploring environmentally sound

recycling outlets for used computers and electrical appliances, and examining the financial and operational requirements for running such a long-term recycling programme. The trial programme has been well received by the public, collecting over 25 000 units of computers and electrical appliances. Computers and electrical appliances collected are either donated to charitable organizations/the needy or dismantled with the recovered parts and materials sold to recyclers. We will consider how similar schemes can be further promoted in the light of the results of the trial programme.

Moreover, the EPD is examining the feasibility of implementing a product responsibility scheme for electronic and electrical equipment. The EPD has initiated preliminary discussion with the trade, and intends to carry out a regulatory impact assessment study on the proposed scheme within this year. The aim of the study is to evaluate in detail the cost-effectiveness of different options and their impacts on the industry and stakeholders in accordance with the "polluter pays" principle, so as to identify practicable options for extensive public consultation.

MISS CHOY SO-YUK (in Cantonese): *Madam President, the Secretary mentioned in the last paragraph of her main reply that the Government was currently consulting the trade on issues such as product responsibility scheme and polluter pays principle, and that an extensive public consultation would also be conducted at a later stage. I would like to ask the Secretary the kind of products to be covered. In other words, among the electronic products, which category will probably be included in the area of "polluter pays" principle? And when will the document be published?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): We will have an overall plan at year end, a plan to evaluate the impact of the policy. Therefore, relevant data will not be available until next year. Our plan is to conduct evaluations and consultations with various sectors of the community pursuant to the "polluter pays" principle and in accordance with the options available as well as the cost-effectiveness of such options. Initially, we have chosen some products which are of major and immediate

concern to the public for consultation. Electronic products, domestic appliances, car tyres, rechargeable batteries and beverage containers are products included in the current consultation exercise. We have also requested the Consumer Council to carry out opinion polls for us in order to collect consumers' opinions in this respect. We will then recover products which are of major public concern. As for the product responsibility scheme, we also need a method to put it into practice. Most importantly, the consumers have to pay for the costs. I always say that "the fleece comes off the sheep's back". However big or small the impact may be, the point is whether it is acceptable to the consumers.

Judging from the situations in other countries, the producers have very great reservations about this. When implemented in countries like Japan, the scheme received consumers' support. We still have no idea how far our consensus may reach. The relevant timetable, which is still very primitive, can only be formulated later.

MR SIN CHUNG-KAI (in Cantonese): *Madam President, this kind of recovery programme is in fact an all-win option because the Government can minimize the quantity of waste. As for those who dump waste, the introduction of such a programme can also reduce the quantity of waste they create for the community. However, the problem lies in the need of some seed fund to implement the programme. For instance, a plant is needed to carry out initial processing. To make it simple, when dealing with computers, several sets have to be handled concurrently. Madam President, I know that you are very anxious. Will the Government, in the interest of achieving an all-win situation, consider providing some seed money to those organizations which voluntarily recycle electrical appliances or computers with a view to implementing such a recovery programme?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): Madam President, we have been discussing the recovery and recycling industry (we call it green industry) as a programme for the past one or two years. Tests have been carried out to determine how much money is needed. If we do not know how much money is needed, how can we calculate the seed money? How can we explain to other trades? How can we justify

granting special allowance to the green industry while other trades are not entitled to any? For the past year or so, thanks to the collaboration of all parties concerned, we have envisaged a serious lack of storage space and an exorbitant level of land rent in Hong Kong, which is a huge expenditure item. Besides, transportation cost is also very high. In densely populated areas, it is basically very difficult to find sites to store and accumulate used articles to a sizeable quantity for one-time delivery to remote places for processing. As a result, frequent transportation is necessary. This is also a key issue. Recently, I have raised the concept of green industry at the Economic and Employment Council (EEC), pointing out that the Government should provide assistance in terms of capital investment. We should consider the forms of assistance, particularly in terms of land. As for the future operation, we should also study on the whole operation plan to see how the money, after deducting the cost of landfills, can be used to subsidize the recovery process. Moreover, we have to co-operate with the industrial sector which, hopefully, can suggest some productivity enhancement methods on handling wastes. They do not just engage in the labour-intensive part of the work; they also have to make it possible for Hong Kong to engage in the final stage of recycling the wastes for reuse. And this involves industrial and technological investments.

I raised these issues at the EEC meeting and gained members' agreement. Our next step will be working on the policy on green industry in order to determine how government subsidy can be provided to the industrial estates and industrial operation to take forward the next step of the plan. Of course, we have also planned to set up a Recovery Park under the same concept, but it can only be implemented later. I therefore hope that, when considering the background of the whole green industry, priority should be given to the use of the existing land in the industrial estates to promote the industry.

MR SIN CHUNG-KAI (in Cantonese): *I wish to seek a clarification on the Recovery Park mentioned by the Secretary in her reply. When will it be implemented?*

PRESIDENT (in Cantonese): Mr SIN, please wait for your turn because the clarification sought by you is not part of the supplementary question you asked just now.

MR HENRY WU (in Cantonese): *The Secretary mentioned in part (c) of the main reply that two organizations had started a trial programme since January 2003 to recover computers and electrical appliances. Although a total of 25 000 units have been recovered, the percentage is very small compared with the 1.5 million pieces of waste produced every year in Hong Kong as estimated by the Secretary in her main reply. Insofar as this quantity is concerned, does the Secretary know the methods used by these two organizations in persuading the public to let them recover these so-called used articles? In addition to the experiences of these two organizations, will experiences which have proven to be effective in waste recovery be considered in future?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): Regarding computers and electrical appliances, the quantity according to a survey by the EPD was 1.5 million pieces. We have mentioned in the latter part of the reply that about 70% of the appliances were collected by recyclers. If you have the experience of dealing with "junk collectors", you will know that they are willing to collect computers and electrical appliances. The problem is that some people do not have the channel to find anyone to collect their appliances. Therefore, we have co-operated with St. James' Settlement and Caritas because they have regular clients and their information and can carry out recovering through their websites. As the recovering exercise has yet to achieve its best result, we will consider allowing more organizations to participate. At present, many non-profit-making or non-governmental organizations have indicated interest. We will examine if there are any other channels to encourage the public not to dispose of unwanted articles at the landfills. For example, vacant land in urban areas can be utilized to hold weekend recovering activities for different kinds of commodities so that members of the public can bring items to the recovery dealers or for exchange. We will consider any other new methods to raise the recovery rate.

MR HENRY WU (in Cantonese): *Just now I asked the Secretary if she knew the methods used by St. James' Settlement and Caritas to implement the programme. Do they use only the method just mentioned by the Secretary?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): Yes.

DR RAYMOND HO (in Cantonese): *Madam President, 1.5 million pieces of discarded computers and electrical appliances per year are actually quite a large quantity. The Secretary mentioned in part (b) of the main reply that around 70% of them would be reused or collected by recyclers for second-hand trades. Only 30%, a small portion, would be discarded. May I ask the Secretary of the method adopted to ensure the reliability of the percentage? Could it be possible that over 70% of the used computers and electrical appliances are dumped at the landfills instead of just 30%? Is our recovery rate lower than those in developed countries overseas?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): *Madam President, this is the result of a detailed survey conducted by the EPD in 2002 on the production and disposal of electronic waste. The purpose of the survey was to assess the quantities and disposal methods of the electronic waste produced by households and the business sector. After interviewing 2 000 households and 300-odd companies, the findings of the survey showed that 1.31 million pieces of used electrical appliances and computers were produced annually by households and 230 000 pieces of used computers were produced annually as a result of industrial and commercial activities. In other words, a total of 1.54 million pieces of used electrical appliances and computers are produced every year. 30% of the interviewees said that the articles would be given away and reused by someone else. 40% of the interviewees indicated that the articles would be sold to recyclers as second-hand goods. Only 30% of the interviewees would throw them away as garbage. As to whether the figures are high or low compared with those in foreign countries, the recovery rate in Japan, for example, is very high because commercial operations are governed by legislation which makes it mandatory to recover electrical appliances. In accordance with the legislation in Japan, manufacturers of electrical appliances are also obliged to recover 85% of the appliances they produced in terms of weight. Apart from recovery exercises, recovery parks and a whole set of recovery mechanism have also been put in place in Japan. Therefore, the recovery rate in Japan is much higher than ours.*

MISS CHOY SO-YUK (in Cantonese): *Madam President, most electronic wastes in fact contain toxic substances. Some European countries have drawn up timetables restricting the hours during which delivery of electronic wastes to the landfills is prohibited. The Secretary also mentioned that some countries*

had even passed legislation to make it mandatory for the manufacturers to recover electrical appliances and electronic products. May I ask the Secretary whether the Government will prohibit disposal of electrical appliances and electronic products at the landfills and introduce a manufacturers' recovering programme in conducting the consultation by a relevant document?

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): Madam President, as Miss CHOY has said, this is a radical remedy. If we do not tackle the problem at root in our waste disposal programme, we will not be able to resolve the problem. So, in our study, we will certainly consider the responsibility of products recovery. But the situation in Hong Kong is a bit different: there are very few products of Hong Kong origin and most products are imported from overseas. If we make the manufacturers responsible, it will be impracticable as Hong Kong basically lacks the facilities. Thus, in respect of the green industry, the key is how far we can go. However, we are not short of wits in this aspect because the importers should also be held responsible. In Taiwan, for instance, if the importers are not willingly to recover all products under their dealership, then they will provide financial subsidy which will be handled by a central fund on their behalf. But the responsibility will ultimately fall on the products which, as I have just said, will then be shifted onto the consumers. When you purchase an electrical appliance in Japan, you will have to pay a few thousand yen up front over the selling price as the future cost of discarding the electrical appliance. This is feasible and we will study thoroughly to identify the most suitable, practicable and economically effective way to implement it in Hong Kong.

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

MR HENRY WU (in Cantonese): *Madam President, as for the two organizations operating a recovery programme just mentioned by the Secretary, 70% of their collected articles would be given to the second-hand recyclers. Will they be vying with the public for profits? Since some of the electrical appliances recovered by those two organizations may not be suitable for exchange, so will they re-sell those appliances to second-hand recyclers?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): Madam President, I do not see any question of vying for profits with the public because the recovery process we just mentioned costs money. They have to look for clients and provide transportation. Therefore, it is a reasonable mode of operation for them to re-sell the articles after recovery and sorting.

PRESIDENT (in Cantonese): Last oral question.

Hong Kong Residents Being Detained, Extorted or Kidnapped on the Mainland

4. **MR LAU KONG-WAH** (in Cantonese): *Madam President, regarding the alleged detention, extortion or kidnap in the Mainland of Hong Kong professional drivers shuttling between the Mainland and Hong Kong and other Hong Kong residents, will the Government inform this Council:*

- (a) *of the respective numbers of cases reported to the police each month in the past year alleging that Hong Kong professional drivers and other Hong Kong residents were detained, extorted or kidnapped by criminals on the Mainland;*
- (b) *of the assistance rendered to the alleged victims by the Hong Kong authorities upon becoming aware of such incidents, and the latest developments of these incidents; and*
- (c) *as the majority of the cases concerning alleged detention of Hong Kong residents on the Mainland involved personal and business disputes, whether the Hong Kong authorities are unable to offer assistance for the relevant alleged cases of kidnap and detention, and how effective their joint efforts with the Mainland counterparts are in preventing and combating such crimes?*

SECRETARY FOR SECURITY (in Cantonese): Madam President,

- (a) For the year up to the end of May 2004, 283 cases had been reported to the Hong Kong Police alleging that Hong Kong residents were

detained and extorted in the Mainland. During the period, the number of reports ranged from some 10 to 30-odd each month, among which only one case involved a professional driver shuttling between the Mainland and Hong Kong.

- (b) Upon receipt of a crime report, the Hong Kong police will endeavour to enquire from the person concerned details of the case and make records as appropriate. With the consent of the person concerned or at his request, the police will pass the information to the public security authorities of the Mainland for their follow-up. The Hong Kong police will also assist in the work of their mainland counterparts as far as possible, such as assisting Hong Kong residents to travel to the Mainland to participate in the identification process, to verify the lost properties, and so on.
- (c) It must be stressed that under the "one country, two systems" principle, the Mainland and Hong Kong are two different jurisdictions. Regardless of the motive of the incidents, the investigation and enforcement efforts on crimes that take place in the Mainland must be followed up by the mainland authorities. Therefore, when a Hong Kong resident becomes a victim of crime in the Mainland, he should report the crime immediately, file the case with and provide information to the relevant mainland law enforcement agency, and assist in the investigation in order to bring the criminals to justice.

The Hong Kong police and mainland law enforcement agencies have been jointly combating crimes in the boundary areas through different channels, such as regular meetings and exchange of crime information and intelligence. The Hong Kong police also provide support to the victims for them to assist in the investigation efforts of mainland public security authorities. Besides, the "Shenzhen-Hong Kong Land Boundary Police Co-operation Scheme", which was implemented in January last year, has further strengthened the cross-boundary liaison between the police of Shenzhen and Hong Kong in the maintenance of law and order of the boundary areas and the land boundary control points. In fact, in the first five months of this year, the number of alleged cases of

detention of Hong Kong residents in the Mainland has reduced by more than 50% when compared with the same period last year.

MR LAU KONG-WAH (in Cantonese): *Madam President, did the mainland law enforcement agencies inform the Hong Kong police of the progress and detection rate in respect of the 200-odd complaints or cases of the past year? If there is no such information, is it possible to strengthen collaboration with public security authorities of the Mainland?*

SECRETARY FOR SECURITY (in Cantonese): Madam President, presently there is no standing mechanism under which mainland authorities will inform the Hong Kong police of the progress of individual cases. However, the Hong Kong police will make appropriate follow-up enquiries with mainland agencies about certain cases having regard to their nature, such as their seriousness or urgency. In response to enquiries of the Hong Kong police, the public security authorities of the Mainland will also provide as far as possible the progress and result of the investigation to the Hong Kong police, provided that their investigation will not be affected. We must understand that as the cases reported took place in the Mainland, they are under the jurisdiction of the Mainland and the public security units of the Mainland have their own priorities of work. The police's practice of following up or making enquiries about certain cases having regard to their nature can avoid causing disruption to the work of the public security authorities of the Mainland.

In addition, regarding the detection rate that Mr LAU Kong-wah asked about, I do not have relevant information on hand at the moment. However, I can say that according to information acquired through our liaison with the public security authorities of the Mainland, many persons who were involved in the cases did not report to the Hong Kong police until they had returned to Hong Kong. Our follow-up with the public security authorities of the Mainland reveals that 90% of the persons involved were not willing to render support to the follow-up investigation work of the public security authorities of the Mainland. After reporting the case to us, many of them would not file the case with the public security authorities of the Mainland for action or would not provide further information to facilitate follow-up by the public security authorities of the Mainland after filing the case. Therefore, although I do not

have information on the detection rate on hand at the moment, I can say that, under such circumstances, the detection rate of these cases might not be too high.

MR IP KWOK-HIM (in Cantonese): *Madam President, the Secretary mentioned in the main reply that in the first five months of this year, the number of cases of detention of Hong Kong residents in the Mainland reduced by 50%. However, I have personally received many complaints which indicate that there is an increase in extortion cases. In particular, drivers of container trucks were extorted by criminal syndicates on such excuses as collision of vehicles. In this aspect, now that the second border line has been deleted, there will be an increase in such cases. May I ask the Secretary for Security whether he has studied with the Mainland as to whether there has been an increase of crime cases as a result of the deletion of the second border line or the admission of an increasing number of outsiders into the city of Shenzhen? Has any assessment been made on the emergence of this trend?*

SECRETARY FOR SECURITY (in Cantonese): Madam President, the law and order of Shenzhen has to be handled by public security authorities of Shenzhen. Under the "one country, two systems" principle, firstly, we do not have such power of law enforcement; secondly, we are not in a position to deal with crimes that take place in Shenzhen. Of course, if Hong Kong people are involved in the crimes and they complain to us, we will definitely refer the relevant information to the public security authorities of Shenzhen or the Mainland for follow-up. As to whether the law and order situation of Shenzhen has worsened after the lifting of the second border line, I am not in a position to answer this question from Mr IP Kwok-him.

MR IP KWOK-HIM (in Cantonese): *Madam President, my supplementary question is only about whether he has discussed this issue with the Shenzhen police. I am not talking about taking follow-up measures or intervening with the work of the Shenzhen police.*

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

SECRETARY FOR SECURITY (in Cantonese): Madam President, the Hong Kong police hold regular meetings with the public security authorities of Guangdong and the Macao police. Matters of mutual concern or involving cross-boundary crime cases are discussed at these regular meetings. As to whether specific issues such as law and order of Shenzhen will be discussed at these meetings between the three places, I do not have the relevant information at the moment.

MS MIRIAM LAU (in Cantonese): *Madam President, as a matter of fact, I frequently receive complaints about extortion on cross-boundary drivers in the Mainland. Mr IP Kwok-him has just mentioned that figures in that respect might actually be on a rising trend. The industry has made their request through various channels and has repeatedly asked the mainland authorities to step up patrolling of the border area and highways. Of course, the Hong Kong police cannot ask the mainland authorities to do things in a certain way, but now that the "Shenzhen-Hong Kong Land Boundary Police Co-operation Scheme" is in place and regular meetings are held, can the Secretary inform us whether it is possible to really cause, through this mechanism, the public security authorities of the Mainland to step up patrolling in this area to reduce the occurrence of such extortion crimes, thereby protecting the safety of professional drivers of Hong Kong?*

SECRETARY FOR SECURITY (in Cantonese): Madam President, on 19 January this year, the Hong Kong police, in collaboration with the Shenzhen Public Security Bureau, implemented the "Shenzhen-Hong Kong Land Boundary Police Co-operation Scheme". The objective of the Scheme is to enhance cross-boundary police liaison on law enforcement matters in the boundary area, with particular emphasis on the land boundary control points, so that both sides can co-operate more effectively to combat criminal activities and maintain law and order of the border and the land boundary control points. In addition, the police authorities of both sides aim at providing quality and convenient police-related services to boundary crossers, including container truck drivers, of course, through the Co-operation Scheme. Under the Scheme, upon receipt of complaints by Hong Kong people (including drivers holding driving licences of both sides), the Hong Kong police will definitely discuss the matter with its Shenzhen counterpart in accordance with the arrangements of the Scheme. For example, two Hong Kong drivers recently complained after returning to Hong

Kong about their detention and extortion. We immediately contacted the Shenzhen authorities through this mechanism. They were also very concerned about the matter. Within a few days, they cracked the case and arrested the criminals. We hope that under this Co-operation Scheme, we can do better in enhancing law and order at the border in the future.

DR TANG SIU-TONG (in Cantonese): *Madam President, the Secretary said in the second paragraph of part (c) of the main reply that the "Shenzhen-Hong Kong Land Boundary Police Co-operation Scheme" had been implemented for nearly half a year. Is it serving its purpose well? Among the 283 cases of detention and extortion during the past year, how many of them have been successfully tackled since the implementation of the Scheme?*

SECRETARY FOR SECURITY (in Cantonese): Madam President, the Co-operation Scheme was implemented on 19 January 2003. Up to end of May this year, the Police Report Centres at the four land boundary control points on Hong Kong side received a total of 587 cases of alleged detention, theft, robbery, assault and defraud, and 150 of these cases have been dealt with by the Co-operation Scheme. However, about 90% of the alleged victims of these cases were unwilling to assist in the investigation. The alleged victims of only 18 of these cases were willing to report the details of the cases to the mainland authorities, that is, to describe in detail to the public security authorities of the Mainland about how they were extorted or detained, and the alleged victims of only 11 cases were willing to go to the Mainland to assist in the investigation. Under such a situation, the crime detection rate was actually on the low side, the main reason being that the persons involved in the cases were not willing to co-operate with the public security authorities of the Mainland in following up the cases due to various reasons.

MR HOWARD YOUNG (in Cantonese): *Madam President, the Secretary pointed out in part (a) of the main reply that the number of cases involving the Mainland ranged from some 10 to 30-odd each month, among which only one case involved a professional driver shuttling between the Mainland and Hong Kong, although the case was prominently reported in the news. As there were so many cases, has the Government assessed what kind of people were mainly involved in these cases, that is, what kind of people stood a higher risk of running*

into such problems? For example, were they people who made investment in the Mainland, or people who occasionally went to the Mainland for business or just for pleasure? Has this sort of analysis been made?

SECRETARY FOR SECURITY (in Cantonese): Madam President, according to information provided by the alleged victims in their reports to the Hong Kong police, the cause of some of the cases was commercial dispute, that is, there were commercial disputes involving their business. Some cases involved personal disputes with mainlanders. There were also "badger game" cases in which the victims had fallen into sex traps. There are mainly these several categories. As to a percentage breakdown by category, we do not have such information at the moment.

MISS CHAN YUEN-HAN (in Cantonese): *Madam President, in replying to Honourable colleagues earlier, the Secretary said many times that about 90% of the alleged victims were not willing to provide information to mainland agencies. The Secretary also said earlier that there might be many reasons for this, but I believe this might have been due to reasons revealed in some hearsay that has reached us, for example, that the criminals are syndicated or even have connections with the government — We have received many complaints, and some drivers of the Hong Kong Federation of Trade Unions were actually affected. Facing a situation in which 90% of the complainants are not willing to go to the Mainland to provide evidence, has the Government discussed with the mainland authorities what the problem is? Are they aware that there are certain syndicates in the Mainland, that is, if they go back to the Mainland to provide evidence, the result would be that they would not be able to travel between Hong Kong and the Mainland again? Has the Government investigated into the reason for their not being willing to go to the Mainland to provide evidence?*

SECRETARY FOR SECURITY (in Cantonese): Madam President, I think that it is a very personal matter if the persons involved are not willing to provide further information to the public security authorities of the Mainland, that is, they have the right to do so, and there is the possibility that one might not wish to publicize the incident out of privacy considerations. I think the Hong Kong police cannot force them to go to the Mainland to report the case or force them to tell the true reasons. Miss CHAN Yuen-han mentioned whether alleged victims

were afraid that filing their cases might affect their doing business or driving in the Mainland because the culprits had connections with mainland law enforcement agencies. I am of the opinion that this is purely speculation without any material evidence.

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

MR JAMES TO (in Cantonese): *Madam President, security authorities should care about the safety of Hong Kong people, no matter they are in Hong Kong or elsewhere. The Secretary for Security pointed out earlier that a total of 500-odd cases had been dealt with under the Co-operation Scheme, but more than 90% of the alleged victims were not willing to go to the Mainland to provide further information for follow-up. Does the Government intend to ask — of course some victims of "badger game" cases might not be willing to tell their stories, but not every case belongs to this category — or investigate for what reason no follow-up has eventually been carried out for those cases for which information were passed onto the mainland authorities through us? Would it be helpful to protecting the safety of Hong Kong people and effecting improvement of a certain degree to certain systems by the other side if our views were appropriately reflected to them?*

SECRETARY FOR SECURITY (in Cantonese): Madam President, as to the reasons for which the alleged victims had been detained or extorted, in most cases, they were really unwilling to tell the reasons, and when we asked them whether they were willing to go to the Mainland to provide further information to the public security authorities, they were mostly unwilling to do so or to tell the reasons. I understand that Mr TO meant to ask us to obtain more information and to conduct some studies to find out the true reasons. However, if the privacy of the alleged victims is involved, and if they are not willing to follow up, the Government cannot force them to tell the actual reasons. Perhaps the Hong Kong Police Force can collect further information or exchange information with the public security authorities of the Mainland to see if there is information to enable us to infer why the alleged victims were unwilling to co-operate. However, there is nothing that the Hong Kong Police Force can do in making further inquiries with the alleged victim of each case if they do not co-operate.

MR JAMES TO (in Cantonese): *Madam President, does the reply of the Secretary mean under this Co-operation Scheme, for every report made by Hong Kong people on crimes taking place in the Mainland to the police, the alleged victim will be asked whether he is willing to go to the Mainland to assist in the investigation and about the reason for his not being willing to do so when the case is referred to the mainland authorities? Of course, it is up to them to decide whether they should make a reply. However, will these questions be put to them as a standard procedure? If these questions have been asked, then the relevant information can be reflected to the mainland authorities, that is, some views can be consolidated.*

PRESIDENT (in Cantonese): Secretary for Security, the supplementary question that Mr James TO has just asked is actually about whether you will ask them why they are unwilling to go to the Mainland to assist in the investigation.

SECRETARY FOR SECURITY (in Cantonese): Yes, thank you, Madam President. Of course, we will not ask questions in the same manner suggested by Mr James TO, but our colleagues will try to encourage the alleged victim of each case to go to the Mainland to co-operate with the securities authorities. They are mostly still unwilling to do so despite our persuasion. Actually we have indirectly asked them about the reason.

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

WRITTEN ANSWERS TO QUESTIONS

Proposals on Development of West Kowloon Cultural District

7. **MR ABRAHAM SHEK:** *Madam President, regarding proposals on the development of the West Kowloon Cultural District (WKCD), will the Government inform this Council:*

- (a) *whether it will, apart from exhibiting the proposals which have been determined as satisfying the mandatory requirements, put up for exhibition those proposals which have been determined as not*

satisfying such requirements, so as to enable the public to have an understanding of the contents of all proposals and facilitate their commenting on the proposals; if it will, of the details of the exhibition; if not, the reasons for that;

- (b) where the views of the public and of the Administration are not at one, whether the public view will prevail in the selection of the development proposals; if so, of the details of the selection procedure; if not, the reasons for that; and*
- (c) whether it has estimated the amount of government subsidy required for the public facilities of the project and studied how to strike a balance between the interests of the public and those of the developers from the cultural and commercial perspectives; if it has, of the amount of subsidy and the study findings; if not, the reasons for that?*

SECRETARY FOR HOUSING, PLANNING AND LANDS: Madam President, my response to the three parts of the question is as follows:

- (a) The Invitation for Proposals (IFP) has clearly stated that proposals submitted must comply with all the mandatory requirements set out in the IFP before the Government will proceed with the further assessment of the proposals. This requirement is clear and open. If proposals not complying with the mandatory requirements are exhibited, not only would it contradict the spirit and principle that all proponents must abide by the same requirements, it would also be unfair to those proposals which comply with the mandatory requirements. It may also confuse the public, thus affecting the results of the public consultations. Therefore, the Government will only exhibit those proposals which comply with the mandatory requirements.
- (b) The criteria for assessing the proposals for the development of the WKCD are clearly set out in the IFP. The Government has established detailed guidelines and procedures for assessing the proposals in accordance with the published assessment criteria. During the public consultation period, the Government will actively

seek public views on the various aspects of the proposals exhibited. The views of the public on the proposals will be taken into account by the Government in the selection of the best development proposal which would best suit the interests of Hong Kong.

- (c) As the Government has indicated publicly on many occasions, we have decided to adopt an integrated approach for the development of the WKCD by including commercial facilities in the project. It is hoped that the private sector, with their business knowhow and experience, can develop and operate the whole District in a self-financing mode. The successful proponent will be required to plan, construct, operate, maintain and manage all the facilities in the project, including both public and non-public facilities. The Government has no intention to provide any subsidy for the facilities of the WKCD project. The IFP states clearly that the Government expects the project to be run on a self-financing basis and that the Government will not provide any specific tax relief or exemption in relation to the project.

Organ Donation

8. **MR BERNARD CHAN:** *Madam President, regarding the organ donation scheme, will the Government inform this Council:*

- (a) *whether it has assessed the feasibility of the proposal to invite, at the time the photos/fingerprints of applicants for new/replacement identity (ID) cards are taken by the staff of the Immigration Department, these applicants to voluntarily indicate their consent to donate their organs; if it has, of the assessment results;*
- (b) *whether the details of the existing smart ID card holders' participation in the scheme can be incorporated into their ID cards;*
- (c) *whether there will be technical or administrative problems in implementing the above proposal and incorporating such details into smart ID cards; if so, of the details of the problems; and*
- (d) *of other methods to promote organ donation?*

SECRETARY FOR HEALTH, WELFARE AND FOOD: Madam President,

(a), (b) and (c)

The proposal to invite ID card registrants to voluntarily indicate their consent to donate their organ(s) upon their death for human transplant purposes has to be considered in terms of its effectiveness in promoting organ donation, the legal requirements involved as well as the technical and administrative feasibility.

Whether to become an organ donor is a serious and solemn question, which calls for careful and thorough consideration. If ID card registrants are asked to give consent to become an organ donor at the time when their photos/fingerprints are being taken at the Immigration Department, the majority of the registrants may not have given serious thought to the question and would more likely than not give a negative response. It would also not be in the overall interests of the community if ID card registrants give their consent hastily without recognizing the full implications of their decision. This will probably lead to a high rate of withdrawal of the consent given.

The proposal is expected to require legislative amendment if adopted. The data which can be collected from a registrant of an ID card and the use of the data collected are governed by the Registration of Persons Ordinance (Cap. 177) and the Registration of Persons Regulations (Cap. 177A). Under the relevant existing legislative provision, the Director of Immigration (as Commissioner of Registration) is not empowered to collect information about a registrant's willingness to become an organ donor.

Technically, the proposal is not expected to involve any major difficulty. The Administration has reserved some space in the chip of the smart ID card for future non-immigration applications. The reserved space is more than sufficient to cater for organ donation data.

Administratively, if the proposal is adopted, we will still have to provide alternative means of storing the information about donors'

willingness to donate organ(s). This is because the requirement of the Registration of Persons Regulations is that all non-immigration applications of the smart ID card should be voluntary to the public. Organ donors are therefore free to choose whether to store organ donation information data in the chip of the smart ID card. In addition, a number of other issues will require further consideration. These include:

- a determination of who should be given the authority and responsibility to incorporate organ donation data onto the smart ID cards and verify the accuracy of such data;
 - a determination of who should be allowed to access the information and the circumstances under which access is allowed; and
 - the logistic arrangements for changing organ donation information on smart ID cards (for example, withdrawal of consent, a change of the organs covered by the consent, and so on).
- (d) The Hospital Authority (HA) and the Central Health Education Unit of the Department of Health (DH) have been working closely in running various publicity and education programmes to promote organ donation. The relevant measures include:
- special promotional functions/programmes produced in collaboration with TV stations (the HA and the DH);
 - production of promotional pamphlets and organ donation cards and distributing them widely in health centres, out-patient clinics and community facilities (the DH);
 - dissemination of information on organ donation to the public through telephone hotlines and the Health Zone website (the DH);
 - regular visits by the Donormobile (a mobile promotion centre) to public housing estates, schools, large shopping centres and other public places (the DH);

- organization of seminars and promotional programmes in tertiary and business institutions (the HA);
- organization of seminars for health care workers on organ transplant and organ donation (the HA);
- distribution of organ donation cards to patients and their families at public hospitals (the HA); and
- arrangement of media coverage for organ transplant surgeons, recipients of organ transplant and family members of donors (the HA).

Approved Protective Helmets for Motorcyclists

9. **MR WONG SING-CHI** (in Chinese): *Madam President, the Road Traffic (Safety Equipment) Regulations list the specifications and standards, with which the approved types of protective helmets for users of motorcycles are required to conform. In this connection, will the Government inform this Council whether:*

- (a) *users of motorcycles were prosecuted for wearing protective helmets not conforming to such specifications and standards in the past three years; if so, of the number of prosecutions instituted each year;*
- (b) *the helmets for users of motorcycles in the Hong Kong Police Force and the Auxiliary Medical Service, as well as those provided by the Hong Kong School of Motoring for trainees of motorcycles conform to the specifications and standards detailed in the Regulations; if not, of the specifications and standards they comply with; and*
- (c) *consideration will be given to updating the specifications and standards in the Regulations?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS
(in Chinese): Madam President, in the past three years, 62, 70 and 74

motorcyclists were prosecuted each year for wearing protective helmets that do not conform to the statutory requirements.

Protective helmets currently provided for the police, the Auxiliary Medical Service and learner drivers of the Hong Kong School of Motoring all conform to the statutory requirements. Their models are:

Police	"Shoei" Syncrotec (J-Acter) and "Nolan" X1001 E
Auxiliary Medical Service	"Nolan" N100E Classic Plus 34
Hong Kong School of Motoring	"KBC" TK-8 and "KBC" TK-110S

We are currently reviewing the latest technology and design for protective helmets and will introduce legislative amendments to the Road Traffic (Safety Equipment) Regulations to update the relevant standards in the next Legislative Session.

Operating Licences for Coaches

10. **MR HOWARD YOUNG** (in Chinese): *Madam President, regarding the operating licence for coaches, will the Government inform this Council:*

- (a) *of the number of coach operating licence applications received by the authorities in each month of the past year, and the respective percentages of increase compared to the figure in the preceding month; among these applications, the respective numbers of the successful and unsuccessful ones, and the reasons for rejecting the applications concerned; and*
- (b) *whether it has considered streamlining the procedures and shortening the vetting time for coach operating licence applications in order to enhance efficiency and meet the needs of travel agents; if it has, of the relevant details; if not, the reasons for that?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Chinese): Madam President, at present, there are about 7 200 non-franchised buses (NFBs) in operation in Hong Kong with about 3 150 of them having endorsement to operate tour services. In the past 12 months from June 2003 to May 2004, the Transport Department (TD) had received 130 applications for operating NFB tour service, including applications for new passenger service licence (PSL) and applications for additional vehicles for operating tour service by existing holders of PSL. A monthly breakdown of the applications received is as follows:

<i>Month</i>	<i>Number of Applications Received</i>	<i>Change (%)</i>
June 2003	6	-
July 2003	7	+16.7%
August 2003	17	+142.9%
September 2003	18	+5.9%
October 2003	30	+66.7%
November 2003	12	-60.0%
December 2003	12	0.0%
January 2004	3	-75.0%
February 2004	8	+166.7%
March 2004	2	-75.0%
April 2004	9	+350.0%
May 2004	6	-33.3%
Total	130	-

Of the 130 applications, the TD approved 69 and rejected 28, whereas 13 applications have been withdrawn by the applicants. The remaining 20 applications are being processed. The major reason for rejecting the applications is the failure of applicants to submit sufficient supporting documents, such as valid bus hiring contracts and bus utilization records, to justify the need of the proposed services.

The TD maintains regular liaison with the Tourism Commission and the Travel Industry Council of Hong Kong (TIC) to better understand the mode of operation and latest development of the tourism industry. The TD has also exchanged views with the TIC and members of the tourist industry on the

arrangements for processing applications for NFB tour service with a view to meeting the needs arising from the development of the industry.

To address concerns about the supply and operation of NFBs, the Transport Advisory Committee (TAC) set up a working group to review the regulation on NFB operation in late 2003 at the invitation of the Government. The review covers the arrangements for vetting NFB applications.

The Government will take into account the findings of the TAC review and views of various sectors before deciding on any change to the arrangements for processing applications for NFB tour service.

Work-related Accidents Reported to Labour Department

11. **MR HENRY WU** (in Chinese): *Madam President, regarding cases of work-related accidents reported to the Labour Department (LD) in accordance with the Employees' Compensation Ordinance by employers from the financing, insurance, real estate and business services sectors (including security, real estate maintenance, accounting, information technology-related services, legal, advertising and related services), will the Government inform this Council:*

- (a) *of a breakdown by the type of work injuries of the number of work-related accidents reported in respect of each of the above sectors in each of the past three years;*
- (b) *given the year-on-year increase in the numbers of reported cases of work-related accidents in the financing sector over the past three years, and the longer average processing time taken by the relevant authorities in handling cases from the financing sector in comparison to those from the insurance and real estate sectors, whether the relevant authorities have assessed the reasons for these; if they have, of the assessment results; if not, why not;*
- (c) *how the work-related accident rate of the financing sector compares to that of the insurance and real estate sectors over the past three*

years; if the financing sector has a higher rate, whether the Government has assessed the reasons for that; and

- (d) of the measures to reduce work-related accidents in the financing sector?*

SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY (in the absence of Secretary for Economic Development and Labour) (in Chinese):
Madam President,

- (a) A breakdown by accident type of the work injury cases reported under the Employees' Compensation Ordinance by employers in the financing, insurance, real estate and business services sectors in the past three years is at Annex.
- (b) In 2001, 2002 and 2003, there were 155, 157 and 199 reported cases of work-related accidents respectively in the financing sector. These accidents were mainly of the following four types:
- (i) Slip, trip or fall on same level;
 - (ii) Injured whilst lifting or carrying;
 - (iii) Striking against or struck by moving object; and
 - (iv) Striking against fixed or stationary object.

The LD has assessed the reasons for the increase of work-related accidents in the financing sector over the past three years. It was observed that most accidents were related to poor housekeeping and improper manual handling. Generally, these accidents were relatively minor in nature.

In 2001 and 2002, the financing sector, as compared to the insurance and real estate sectors, had a higher percentage of work injury cases with permanent partial loss of earning capacity. In accordance with the established procedures, the LD can only

arrange the injured employees for assessment of their permanent loss of earning capacity when their medical condition has stabilized. The LD can only calculate the amount of employees' compensation payable based on the assessment result as specified in the certificate issued by the assessment board. As a result, the processing time of cases reported by the financing sector is longer than that of the insurance and real estate sectors.

- (c) The accident rates of the financing, insurance and real estate sectors for the past three years are tabulated below:

<i>Sector \ Year</i>	<i>2001</i>	<i>2002</i>	<i>2003</i>
	<i>Accident rate per 1 000 employees</i>	<i>Accident rate per 1 000 employees</i>	<i>Accident rate per 1 000 employees</i>
Financing	1.1	1.2	1.7
Insurance	1.1	1.1	1.3
Real Estate	0.6	0.8	1.0

On the basis of the figures for 2003 as shown in the above table, the number of accidents per 10 000 employees in the financing sector only exceeds that for the insurance and real estate sectors by four and seven cases respectively. Although the accident rate in the financing sector is higher than the insurance and real estate sectors, the difference in actual figures is small.

- (d) The LD is committed to improving the safety and health at work of employees. Through legislation, education, publicity and promotion, the LD helps employers and employees enhance the occupational safety and health standards for reducing work-related accidents.

With the implementation of the Occupational Safety and Health Ordinance in May 1997, the safety and health of employees in most of the economic sectors, including the financing sector, are protected by law. The Ordinance imposes duties on employers to ensure the safety and health at work of their employees and to provide a safe system of work. Employees are also obliged under the law to take good care of themselves and of others, follow the

safety procedures and make use of safety equipment provided by their employers.

Two subsidiary regulations, namely, the Occupational Safety and Health Regulation and the Occupational Safety and Health (Display Screen Equipment) Regulation, were made under the Ordinance. The Occupational Safety and Health Regulation took effect in January 1998. It sets out safety measures for accident prevention, fire precaution, workplace environment, first aid as well as manual handling operations. The Occupational Safety and Health (Display Screen Equipment) Regulation came into operation in July 2003. It aims to protect the health of employees operating display screen equipment. Employees of the financing sector are also protected by these regulations.

In addition to legislation, the Government also strives to enhance the awareness of the people in the industry on occupational safety and health and accident prevention through publicity and promotion. In 2001, with the assistance of the industry, an "Occupational Safety and Health Guidebook for the Banking and Finance Industry" in the form of a booklet and a CD-ROM was jointly published by the Hong Kong Association of Banks and the LD. The Guidebook introduces the core elements of a safety management system and the main hazards at workplaces. It aims to assist the industry to manage and control the risk at work, and to address the occupational safety and health problems. The booklet and CD-ROM can be obtained free of charge from the divisional offices of the Occupational Safety and Health Branch of the LD, or downloaded from the LD's homepage. Moreover, the LD regularly organizes tailor-made safety talks to enhance the safety and health knowledge of the people in the industry.

Occupational Safety Officers of the LD regularly conduct inspections to workplaces, including banks and financial institutions, and give advice to the management on ways to improve the safety and health at work. They also regularly visit the headquarters of various banks and hold discussions with the management to encourage them to develop an effective safety management system for accident prevention.

Breakdown of Work Injury Cases Reported by Employers in the Financing, Insurance, Real Estate and Business Services Sectors from 2001 to 2003 by Accident Type

<i>Accident Type</i>	<i>2001</i>					<i>2002</i>					<i>2003</i>				
	<i>Financing</i>	<i>Insurance</i>	<i>Real Estate</i>	<i>Business Services</i>	<i>Total</i>	<i>Financing</i>	<i>Insurance</i>	<i>Real Estate</i>	<i>Business Services</i>	<i>Total</i>	<i>Financing</i>	<i>Insurance</i>	<i>Real Estate</i>	<i>Business Services</i>	<i>Total</i>
Slip, trip or fall on same level	50	10	33	1 432	1 525	55	0	20	1 338	1 413	78	13	28	1 300	1 419
Injured whilst lifting or carrying	43	6	3	635	687	24	9	5	610	648	31	4	8	765	808
Striking against or struck by moving object	19	4	1	606	630	21	1	9	472	503	13	4	7	404	428
Striking against fixed or stationary object	13	2	4	393	412	28	0	7	403	438	19	2	6	345	372
Injured by hand tool	4	1	1	154	160	3	0	2	138	143	11	1	1	156	169
Struck by moving vehicle	4	1	2	388	395	10	1	13	422	446	7	2	10	362	381
Fall of person from height	3	0	2	162	167	3	0	0	152	155	5	1	5	143	154
Contact with hot surface or substance	3	2	0	45	50	0	0	2	39	41	4	1	0	36	41
Struck by falling object	2	0	1	60	63	0	0	2	67	69	3	0	1	105	109
Stepping on object	2	0	2	40	44	1	2	1	67	71	3	0	1	82	86
Trapped in or between objects	2	0	0	47	49	3	0	0	67	70	6	0	1	95	102
Contact with electricity or electric discharge	1	0	0	2	3	0	0	0	5	5	0	0	0	4	4
Trapped by collapsing or overturning object	1	0	0	13	14	0	0	0	4	4	1	0	0	4	5
Asphyxiation	0	0	0	0	0	0	0	0	3	3	0	0	0	0	0
Contact with moving machinery or object being machined	0	0	0	40	40	1	0	0	39	40	2	0	1	57	60
Drowning	0	0	0	1	1	0	0	0	1	1	0	0	0	0	0
Exposure to or contact with harmful substance	0	0	1	28	29	1	0	0	21	22	1	0	1	39	41
Exposure to explosion	0	0	0	1	1	0	0	0	3	3	0	0	0	0	0
Exposure to fire	0	0	0	1	1	1	0	0	2	3	0	0	0	2	2
Injured by animal	0	0	0	36	36	0	0	0	32	32	0	0	0	33	33
Injured by fall of ground	0	0	0	0	0	0	0	0	1	1	0	0	0	0	0
Injured in workplace violence	0	0	1	127	128	1	1	2	132	136	5	0	3	137	145
Others	8	2	2	124	136	5	16	0	102	123	10	1	5	86	102
Total	155	28	53	4 335	4 571	157	30	63	4 120	4 370	199	29	78	4 155	4 461

Provision of Medical Consultancy Services to the Mainland

12. **MISS CHAN YUEN-HAN** (in Chinese): *Madam President, it has been reported that the Hospital Authority (HA) is studying the feasibility of a plan to provide consultancy services to mainland health care institutions to generate additional income to help ease its budgetary constraints. In this connection, will the Government inform this Council whether it knows:*

- (a) *the initial outline of the plan, including the number of health care workers required, and how the HA will deploy the manpower to implement the plan; and*
- (b) *the amount of income that the HA forecasts this plan will generate each year?*

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

- (a) The conclusion of Mainland/Hong Kong Closer Economic Partnership Arrangement (CEPA) between the Central Government and the Government of the Hong Kong Special Administrative Region has opened up new opportunities in the Mainland for our medical services sector. The HA is at a very preliminary stage of studying the detailed provisions of CEPA and assessing its potential implications and benefits within the context of the HA's statutory functions and objectives and the Government's health policies. At present, the HA does not have any plans for providing consultancy services to health care institutions in the Mainland.
- (b) Since the HA does not have any plans for providing consultancy services to health care institutions in the Mainland, the question of income does not arise.

Calls for Emergency Services Made by Hikers

13. **DR RAYMOND HO** (in Chinese): *Madam President, at present, a number of locations in hiking trails and country parks are outside the coverage of mobile telephone service networks, and hikers at such locations are unable to*

call the emergency hotline with mobile telephones in case of emergencies. Regarding the calls for emergency services made by hikers, will the Government inform this Council of:

- (a) the number of reports received by the authorities about the failure of hikers to make calls for assistance with mobile telephones in hiking trails and country parks due to the network coverage problem, in each month of the past two years;*
- (b) the specific measures in place to tackle the problem of incomprehensive coverage of mobile telephone service networks in hiking trails and country parks; and*
- (c) the distribution of emergency helplines and public payphones installed in various country parks?*

SECRETARY FOR SECURITY (in Chinese): Madam President,

- (a) In 2003 and the first five months of 2004, there were 31 cases of robbery in country parks and 837 mountain rescue calls handled by the police and the Fire Services Department respectively. The Government does not have information on the number of cases where the hikers in distress could not seek assistance through mobile phones due to inadequate network coverage.
- (b) From the perspective of ensuring public safety, we appreciate that there is room for further improvement of mobile phone services coverage in country parks and along hiking trails. The key is to find the most cost-effective and appropriate way to address this problem.

Although the Government does not have a policy on ubiquitous mobile phone services coverage, we have been encouraging mobile phone operators to improve their network coverage in country parks and along hiking trails. Our key efforts include:

- (i) in order to reduce mobile phone operators' recurrent costs in maintaining mobile base stations in country parks, the tenancy

fee for such base station sites is charged at a nominal level of \$1 per annum; and

- (ii) the Office of the Telecommunications Authority has taken the lead in co-ordinating the sharing of base station sites by different mobile phone operators to reduce costs and minimize environmental impact. At present, the mobile base station sites are invariably shared by participating mobile phone operators unless there is physical constraint.

As a result of these efforts, a total of six mobile base stations have been built since 1998. Mobile phone services coverage in country parks and hiking trails has been expanding, and only in a few remote areas is coverage unsatisfactory. The situation will improve further when two new base stations under planning are completed. We will continue to encourage mobile phone operators to enhance their services coverage. In parallel, the departments concerned will also explore other options to improve communication between hikers and rescue centres.

- (c) There are at present 102 emergency helplines and 100 payphones installed in or near country parks. These telephones are located mainly at the entrance of country parks, along hiking trails or at picnic sites in the parks. In addition, there are 45 emergency helplines installed at other outing locations, such as Lugard Road Walkway at the Peak and juncture of Wanchai Gap Road and Bowen Road. Many of these helplines and payphones were installed after taking into account the views of hikers and other concerned groups to improve safety and facilitate hikers.

Illegal Felling of Trees by Mainlanders

14. **MISS CHOY SO-YUK** (in Chinese): *Madam President, it has been reported that recently some mainlanders have come to Hong Kong incessantly to cut down incense trees and Buddhist pines illegally and then transported them to the Mainland for profit. In this connection, will the Government inform this Council:*

- (a) *of the total number of detected cases of illegal felling of trees in the past year, the species and number of trees involved and the number of such cases which took place in country parks;*
- (b) *whether the trees felled belong to the rare species of trees in the territory; and*
- (c) *in order to combat such crime effectively, whether the authorities will, in addition to stepping up enforcement actions, enhance the exchange of information with their mainland counterparts in this regard; if so, of the details; if not, the reasons for that?*

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

- (a) In 2003, the Agriculture, Fisheries and Conservation Department (AFCD) handled a total of 79 cases of illegal felling of trees, 16 of which took place in country parks. Most cases affected one to a dozen or so trees, and only a few cases (mainly those associated with construction works outside country parks) involved more than a hundred trees. Most of the trees affected were of species commonly found in the countryside of Hong Kong, such as acacia, longan, banana, ivy tree and machilus. Buddhist pines and incense trees (which proper name is *Aquilaria sinensis*) were involved in 11 and three cases respectively.
- (b) Generally speaking, the trees felled (including Buddhist pines and *Aquilaria sinensis*) are not rare in Hong Kong. In the Mainland, the Buddhist pine is also not a protected plant, but the *Aquilaria sinensis* has been designated as a Wild Plant under State Protection (Category II) and classified as "Near Threatened" in the China Plant Red Data Book. The two species are in demand in the Mainland and of some economic value.
- (c) The AFCD has been working closely with the Hong Kong Police Force (HKPF) to combat illegal tree felling activities. The HKPF attaches great importance to tackling cross-boundary crimes. In addition to stepping up patrol at the black spots, the HKPF has also

applied to the Court for heavier penalties to be imposed under the Organized and Serious Crimes Ordinance for cases involving organized illegal felling of Buddhist pines. The cases are being heard in Court.

The HKPF has also enhanced the exchange of information across the boundary in order to tackle this type of illegal activities. Improvement has been noted as a result of enhanced enforcement, publicity and public education efforts by the mainland authorities. Since mid-March this year, the Marine Police has not intercepted any person smuggling illegally felled trees.

Complaints About and Regulation of Noise

15. **MR LAU KONG-WAH** (in Chinese): *Madam President, regarding complaints about and regulation of noise, will the Government inform this Council:*

- (a) *of the number of complaints received by the authorities about noise in the past three years, broken down by nature of the noise and year, and the number of successful prosecutions in this respect;*
- (b) *whether noise complaint hotlines are operating on public holidays or outside office hours; if not, whether it will consider setting up such hotlines so that the authorities can promptly dispatch staff to measure the noise levels on site; and*
- (c) *whether prosecutions for emitting excessive noise have been instituted over the past three years against organizers of large concerts, carnivals or rallies held at venues adjacent to residential areas, and whether the authorities will dispatch their staff to monitor the noise levels on site when it comes to their knowledge that such activities are being held at these venues, in order to prevent excessive noise emission?*

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

- (a) The Environmental Protection Department (EPD) and the Hong Kong Police Force (HKPF) are the law enforcement authorities that handle noise complaints. According to their experience, in most complaint cases, the person creating the noise, after receiving their advice, would abate the noise within a short period of time to resolve the problem. Therefore, there is no need for them to take prosecution action.

The number of complaints related to the types of noise controlled by the Noise Control Ordinance received and handled by the EPD and the HKPF, and the number of successful prosecutions in the past three years are set out in the table below:

<i>Noise Type</i>	<i>No. of Complaints (cases)</i>		
	<i>2001</i>	<i>2002</i>	<i>2003</i>
Industrial/Commercial Noise	3 502	3 530	3 608
Neighbourhood and Public Place Noise	3 969	5 177	3 391
Construction Noise	2 285	2 697	1 848
Intruder Alarm	675	601	384
Construction Equipment Noise	12	11	8

<i>Noise Type</i>	<i>No. of Successful Prosecutions (cases)</i>		
	<i>2001</i>	<i>2002</i>	<i>2003</i>
Industrial/Commercial Noise	49	19	23
Neighbourhood and Public Place Noise	27	24	17
Construction Noise	240	195	81
Intruder Alarm	4	1	0
Construction Equipment Noise	0	0	2

- (b) The EPD operates a 24-hour hotline to receive public complaints against environmental pollution (including noise problem). The hotline is manned by the EPD staff during office hours and served by a recording system outside office hours and on public holidays. Members of the public may also report any noise annoyance to the nearest police station at any time. As mentioned in part (a) of the answer above, in most complaint cases, the person creating the noise, after receiving the advice of the enforcement authorities, would abate the noise within a short period of time to resolve the

problem. Therefore, there is no need for the enforcement officers to measure the noise for follow-up action. Where advice from the enforcement authorities cannot resolve the problem, they will carry out noise measurement and consider taking prosecution action under the Noise Control Ordinance.

- (c) In the past three years, the EPD and the HKPF had not prosecuted any organizer of large-scale concerts, carnivals or rallies for generating excessive noise.

Organizers of large-scale open-air activities should avoid causing noise annoyance by following the "Noise Control Guidelines for Holding Open Air Entertainment Activities" issued by the EPD. According to the Guidelines, the organizer of the activity should set up a complaint hotline during the event and monitor the noise level at residential areas in the vicinity. Members of the public may lodge complaints with the organizer about any noise annoyance through the hotline and request immediate follow-up action. If immediate assistance is needed, they can also contact the EPD or the nearest police station so that appropriate action can be taken by the law enforcement officers. If the EPD learns of an activity that will be held in an open-air venue and considers that the residents in the vicinity may be affected by excessive noise, it will send its staff to monitor the noise level generated by the activity. If necessary, the EPD will offer the organizer advice or take enforcement action under the Noise Control Ordinance.

Production of Substandard and Counterfeit Food Products on the Mainland

16. **MS EMILY LAU** (in Chinese): *Madam President, while the mainland media uncover from time to time the production of substandard or counterfeit food products, the Customs and Excise Department (C&ED) has recently found in the territory soy sauce counterfeiting a mainland brand. In this connection, will the executive authorities inform this Council:*

- (a) *of the number of cases involving substandard and counterfeit food products uncovered by the law enforcement agencies in Hong Kong in each of the past three years, the number of these cases involving*

food products from the Mainland, and the details of the prosecutions instituted by the authorities against the manufacturers and importers concerned;

- (b) whether they have stepped up sample laboratory tests on the food products imported from the Mainland so as to prevent the flow of substandard and counterfeit food products into Hong Kong; if so, of the relevant details;*
- (c) whether they will strengthen the reciprocal notification mechanism on food safety matters set up with the relevant mainland authorities; if so, of the relevant details; if not, the reasons for that; and*
- (d) whether they will step up publicity to encourage the public to report to the authorities shops selling substandard and counterfeit food products; if so, of the relevant details; if not, the reasons for that?*

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

- (a) Under the routine Food Surveillance Programme conducted by the Food and Environmental Hygiene Department (FEHD), it was found that 264, 162 and 141 samples of food products were not in compliance with the relevant regulations of Hong Kong in 2001, 2002 and 2003 respectively. About half of these cases involved food products imported from the Mainland. The FEHD had followed up these cases with the manufacturers/importer/retailers and a total of 155 cases were prosecuted.

On another front, in 2001, 2002 and 2003, the C&ED uncovered 26, 13 and 10 cases involving counterfeit food products respectively. These counterfeit goods concerned included mooncakes, rice, canned food, confectionary, MSG, ginseng, frozen meat, drinks, and so on. With the exception of frozen meat, it is believed that all the other counterfeit food products had come from the Mainland. From 2001 to 2003, the C&ED initiated prosecution in a total of 44 cases on counterfeit food products.

- (b) The food safety control framework in Hong Kong consists of several main components, including safety control of imported food, food surveillance, risk assessment, and so on. Similar to international practice, we have adopted a risk-based approach in devising our food surveillance programme. Under this approach, the FEHD takes food samples at the import, wholesale and retail levels for microbiological and chemical testing. After the media reports of the substandard food incidents in the Mainland, the FEHD has stepped up inspection of food products imported from the Mainland and has increased the number of samples for testing. The FEHD has since collected some 130 samples for testing.

Separately, officers of the C&ED always maintain high vigilance in inspecting goods imported and exported via our boundary control points to prevent prohibited articles, including counterfeit food products, from entering Hong Kong. In particular, Customs officers will step up interception at control points in response to counterfeit food products discovered in the market. We will accord high priority to allegations relating to counterfeit food products once we receive reports of the kind.

Moreover, the Customs authorities in Hong Kong and the Mainland have established a solid foundation for co-operation and have a mutual notification system in place. In addition to frequent exchange of intelligence, we also conduct joint operations at the two sides of the boundary to combat cross-boundary smuggling activities involving counterfeit and pirated articles.

- (c) The FEHD has established a mutual notification mechanism with the State General Administration of Quality Supervision, Inspection and Quarantine. In case of food safety incidents affecting the food exported to Hong Kong, the mainland authorities would alert the FEHD for follow-up actions. Regarding the recent disclosure of substandard foods found in the Mainland, the FEHD has approached the mainland authorities for details and follow-up action. According to information so far obtained, the concerned food items were not for export to Hong Kong. The FEHD will meet with mainland authorities later this week to discuss the way forward in safeguarding the quality of mainland food items sold in Hong Kong.

- (d) The FEHD received reports on substandard food products via various means, including its 24-hour hotline, written submissions, and referrals from the Consumer Council and the media. To enhance public awareness of food safety, the Risk Communication Division of the FEHD will release information related to public health and food safety through the website of the FEHD, press conferences and publication of pamphlets.

Similarly, the C&ED will keep members of the public informed about details of cases which arouse public concern, such as the detection of counterfeit food products, through the mass media. The C&ED will also regularly display and promote its 24-hour complaint hotline on the newspaper, radio, television and other mass media channels to allow for public reports and complaints, including those on counterfeit food products. In addition, registered trademark owners regularly introduce anti-counterfeiting devices on their products to the general public and will also notify the latter about the circulation of counterfeit products in the market to call for public awareness of those counterfeit goods.

Contracting out General Out-patient Clinic Service

17. **DR LO WING-LOK** (in Chinese): *Madam President, it has been reported that the Hospital Authority (HA) plans to contract out the general out-patient clinic service of the Kowloon West hospital cluster and is currently negotiating this with a doctors' union. The scheme is likely to be implemented within this year. In this connection, will the Government inform this Council:*

- (a) *of the implementation date of the said scheme;*
- (b) *of the criteria the HA adopts for selecting the service contractor; and whether the HA has assessed if there will be any conflict of interests in contracting out its service to a union which aims at safeguarding the interests of doctors; if it has, of the assessment result;*
- (c) *if the HA has assessed whether there will be a reduction in the number of patients, who now pay \$45 consultation fee only, who will*

attend the clinics concerned, after the implementation of the scheme; if there will be, of the estimated number and rate of the reduction as well as the measures to cater for the medical needs of those patients who are unwilling to attend those clinics which have been contracted out; and

- (d) *if the HA will consult those staff who might be affected, the relevant District Councils and the Legislative Council on the said scheme; if it will, when it will conduct the consultation?*

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

- (a) and (b)

The HA is conducting an overall review of the services provided by its general out-patient clinics to identify areas of improvement. The review has not yet been completed. The HA has no plans to contract out its general out-patient services at present and has not discussed any such plans with any organization.

- (c) Irrespective of the mode of service delivery, patients at the HA's general out-patient clinics will be charged in accordance with the list of charges published in the Gazette.
- (d) In accordance with established practice in the past, the Administration will consult the Health Services Panel of the Legislative Council on major new policy initiatives. The community will also be consulted as and when necessary. It is also an established practice at the HA to consult staff before implementing major changes.

Cost-effectiveness of Control over Unlicensed Hawkers

18. **MR ALBERT CHAN** (in Chinese): *Madam President, regarding the cost-effectiveness of the control over unlicensed hawkers, will the Government inform this Council:*

- (a) *of the total public expenditure on controlling unlicensed hawkers, the respective numbers of prosecutions brought against them and the average amount of public expenditure incurred in respect of each prosecution, in each of the past five years; and*
- (b) *whether it will consider employing enforcement actions that are more cost-effective, such as the issuance of fixed penalty notices, in place of summonses; if it will, of the relevant details; if it will not, the reasons for that?*

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

- (a) The annual expenditure incurred by the Food and Environmental Hygiene Department (FEHD) on hawker control work (including managing licensed hawkers, patrolling hawking black spots and taking enforcement action against unlicensed hawkers) and the number of prosecutions against unlicensed hawkers in the past five years are as follows:

Expenditure

<i>1999-2000 (1 January 2000 to 31 March 2000)^{Note}</i>	<i>2000-01 (Actual)</i>	<i>2001-02 (Actual)</i>	<i>2002-03 (Actual)</i>	<i>2003-04 (Revised Estimates)</i>
\$273 m	\$1,035 m	\$1,015 m	\$991 m	\$911 m

Number of Prosecutions against Unlicensed Hawkers

<i>1999-2000 (1 January 2000 to 31 March 2000)^{Note}</i>	<i>2000-01</i>	<i>2001-02</i>	<i>2002-03</i>	<i>2003-04</i>
7 318	26 419	20 173	19 833	18 531

Note: The FEHD was set up on 1 January 2000.

The cost of each prosecution against unlicensed hawking is not available as no costing has been conducted.

- (b) For most cases, the FEHD officers take action in accordance with the Public Health and Municipal Services Ordinance (Cap. 132) to arrest the unlicensed hawkers. The arrested hawkers will be taken to a police station where charges will be laid against them. The FEHD is also empowered under the law to seize the equipment and commodities of the unlicensed hawkers during the arrest action. Upon conviction of the offences, the Court may order the seized equipment and commodities to be forfeited.

We consider that arrest action with subsequent prosecution is the most effective way to deal with unlicensed hawking activities as this will bring such activities to an immediate halt and may forfeit the equipment and commodities of the unlicensed hawkers.

Additional Teachers for Secondary Schools Admitting Primary Six Students in the Lowest Ten Percentiles

19. **MR SZETO WAH** (in Chinese): *Madam President, under the existing policy, the Education and Manpower Bureau offers additional teacher posts to those secondary schools which admit Primary Six students with academic scores in the lowest ten percentiles. In this connection, will the Government inform this Council of the following for each of the past three and the next school years:*

- (a) *the respective numbers of Primary Six students with such academic scores, the secondary schools to which they have been admitted and the additional teacher posts offered by the Bureau to the schools concerned; and*
- (b) *the number of secondary schools which have reduced the intake of such students, resulting in the corresponding deletion of additional teacher posts offered by the Bureau, as well as the number of teachers affected?*

SECRETARY FOR EDUCATION AND MANPOWER (in Chinese): Madam President, under the existing policy, secondary schools are provided with

additional teachers under the School-based Remedial Support Programme (SBRSP) for admitting 75 or more Primary Six students with academic scores in the lowest ten percentiles in the previous three years.

(a) Related information is listed below:

<i>School Year</i>	<i>No. of Primary Six students in the lowest ten percentiles</i>	<i>No. of secondary schools admitting Primary Six students in the lowest ten percentiles</i>	<i>No. of additional teachers provided under the SBRSP</i>
2001-02	8 309	246	192
2002-03	8 353	225	192
2003-04	8 393	235	217
2004-05	*	*	219

* Information is not available at this stage as the results of the Secondary School Places Allocation System for 2004-05 school year have not been released.

(b) The number of additional teachers in individual schools has to be increased or reduced according to the number of bottom 10% junior secondary school students admitted. Related figures are as follows:

School Year	Comparing with previous school year				Total no. of additional teachers
	Required to reduce the no. of additional teachers		Required to increase the no. of additional teachers		
	No. of schools	No. of teachers	No. of schools	No. of teachers	
2001-02	28	30	20	22	-8
2002-03	9	9	8	9	0
2003-04	11	11	35	36	+25
2004-05	28	28	30	30	+2

BILLS

Second Reading of Bills

Resumption of Second Reading Debate on Bills

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

BUILDINGS (AMENDMENT) BILL 2003

Resumption of debate on Second Reading which was moved on 30 April 2003

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

MS CYD HO (in Cantonese): Madam President, in my capacity as Chairman of the Bills Committee on Buildings (Amendment) Bill 2003 (the Bills Committee), I report on the deliberations of the Bills Committee.

The Buildings (Amendment) Bill 2003 (the Bill) comprises a number of proposals aimed at implementing the proposals made after a full-scale review of the Buildings Ordinance conducted by the Administration in 2000. There were 13 members in the Bills Committee which held a total of 22 meetings and met with 13 deputations to listen to their views on the Bill.

The proposal that aroused greater concern from all parties was the introduction of a minor works control regime. Under the existing legislation, all building works, irrespective of their scale, have to obtain the approval of the Building Authority and appoint an Authorized Person, a Structural Engineer and a registered building contractor to undertake the works concerned according to the same procedures. The Bill proposes to establish a minor works control regime which classifies minor works into three categories, namely Categories I, II and III, which are commensurate with the nature, scale and degree of risk of different categories of works. Different categories of minor works are subject to different submission and supervision requirements. For the purpose of effecting the minor works control regime, the Bill proposes to create a new category of registered minor works contractors to undertake minor works.

Members of the Bills Committee understood that the original intention of the Government was to provide a simplified system to regulate minor works. However, in the course of scrutiny, members noted that no adequate consideration had been given to dealing with existing minor works that had not complied with the legislation, in particular, household minor works like metal support frames for air-conditioning units and drying racks. These household minor works are classified as Category III works in the Bill and will be subject to regulation. However, since these household minor works are closely related to almost every member of the public, members considered that this matter must be dealt with properly.

Although the Bills Committee had spent considerable time on discussing with the Administration how issues relating to existing household minor works could be resolved, including exemption of the relevant works as well as not taking enforcement action against these works, and the Government had also put forward various proposals in the course of deliberation, the Bills Committee still considered that the satisfactory resolution of the concerns in this regard could not be ensured. Given the tight timeframe of the legislative timetable and the request of the industry to be given more time to discuss in detail the legislative proposals concerning minor works, the Bills Committee decided to excise from the Bill all provisions relating to minor works and requested that the Government reintroduce the revised minor works control regime to the Legislative Council in the next term after consulting the industry, so as to come up with a control regime which is both safe and will not cause any nuisance to the public. The Government will move a Committee stage amendment later in response to the decision of the Bills Committee to delete the relevant proposals.

Another contentious proposal in the Bill is an express provision to prosecute any person who obstructs an owners' corporation in carrying out works for the purpose of complying with an order issued by the Building Authority. Members deliberated in detail the pros and cons of the proposal and its effects on individual owners. Members understood that under the existing mode which relies predominantly on mediation, it is often impossible to solve the problems, particularly if an owner is intent on being unco-operative with the owners' corporation. Under these circumstances, it is necessary to impose legal sanction on unco-operative owners. However, members also considered that legal sanction must only apply to orders of a more serious nature and proposed accordingly that the scope of application of the original proposal be narrowed down to specify that only unco-operative owners in relation to

unauthorized building works and dangerous buildings can be prosecuted. The Government has accepted the views of the Bills Committee and will make the relevant amendments.

The Bills Committee also expressed support for a number of proposals to facilitate enforcement to better deal with unauthorized building works. These proposals include clearly specifying the person responsible for demolishing unauthorized building works including signboards, to register removal orders in the Land Registry and apart from removal orders, the Building Authority may also issue a warning notice, which is also registered in the Land Registry, with a view to compelling the person concerned to demolish the unauthorized building works voluntarily. To avoid affecting property transactions, the Government made an undertaking to members that once the owner concerned has removed the unauthorized building works which is the subject of a warning notice, the Administration will carry out inspection within three weeks and lodge in the Land Registry an instrument of satisfaction to confirm that the matter has been resolved.

The Bills Committee supports the principles underlying the proposals to increase the fines for a number of building offences in the Bill to maintain their deterrent effect, but has reservations about the Building Cost Index to which the Administration made reference in determining the fines. The Bills Committee welcomes the Administration's acceptance of the members' suggestion to make reference to the composite Consumer Price Index and to amend the increases in fines for the relevant building offences from four or six times as originally proposed to three or four times.

Similarly, the Administration also accepted the views of the Bills Committee and amended the proposals relating to fees in the Bill, so that professionals and non-professionals can inspect building plans and documents and obtain copies of the relevant documents according to their needs. Building professionals also considered the fees acceptable.

The Bill also made a number of proposals concerning the registration of professionals, including increasing the registration period for Authorized Persons and Registered Structural Engineers from one year to five years, establishing a registration scheme for geotechnical engineers and allowing greater flexibility in the composition of the Contractors Registration Committee,

so as to facilitate appointing members with relevant expertise to assess applications to register as specialist contractors.

The Bills Committee also expressed support for the requirement to provide emergency vehicular access to new buildings as well as giving exemption to buildings with topographical constraints or low fire risks.

Finally, I would like to thank members for their efforts devoted to the scrutiny process and also the Administration for accepting members' views and moving the Committee stage amendments later to give effect to the consensus reached with members of the Bills Committee.

As Chairman, I so submit and support the Second Reading of the Bill.

Madam President, next I will speak in my personal capacity. Everyone was highly supportive of the non-controversial parts of the Bill, such as the provision of emergency vehicular access, the disposal of abandoned signboards, the registration of geotechnical engineers, and so on. During the scrutiny process, with the exception of some technical amendments, members and the executive worked with one mind in deliberating most of the provisions, so as to enable the early passage of the Bill. However, there is a very substantial part of the Bill related to the supervision of minor works, which takes up two thirds of the text of the Bill. Since the policy formulation and consultations was not mature enough, in the end it was necessary to excise this part and leave the task to the next term of the Legislative Council. We very much welcome this wise decision made by the authorities in the light of the time constraints and after discussion with all parties. On the other hand, I also wish to sum up the experience with a view to avoiding a repeat of this situation.

Minor works are classified into three categories in the Bill and the areas covered are in fact very extensive. From temporary outdoor exhibition venues to open-air concert theatres which cannot really be considered minor; from unauthorized building works on rooftops to the Category III household minor works that we have mentioned, including metal frames for air-conditioning units, and in some cases, even the protruding ducts of hood ranges, it is possible that they all belong to the minor works category and have to be registered.

However, unfortunately, the disparities in the requirements on the scale of works, technical know-how and professional standards as specified in the Bill for these three categories of minor works are indeed too great. If we adopt a generally similar procedure in supervision, such a practice will be highly disproportionate. If members of the public do not follow the procedures in carrying out household minor works, they have already committed a criminal offence. Come to imagine this. Drying racks and air-conditioning units can be found at every residential unit in Hong Kong. After the passage of the Bill, the number of people affected will run into millions. Therefore, the Bills Committee has exercised the utmost care in dealing with this issue.

Although the Bills Committee and the executive have both tried their level best in putting forward solutions in the hope of overcoming the problem, for example, by extending the transitional period from four years to five years, by simplifying the procedures on submitting plans and documents to the Building Authority — for example, no drawing is required and photographs can be submitted instead — in the end these proposals could not lead to a satisfactory resolution. Therefore, members agreed to excise this part first and requested the authorities to formulate a better-conceived procedure and submit it to the Legislative Council next year.

Here I also wish to thank the industry for forgoing vested interests and submitting objective and helpful views to the Bills Committee. I say so because, as we can imagine, after the passage of the Bill, it will no longer be possible for anyone who intend to install an air-conditioner to simply go to an electrical appliance shop, buy the air-conditioner and think that the matter has been settled. They have to find a qualified technician, submit plans, deal with documents required by government departments and deposit documents in the Buildings Department before installing the air-conditioner. As a result, the cost of installation will be much higher than that at present. However, the industry did not choose to support the Bill in view of the potential increase in business. On the contrary, it told the Bills Committee that public safety can be more effectively ensured by carrying out maintenance on these outdoor minor works than by regulating the initial installation.

Madam President, the Bills Committee agrees that by supervising minor works by dint of this Bill, it is possible to achieve the goal of eliminating dangerous unauthorized building works. However, we hope that this goal can be achieved through the implementation of a practicable system. We do not

wish this Bill to become a trap in which everyone will be caught after its passage. Therefore, we welcome the present proposal to excise this part of the Bill.

In the course of scrutiny, we also found that the Bill could lead to disputes between individual owners and owners' corporations and that it was necessary to review the Building Management Ordinance at the same time to clearly define the rights and responsibilities of individual owners and owners' corporations. Therefore, I call on the Secretary, Mr Michael SUEN, to discuss and conduct a joint review of these two pieces of legislation with the Home Affairs Bureau as soon as possible, so that public safety can be ensured on the one hand and all owners will assume reasonable responsibility on the other in maintaining their properties under an equitable system.

Madam President, I support the Bill.

MR ALBERT CHAN (in Cantonese): Madam President, I speak in support of the Second Reading of the Bill and the amendments made by the Government to the relevant provisions. Concerning the reasons thereof and the comments on the Bill, the Chairman of our Bills Committee has already given a detailed account and I will not repeat them.

I only want to add several points concerning the enforcement and handling of the Buildings Ordinance by the Government. Of course, the spirit of this Ordinance is basically to regulate building works, that is, to regulate projects through legislation. This will protect the interests of the public and small owners and ensure safety. However, for many years, I have expressed my views to the Government a number of times and pointed out that at present, as far as new buildings are concerned, certain problems have occurred in works supervision, be it on the part of the builder, the contractors or the professionals. As a result, when owners move in, they have to face the results of poor execution of works at the construction phase and some of the problems are even safety-related.

Some of the Ordinances were enacted some 30 to 40 years ago but they have never been invoked to prosecute professionals, Authorized Persons or contractors. This Bill highlighted the need to supervise works. I hope the Secretary will not just target petty offenders but not the major culprits. In this Bill, it is proposed that minor works should be regulated, to the extent that even

the installation of air-conditioners is covered. If the installations are not properly carried out, prosecutions may be instituted and criminal prosecution for that matter. However, in respect of major works involving the construction of entire blocks, many of them are poorly executed or the materials used do not meet the requirements. If no prosecution whatsoever is instituted in these cases, this is definitely not in line with the original intent and spirit of enacting the Buildings Ordinance back then.

Therefore, I hope the Secretary will instruct his officers that it is necessary to enforce an Ordinance after its passage instead of treating it like a display item in a shop window. Similarly, after this Amendment Bill is passed, it should not be regarded as a display item in a shop window, but rather, it has to be implemented and enforced. Concerning implementation and enforcement, the targets should not be limited just to small contractors because in the past, in many cases in which prosecution was called for, it was only on investigation by the Independent Commission Against Corruption (ICAC) that many offences involving corruption and dishonest practices were discovered. That is to say, it was after the ICAC had initiated the investigations and made prosecutions that the Government and Buildings Department took follow-up action — Madam President, I stress that it was only afterwards that action was taken. This is definitely not the original intent in enacting the Buildings Ordinance. According to the provisions of the Buildings Ordinance, prosecution will be instituted against any person or any works found to have problems if they are found to have contravened the requirements on assessment from a professional point of view.

We can find that there are many recent incidents of this nature. No matter it was substandard piling works or the shortfall in the number of reinforcing bars, it was only after the ICAC had found out the problems on investigation that prosecution was made. Therefore, Madam President, I hope that through the amendments on this occasion, firstly, the Secretary must truly understand the serious inadequacies and problems that exist with buildings. In particular, I consider that the Buildings Department has neglected its duty in enforcing the Buildings Ordinance, and a serious neglect at that one, so that small owners were subjected to unfair treatment in the past several decades. Of course, eventually they may be able to initiate civil proceedings. However, many small owners are unwilling to, nor do they dare to take on major developers through civil proceedings, so in the end, small owners have to rectify

building errors at their own expense. This is absolutely unfair to individual owners.

Madam President, although I have levelled such strong criticisms at the Buildings Department, as I have said, as far as the Bill is concerned, I will support it. I also hope that by passing the amendments to the Ordinance, balanced and reasonable supervision will be administered to many of the building projects, so as to safeguard the interests of the public and small owners. Thank you, Madam President.

MR WONG SING-CHI (in Cantonese): Madam President, the existing Buildings Ordinance was enacted some 50 years ago, indeed a number of provisions in the Ordinance warrant a review. In fact, the Democratic Party proposed to review the Ordinance in the motion debate of "Review of Buildings Ordinance" in 2000, and we urged the Government to impose heavier penalties on building contractors and related persons who have contravened the Ordinance or related subsidiary legislation so as to strengthen the deterrent effect. For that reason, the Buildings (Amendment) Bill 2003 proposed by the Government now could achieve certain results with regard to the structural safety, planning of buildings as well as the supervision of the industry.

Firstly, with regard to imposing heavier penalties on building offences, the Democratic Party has been urging the Government to impose heavier penalties all along in order to strengthen the deterrent effect. This time around, the Bill proposes to increase the fines for offences in respect of unauthorized building works, substandard building works and construction danger, with a view to ensuring construction quality and protecting public safety. This is a good move.

On the other hand, under section 40(2AA) of the existing Ordinance, the maximum penalty is a fine of \$250,000 and imprisonment for three years. Since the industry considered that the construction industry was in the most difficult time, a substantial increase in penalty would cause tremendous impact on them, thus the Government agreed to maintain the existing penalty level this time around. However, the Democratic Party was concerned about the fact that a fine of \$250,000 will not necessary achieve the deterrent effect. Moreover, to some large construction companies, the fine would be relatively insignificant when compared with projects worth tens of millions of dollars or even billions of dollars. Should any accident happen, I believe that it will not only cost

pecuniary or property losses, but also losses of many lives. For that reason, we considered that it was necessary to remind the relevant construction contractors that they have to be cautious in this respect.

With regard to the most controversial provision relating to Category III minor works, after discussions by the Bills Committee, it was decided that the relevant provision should be removed from the Bill, and the Government was requested to gauge views of the industry before introducing the revised minor works control regime to the Council in the next term. Nevertheless, we had a lot of arguments regarding small to medium scale building works. We were of the view that it would cause tremendous impact on the public if the relevant provisions were proposed in such a hasty manner. The Government was willing to listen to Members' views on this issue and had been making efforts to figure out the actual situation of society. In fact, the requirements under this provision are quite difficult to enforce, not to mention their significant implications on the general public. For that reason, it is indeed a good decision for the Government to withdraw the relevant clauses.

We have urged the Government to review issues relating to minor works as soon as possible and introduce it to the Legislative Council for scrutiny because Category III minor works, such as support structures for air-conditioning units and drying racks will involve the erection of projections and any accident will injure passers-by. For that reason, in the interest of public safety, the Government should speed up the pace of reviewing and studying ways to improve the situation. I think if the relevant review needs a couple of years to complete, then the entire clause or the entire Bill will lose its meaning. For that reason, I hope the Government will complete this task as soon as possible.

For decades after enactment, the Buildings Ordinance has never been amended, thus the amendment this time around could be called the first step being taken. Since society is undergoing continual development, in order to meet the needs of the contemporary world, it is necessary for the Government to review the Ordinance from time to time in the interest of protecting public safety.

Madam President, I wish to voice some of my feelings. During the scrutiny of the Bill, I could see that there was serious communication between Members and government officials. The purpose of communication was not for

the sake of making dialogues, instead, its objective was to sincerely protect the safety of the public and to ensure the quality of buildings. The ultimate goal of communication was that all parties concerned could arrive at a consensus and a definite target could be set. If that target could be met, the work of the Government could be carried out smoothly, an accomplishment was made by Members, and the public could be better protected. For that reason, I hope that the communication between the Government and Members will not be limited to this Bil, and I hope that more communication will be made especially when we discuss issues relating to our political system in future.

Thank you, Madam President.

DR RAYMOND HO: The Buildings Ordinance (Cap. 123) was introduced and enacted in 1955. Although amendments had been made in the past, they were however more or less, or in most cases, made in a piecemeal manner. I would agree that the Ordinance has failed to meet the present day needs of Hong Kong, particularly in view of the very rapid economic development and social changes.

In January 2000, I put forward a motion asking the Administration to carry out a comprehensive review of the Buildings Ordinance. We are happy about and welcome the introduction of this Buildings (Amendment) Bill 2003. It is a complex Bill and I would like to take this opportunity to commend the government team's attitude in taking this Bill through, particularly when Ms Olivia NIP started to lead the team. I would also like to show my appreciation of the Chairman of the Bills Committee, the Honourable Cyd HO. She actually has done a marvellous job, although in the end, we had to agree that this very major part of the proposed Bill in respect of minor works and registration of minor works contractors had to be removed from the Bill this time. It is such an important part of the Bill. However, it affects many walks of life, and we will have a lot of repercussions and implications in the end if it is actually introduced. So, I hope the Government would bring it back to the Legislative Council as soon as possible. Of course, that decision was also made to ensure that this proposed Bill is able to come back to the Council before the end of this term.

I would just like to make a few comments on a few parts of the proposed Bill. First of all, I would like to talk about Registered Geotechnical Engineers.

In the submission of building plans for the implementation of a building project, there are several areas which are considered to be the major parts of the whole project. The Authorized Person (AP), of course, looks after the administration and the control of the submission of the whole project, particularly the general building plans. There are three areas which require specific technical expertise, they are structural engineering, geotechnical engineering and building services engineering. Up to now, we have only had one category for Registered Structural Engineers (RSE) who are looking after the first area. However, there is no provision at all for the other two categories, after I would say 11 or 12 years' discussion on this registration of Geotechnical Engineers, including six to seven years' internal discussions within the Hong Kong Institution of Engineers (HKIE) to resolve the differences of different disciplines within the profession in coming to an agreement and a consensus amongst them. In the end, complete agreement was reached between the HKIE and the Government and it was put in writing.

Unfortunately, when the Bill was introduced to the Council, or to the Bills Committee, we found that the details as agreed in the letter from the Director of Buildings were not included at all, except the very general clause as stated in the proposed Bill. This was disappointing. But in the end, the Government was quick enough to accept the proposal that a draft AP/RSE practice note could be put forward to the professional body for agreement. Hence, in the end, the agreement was reached fairly soon because the details were actually agreed upon some years back, although they were not included in the final proposed Bill. So, the conclusion reached at the Bills Committee was that the draft AP/RSE practice note was accepted to complete the whole process to ensure that details of the grandfather clause cater for disciplines other than the geotechnical engineering discipline, that is, the civil engineers and the structural engineers, for them to be able to utilize the experience they have had, and also the expertise they have had over the years in their practice, to continue carrying out the work required for complex foundations as well as slope work.

I would like to come to another area. One area which has caused the profession a lot of concern is section 40(2AA). This is to deal with the conviction of offences which is a result of anyone who has failed to notify the Building Authority if he carries out work in accordance with the plans approved by the Building Authority, but in the end, the works are found to be in contravention of the Buildings Ordinance. According to the law as it is since 1955, the person is liable to three years' imprisonment and a fine of \$250,000.

In fact, the Government proposed in the first place to increase the fine to \$1.5 million, and retain the three years' imprisonment term. This was considered to be totally unreasonable because this kind of offence is always considered to be relatively minor, compared with the other offences included in the existing Buildings Ordinance. So in the end, the Government agreed to drop the three years' imprisonment term and retain the maximum fine of \$250,000 as it is in the existing law. This was in the end accepted by the professional body.

Also, I would like to point out that the proposed Bill requires the printing of documents which are kept under the Buildings Ordinance to be charged at \$38 per copy. This was also considered to be totally unreasonable. In the end, the Government agreed to bring it down to \$1.60. All in all, I personally would like to see that this kind of partnership in working through a bill between the government officials and Members of the Legislative Council can continue in future, and also in the scrutiny of other bills in future. So, Madam President, I would support the Second Reading of the Bill. Thank you.

MR TAM YIU-CHUNG (in Cantonese): Madam President, in order to protect safety of the public, measures which could enhance the safety level of buildings and forbid unauthorized building works are necessary. The Buildings (Amendment) Bill 2003 is a rather comprehensive amendment with regard to the protection of building safety in recent years, we support the overall objective of the Bill. Having considered the concerns of the Bills Committee and the trade, the Government has made suitable amendments to some unsatisfactory clauses of the Bill, the DAB therefore supports the resumption of the Second Reading of the Bill.

However, we wish to take this opportunity to urge the Government to face up to and rectify two issues: The first issue is the proper planning of the control regime for minor works. With regard to simple and small-scale works such as the replacement of window frames or support frames for air-conditioning units, the existing regulations are undoubtedly too stringent, thus in practice, these works will seldom undergo the statutory approval procedures. If the regulatory procedure is streamlined, these works could be put back onto the right track.

Nevertheless, in reality, unauthorized support frames for air-conditioning units and drying racks are numerous, so if these minor works are incorporated

into the proposed control regime, we cannot see any positive government measure to ensure compliance by owners. The mere provision of a transitional period cannot solve the problem at all. Now that laws are not observed and the Government has no adequate resources to enforce the laws, it virtually makes no difference whether this situation remains or the Ordinance is amended.

The second issue derives from the introduction of a minor works control regime is the question of how best we can minimize the impact on the livelihood of those employed in the industry. At present, employees of some smaller-scale construction companies are mostly self-employed or sole proprietors. They may possess abundant experience, but they may not necessarily possess the academic qualifications required for registration. For that reason, a large number of people will lose jobs. At present, they can have a job as long as registered contractors employ them, but when the new regime is introduced, registered contractors will definitely ask them to get a licence, and if they have no licence, they can only accept never-ending pay cut at their employers' disposal. During the deliberations on the Bill, the Democratic Alliance for Betterment of Hong Kong (DAB) and the Hong Kong Federation of Trade Unions received different opinions from trade unions and workers from the construction industry, all expressing concern about the new regime. It can thus be seen that the consultation and preparation work of the Government was inadequate.

We hope that in addition to abruptly withdrawing the provisions relating to the new regime this time around, the Government will consult the relevant trade unions and the industry in a more comprehensive way, so that the regime to be introduced in future could be an employment-based mechanism which is implemented according to the actual situation of all walks of life, and we also hope that an exemption scheme can be established, so that the new regime will not strangle their employment opportunities.

Lastly, I wish to discuss the issue of protecting the rights of property owners. We support the proposal to facilitate law enforcement against unauthorized building works by incorporating the registration of removal order in the Land Registry. However, once a copy of the removal order is submitted to the Land Registry for registration, the Land Registry will take about 12 days to prepare the memorial of the order and another 20 working days to complete the registration. Since the preparation of the memorial, the formal registration or the removal of registration procedure may take some time, owners or

prospective owners who are engaging in a transaction may therefore be affected. For this reason, we hope the Government will adopt proper measures, such as speeding up the survey process or reducing the time limit of issuing the discharge of the relevant order or notice, so as to protect the interest of owners and prospective owners.

Thank you, Madam President.

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

MS MIRIAM LAU (in Cantonese): Madam President, after convening numerous meetings, the Bills Committee on Buildings (Amendment) Bill 2003 has finally completed its deliberations on the Bill after the Government has agreed to delete all controversial provisions in respect of minor works, so as to enable the passage of other provisions on enhancing the regulatory control over buildings and building works just before the end of this Legislative Session.

The Buildings (Amendment) Bill 2003 (the Bill) introduced into this Council by the Administration originally included the proposal on a minor works control regime which would affect the general public significantly. The proposal can indeed solve the current problem of the existing uniform control regime for all private building works irrespective of their scale (that is, more stringent on small-scale works but too relaxed towards large-scale works), and it can also streamline the regulation. With regard to this policy objective, the Liberal Party is very much supportive. Nevertheless, the proposal also brought along some issues that no one had ever thought of. For example, the provisions on Category III minor works in the Bill proposed by the Government would bring along unexpected inconvenience or even nuisance to the public.

Category III minor works involved the erection of a metal support frame for air-conditioning units and drying racks for household use. Despite works in this respect are currently regulated by law, the execution of these minor works has to comply with all the statutory requirements as those of large-scale works, for this reason, approval from the Building Authority is required with regard to the plans of these minor works, while an Authorized Person and a registered contractor have to be appointed to carry out the works. The procedure is

therefore rather cumbersome. For that reason, few people will comply with these requirements. In practice, these household minor works seldom go through the statutory approval procedures and the authorities have never taken serious enforcement action against these works, as the authorities will only take enforcement actions against works which would cause imminent danger. Consequently, numerous support frames for air-conditioning units and drying racks are erected all over the territory. The question is how these works, which are simpler in nature, could be covered by a genuine control regime. How should these unauthorized structures (such as drying racks and support frame for air-conditioning units) be dealt with? If removal works have to be carried out, they will not only drain time and energy, but also cost a fortune, and the nuisance to the public will hardly be quantifiable and at the same time, law enforcement agencies will encounter grave difficulties in the course of taking enforcement actions. Even if we do not take the current problems into account, the public have to comply with numerous requirements in carrying out these minor works, for they have to employ registered minor works contractors, prepare the plans and obtain the certification of completion. The cost of the works will definitely increase and the burden on the public will also be increased significantly. For example, an air-conditioning unit may cost a little more than \$1,000, but the installation fee would be as much as \$1,000-odd, or even up to \$2,000 to \$3,000. In fact, members of the public may probably have never thought of these consequences. Another issue is that most of the contractors engaging in these small-scale works now are self-employed persons or sole proprietors, they therefore cannot meet the registration requirements. Their livelihood would be jeopardized once the control regime for minor works is put into practice.

Since the relevant proposals will have far-reaching implications on the general public as well as the industry, the Liberal Party considers that the authorities should conduct a comprehensive consultation prior to implementing these proposals, so as to minimize the impact on the general public, otherwise the public may suffer before they can enjoy the benefit. This is the last thing the Liberal Party wishes to see, and I believe this is also not the legislative intent of the authorities. The authorities eventually agreed to delete the provisions in respect of minor works and the Liberal Party supports this decision. However, the Liberal Party hopes the Government will carry out the relevant consultation as soon as possible and to introduce a revised minor works control regime which is accepted by the general public and the industry in the next Legislative Session.

Another contentious proposal in the Bill is the provision on prosecuting and penalizing owners who obstruct owners' corporation in complying with statutory orders. The Liberal Party understands that some individual owners are so selfish that they may unduly obstruct owners' corporations in carrying out maintenance works, which makes it difficult for the owners' corporation to comply with statutory orders, rendering it liable to legal obligation. This is unfair to owners' corporations. Nevertheless, the Liberal will not rule out the fact that individual owners may have reasonable grounds for being unco-operative. Once the proposed provision is implemented, the legitimate interest of individual owners would possibly be in jeopardy, since if disputes arise in the negotiation between them and owners' corporations about the execution of works, they will be in an unfavorable position. Of course they wish that a reasonable arrangement could be made, but if the negotiation got stuck at certain stage, what these owners do will obstruct the owners' corporation in complying with statutory orders in relation to the implementation of maintenance works, rendering them liable to prosecution. Furthermore, the offender is liable upon conviction to a maximum fine of \$300,000 and imprisonment for one year. The Liberal Party has reservations about this kind of one-sided approach as we consider the penalty too stringent.

During the deliberations, the Government had in fact considered deleting the provision after gauging Members' opinions. Nevertheless, the Liberal Party was of the view that an amendment would be fine as there was a need to retain the relevant provision to deter and penalize some owners who were difficult to deal with (in fact, there is a large number of this kind of owners), so as to enable the owners' corporations to carry out statutory orders in relation to maintenance works more effectively.

Eventually, the Administration proposed to amend the provision by narrowing down the scope of its application and lowering the original more stringent penalty proposed, so as to make the provision more reasonable. The Liberal Party supports this proposal.

Moreover, the Liberal Party welcomes other proposed provisions, such as the mandatory appointment of geotechnical engineers for geotechnical works, rationalization of the registration scheme for building professionals, as they will

help enhance the quality and control of the construction industry as well as protecting the safety of the public. For that reason, the Liberal Party supports the Second Reading of the Bill.

Madam President, I so submit.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): Secretary for Housing, Planning and Lands, you may now reply.

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): Madam President, the Buildings (Amendment) Bill 2003 seeks mainly to rationalize the building control regime, upgrade safety requirements and update the relevant legislation in keeping with the needs of modern-day society, with a view to providing members of the public with a safer, healthier and more agreeable living environment.

To begin with, I wish to express my thanks to Ms Cyd HO, Chairman of the Bills Committee, and all its members. The Bills Committee convened a total of 22 meetings, and the smooth completion of the scrutiny of the Bill is entirely attributable to its efforts. Members of the Bills Committee have also provided plenty of valuable advice, thus enabling us to perfect our amendment proposals and the contents of the Bill.

As mentioned by Members earlier, one of the main proposals of the Bill is the introduction of a minor works control regime to rationalize the existing building control regime, with a view to making the requirements on these works proportionate to their scales, complexity and risks. This proposal can enable building owners and the construction industry to save the time and costs required for minor works, thus facilitating public compliance with the relevant legislation,

and in turn ensuring the safe conduct of these works. This is a proposal that keeps abreast of the times, meant largely for the convenience of the public. The Bills Committee has conducted extensive and in-depth studies on the minor works control regime and also invited members of the industry to offer advice.

Members of the Bills Committee and some minor works organizations have expressed a number of concerns, such as the monitoring of existing and future household minor works involving the erection of metal support frames for household air-conditioning units and drying racks as mentioned by Members just now. Besides, members and the relevant organizations have also expressed concern about the livelihood of those non-registered contractors engaging in minor works. Since they are only small contractors, and in many cases, they are even self-employed persons, it is feared that they may be unable to become Registered Minor Works Contractors under the new system in the future. In this connection, apart from proposing a top-up course for the practitioners concerned, we have also proposed to allow construction workers of the relevant trade registered under the Construction Workers Registration Bill to carry out certain types of minor works, so as to avoid duplicate registration under two separate ordinances. However, since the Construction Workers Registration Bill has yet to be passed into law, the moving of a Committee stage amendment to the Buildings (Amendment) Bill 2003 at this stage will lead to convergence problems.

For the reason explained above, we are of the view that the industry should be further consulted on the concerns expressed, and that a scheme should be worked out to converge with the Construction Workers Registration Bill. I am very pleased to note that members of the Bills Committee and the relevant organizations all support the introduction of a minor works control regime and also the policy direction of the Government. Since no consensus has yet been reached on the details of implementation mentioned above, and also in consideration that not much time is left before the end of the current Legislative Session, the Bills Committee and the Government have eventually agreed that the relevant proposal should be deleted from the Bill for the time being. Pending further consultation with the industry, another amendment bill on minor works will be tabled before the Legislative Council in the next Legislative Session.

Following the deletion of the proposed minor works control regime, the Bill shall comprise proposals on the following:

- (1) the registration of geotechnical engineers;
- (2) the provision of emergency vehicular access in housing development projects;
- (3) a clear definition of responsible parties for unauthorized building works;
- (4) the empowerment of the Building Authority to issue a warning notice on unauthorized building works;
- (5) heavier penalties for substandard building works or construction danger;
- (6) the prosecution of individual owners who obstruct their owners' corporations in complying with statutory orders;
- (7) longer registration periods for Authorized Persons and relevant professionals; and
- (8) a revision of fees structures and levels for the inspection and copying of building plans and documents.

The proposals mentioned above are intended to upgrade safety requirements, facilitate law enforcement, and improve service to the public. They have the general support of the Bills Committee, and we have also accepted some of the views advanced by its members. Later on at the Committee stage, I shall move amendments relating to the amendment proposals endorsed by the Bills Committee. I shall then explain the main points and justifications pertaining to each amendment.

I hope that Members can support the Bill and the proposed amendments I am going to move. Thank you, Madam President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the Buildings (Amendment) Bill 2003 be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Buildings (Amendment) Bill 2003.

Council went into Committee.

Committee Stage

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

BUILDINGS (AMENDMENT) BILL 2003

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

CLERK (in Cantonese): Clauses 1, 3, 6, 7, 16, 17, 24, 31, 33, 34, 35, 44, 46, 47, 49, 60, 65, 66, 68, 70 and 71.

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Clauses 2, 4, 5, 8 to 15, 18 to 23, 25 to 30, 32, 36 to 43, 45, 48, 50 to 59, 61 to 64, 67, 69 and 72 to 81.

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): Madam Chairman, I move the deletion of clauses 8, 11, 13, 20, 22, 23, 26, 27, 28, 40, 41, 50, 51, 53, 55, 61, 63, 73, 77, 78 and 80, being provisions on the minor works control regime, and the amendments to the other clauses read out just now, as printed on the paper circularized to Members.

During the resumption of Second Reading debate just now, I already explained in detail the reasons and policy considerations underlying the deletion of the provisions on minor works. I therefore shall not make any repetition here. Clauses 77 and 78 of the Bill provide for the design and construction specifications for some minor works, including metal support frames for air-conditioning units and signboards, for compliance by minor works contractors. Since the proposal on the minor works control regime will be deleted, these provisions should also be deleted accordingly. However, the definition of "signboard" as set out in clause 2(f) of the Bill will be retained, with a view to enabling the Government to carry out the removal of unauthorized signboards under section 24 of the Buildings Ordinance. Besides, the Government also proposes to introduce minor adjustments to the definition of "signboard", with the purpose of covering all those display panels that only display advertisements and announcements on an intermittent basis. Clauses 38, 39 and 74 of the Bill deal with amendments outside the scope of minor works. In the following part of my speech, I shall explain them briefly.

Clause 38 of the Bill proposes the addition of section 39B to the Ordinance, providing that any individual owner who, without any reasonable excuse, obstructs an owners' corporation (OC) in complying with an order served on it in

relation to any common parts of the building may be prosecuted. We believe this new provision will assist OCs in complying with statutory orders, thus facilitating the effective enforcement by the Buildings Department. During the scrutiny of the Bill, members, however, expressed the view that the scope of the proposed section 39B should be restricted to the removal of unauthorized building works and cases of a more serious nature. After prudent consideration, we have agreed to amend the proposed section 39B, restricting its application to unauthorized building works, dangerous or defective buildings, dangerous slopes and defective drains or sewers. We believe this amended provision can strike a balance between assisting the operation of OCs and protecting the interests of individual owners.

Clause 39 of the Bill provides for the penalties of relevant offences. The related amendment, besides deleting the provisions on the minor works control regime, seeks mainly to amend the increase of fines originally proposed. The proposal on increase of fines has been a subject of concern to members and deputations, who are all of the view that the proposed increase by four or six times is much too high when viewed against the Construction Cost Index. For this reason, we have thoroughly re-examined the penalties for the offences covered by the Bill and proposed to increase the fines by three or four times, having regard to the Composite Consumer Price Index, so as to maintain the deterrent effect by restoring the value of money.

As regards the offence provided for in section 40(2AA) of the Buildings Ordinance, that is, the offence concerning the failure of Authorized Persons, Registered Structural Engineers, registered geotechnical engineers and registered contractors to notify the Building Authority of any contravention of the regulations that would result from carrying out the works shown in approved plans, we are of the view that the seriousness of the offence does not warrant imprisonment as a penalty. We have therefore proposed that the fine not to be increased and the imprisonment provision be deleted.

In regard to the proposal relating to individual owners who obstruct OCs in complying with statutory orders, we propose to reduce the penalties set out in proposed section 40(4B), lowering the fine to level 3, that is, \$10,000 and imprisonment for six months, so that they can be brought in line with the penalties for a similar offence under section 40(2AAA) of the existing Ordinance, that is, the offence of obstructing the Building Authority in exercising its powers under the Buildings Ordinance.

The amendment to clause 74 of the Bill, besides deleting the provisions in relation to minor works, also covers the revision of fees for inspecting and copying building documents. The amendment to clause 4 deals with the proper designations to be adopted after the merger of the Civil Engineering Department and the Territory Development Department. The amendments to clauses 30 and 32 provide for the issuing by the Building Authority of an instrument of satisfaction against a warning notice. The amendments to clauses 45 and 79 are technical in nature.

Madam Chairman, the aforesaid amendments have basically been put forward after detailed discussions in the Bills Committee, and they all have the endorsement of its members. I hope that Members can support and endorse these amendments.

Proposed amendments

Clause 2 (see Annex I)

Clause 4 (see Annex I)

Clause 5 (see Annex I)

Clause 8 (see Annex I)

Clause 9 (see Annex I)

Clause 10 (see Annex I)

Clause 11 (see Annex I)

Clause 12 (see Annex I)

Clause 13 (see Annex I)

Clause 14 (see Annex I)

Clause 15 (see Annex I)

Clause 18 (see Annex I)

Clause 19 (see Annex I)

Clause 20 (see Annex I)

Clause 21 (see Annex I)

Clause 22 (see Annex I)

Clause 23 (see Annex I)

Clause 25 (see Annex I)

Clause 26 (see Annex I)

Clause 27 (see Annex I)

Clause 28 (see Annex I)

Clause 29 (see Annex I)

Clause 30 (see Annex I)

Clause 32 (see Annex I)

Clause 36 (see Annex I)

Clause 37 (see Annex I)

Clause 38 (see Annex I)

Clause 39 (see Annex I)

Clause 40 (see Annex I)

Clause 41 (see Annex I)

Clause 42 (see Annex I)

Clause 43 (see Annex I)

Clause 45 (see Annex I)

Clause 48 (see Annex I)

Clause 50 (see Annex I)

Clause 51 (see Annex I)

Clause 52 (see Annex I)

Clause 53 (see Annex I)

Clause 54 (see Annex I)

Clause 55 (see Annex I)

Clause 56 (see Annex I)

Clause 57 (see Annex I)

Clause 58 (see Annex I)

Clause 59 (see Annex I)

Clause 61 (see Annex I)

Clause 62 (see Annex I)

Clause 63 (see Annex I)

Clause 64 (see Annex I)

Clause 67 (see Annex I)

Clause 69 (see Annex I)

Clause 72 (see Annex I)

Clause 73 (see Annex I)

Clause 74 (see Annex I)

Clause 75 (see Annex I)

Clause 76 (see Annex I)

Clause 77 (see Annex I)

Clause 78 (see Annex I)

Clause 79 (see Annex I)

Clause 80 (see Annex I)

Clause 81 (see Annex I)

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

DR RAYMOND HO: Madam Chairman, firstly, although the relevant clauses on the registration of minor works contractors are deleted from the Bill this time, I urge the Government to have a thorough appraisal of the whole issue and bring it back to the Council as soon as possible in order to deal with the 800 000 unauthorized building works which are in existence at the moment. This is a major issue to do with the development of Hong Kong which should be dealt with as soon as possible.

Secondly, now that we have dealt with the issue of registration, registered geotechnical engineers hope that the Government will start to look at the issue of registration of building services engineers. As I mentioned earlier, this is the third category of particular expertise which is required in respect of building project submissions to the Building Authority.

I support the amendments as proposed. Thank you, Madam Chairman.

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

(No Member indicated a wish to speak)

CHAIRMAN (in Cantonese): If not, I now call upon the Secretary for Housing, Planning and Lands to speak again.

Secretary for Housing, Planning and Lands, do you wish to reply?

(The Secretary for Housing, Planning and Lands indicated that he did not wish to reply)

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

(Members raised their hands)

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

(No hands raised)

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

CHAIRMAN (in Cantonese): As the amendments to clauses 8, 11, 13, 20, 22, 23, 26, 27, 28, 40, 41, 50, 51, 53, 55, 61, 63, 73, 77, 78 and 80, which deal with deletion, have been passed, these clauses are deleted from the Bill.

CLERK (in Cantonese): Clauses 2, 4, 5, 9, 10, 12, 14, 15, 18, 19, 21, 25, 29, 30, 32, 36 to 39, 42, 43, 45, 48, 52, 54, 56 to 59, 62, 64, 67, 69, 72, 74, 75, 76, 79 and 81 as amended.

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): New clause 24A Conditions may be imposed
in certain cases

New heading before new Prevention of Bribery
clause 79A Ordinance

New clause 79A Public Bodies.

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese):
Madam Chairman, I move that the new heading and new clauses read out just
now and as printed on the paper circularized to Members be read the Second
time.

It came to our attention during the scrutiny of the Bill that it was necessary
to introduce two amendments. The first amendment involves the deletion of a
section left over in the 1994 amendment to repeal section 50 of the Buildings
Ordinance, that is, section 17(2). This is a technical amendment. The second
is a consequential amendment relating to the Prevention of Bribery Ordinance
(Cap. 201). We propose to add a new section 79A to the Bill, including the
Geotechnical Engineers Registration Committee in Schedule 1 to the Prevention
of Bribery Ordinance to make it a public body under this Ordinance. I hope that
Members can support and endorse these amendments.

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

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): New clause 24A, new heading before new clause 79A and new clause 79A.

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): Madam Chairman, I move that the new heading and new clauses read out just now be added to the Bill.

Proposed additions

New clause 24A (see Annex I)

New heading before new clause 79A (see Annex I)

New clause 79A (see Annex I)

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

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

(Members raised their hands)

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

(No hands raised)

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

CHAIRMAN (in Cantonese): Council now resumes.

Council then resumed.

Third Reading of Bills

PRESIDENT (in Cantonese): Bill: Third Reading.

BUILDINGS (AMENDMENT) BILL 2003

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese):
Madam President, the

Buildings (Amendment) Bill 2003

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

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

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Buildings (Amendment) Bill 2003.

Resumption of Second Reading Debate on Bills

PRESIDENT (in Cantonese): We will resume the Second Reading debate on the Merchant Shipping (Security of Ships and Port Facilities) Bill.

MERCHANT SHIPPING (SECURITY OF SHIPS AND PORT FACILITIES) BILL

Resumption of debate on Second Reading which was moved on 24 March 2004

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

MS MIRIAM LAU (in Cantonese): Madam President, I now present the report in my capacity as the Chairman of the Bills Committee on Merchant Shipping (Security of Ships and Port Facilities) Bill (the Bills Committee), and I shall report the gist of deliberations of the Bills Committee.

The Bills Committee fully understands that Hong Kong as an associate member of the International Maritime Organization (IMO) is obliged to, through domestic legislation, give effect to the new provisions of the International Convention for the Safety of Life at Sea, 1974 (the SOLAS Convention) and the International Ship and Port Facility Security Code (the ISPS Code) with effect from 1 July of the year. The whole package of legislative proposals by the Administration includes the principal legislation and subsidiary legislation listing the implementation details. As it is necessary to ensure the proper implementation of the SOLAS Convention and the ISPA Code, the Bills Committee has also carefully examined the relevant draft subsidiary legislation, apart from scrutinizing the Bill. The deliberation schedule of this Bill has been rather tight. The Administration managed to table the Merchant Shipping (Security of Ships and Port Facilities) Bill only on 24 March 2004, and the Bills Committee could not commence its work until 28 May. The Bills Committee has less than two weeks to complete the entire deliberation process, which includes scrutiny of both the principal legislation and the relevant draft subsidiary legislation. Members generally think that the Administration should have tabled the required legislative proposals early, so as to give members with sufficient time for deliberation.

In both clauses 1(3) and 1(4), the Administration has proposed that, before the Ordinance is gazetted, the Secretary for Economic Development and Labour may exercise power to make regulation, and a recognized security organization may perform its functions. According to the explanation of the Administration, even if the Bill and Merchant Shipping (Security of Ships and Port Facilities) Rules cannot be enacted before 1 July, the above arrangements may still facilitate the timely implementation of certain preparatory work. The Government might have already known that, due to its late submission of the Bill, this Council may not be able to finish the legislative process in time, and that explains why it has made this proposal. Members have questioned the appropriateness of this legislative approach. Fortunately, with the persistent effort of members, the Bills Committee has managed to complete scrutinizing the Bill after holding six meeting within a very short time, that is, less than two weeks as mentioned above. So, the Administration will move Committee stage amendments to delete the proposed provisions. In spite of this, certain members still think that such a legislative approach is not desirable, and on the other hand, the deliberation timetable has been rather tight. Therefore, the Bills Committee urges the Administration not to adopt similar arrangements in future.

One of the major proposals of the Bill is to empower the Secretary for Economic Development and Labour to exercise power to make regulation before the Ordinance is gazetted. The Bills Committee has held lengthy discussions with the Administration on the scope of authorization of the Secretary. As the Secretary may make provisions and penalties for many offences that involve criminal liability, members and the Administration have conducted detailed studies in this regard, so as to improve the drafting of relevant provisions in the draft Rules, thereby clearly defining elements of the offences as well as the party which should be criminally responsible.

Insofar as the drafting is concerned, members have studied with the Administration on whether the relevant provisions in the SOLAS Convention and the ISPS Code should be imported into the Bill and the Rules, so that the Bill and the Rules can be made clearer and more specific. The Administration said that, insofar as it is practically possible, it has already imported the relevant provisions in the SOLAS Convention and the ISPS Code into the legislation, and where this is not possible, reference is made to the relevant chapters and sections of the SOLAS Convention and the ISPS Code. Members also note that, in future, the Administration will display resolutions made in IMO Conferences related to the relevant provisions in the SOLAS Convention and the ISPS Code on the Marine Department's website for easy access by the public.

Members have put forward a lot of opinions on the legal and drafting aspects of the Bill and the draft Rules, and the Administration has undertaken to make amendments. The Bills Committee will not move any Committee stage amendments in its name. According to the Administration, if the Bill is passed today, it will publish the Rules in an extraordinary issue of the Gazette before 30 June and it will be tabled at the Council meeting on 30 June. Members also urge the Government to undertake to ensure that the Rules to be gazetted later will be the same as the draft discussed and agreed to by the Bills Committee.

Members have expressed concern about the approach in which the Administration has handled the Bill and the relevant subsidiary legislation as well as the draft of the Rules to be gazetted later. The Administration has also agreed to give a response and an undertaking in the Second Reading debate later on.

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

MISS MARGARET NG: Madam President, Hong Kong takes its international obligations seriously. This Bill endeavours to implement an important international obligation. Naturally, this Council will give it every consideration. There are also serious practical consequences if Hong Kong does not have the necessary legislation in operation by 1 July. However, we are not at liberty to pass a legislation which does not conform with fundamental principles, and there are major problems with this Bill. Fortunately, the Administration has adopted a positive attitude towards the views expressed in the Bills Committee, and agreed to make extensive changes to the Bill, in order to enable us to accept the final product with a relatively clear conscience. Therefore, my support of the Second Reading of the Bill is predicated upon the Government's undertaking to be given in the Secretary's reply in this debate, and the amendments to be made at the Committee stage of the Bill.

I would like to outline briefly the problems and comment on the proposed solutions.

The most fundamental problem is retrospective legislation providing for criminal sanction. Clause 1(2) of the Bill provides that the Ordinance comes into operation on the day of gazettal. Clause 1(3) provides that the Secretary for Economic Development and Labour may exercise his powers to make regulations under the Ordinance before the Ordinance itself has come into operation. This power to make regulations is extremely wide-ranging, and in fact covers the entire implementation of the International Convention for the Safety of Life at Sea, 1794 and the International Ship and Port Facility Security Code which is the purpose of the Ordinance itself, and it includes creating offences with a maximum penalty of three years' imprisonment and a fine of up to \$500,000.

In simple terms, the Secretary can create serious criminal offences before the Ordinance has come into operation. Put the other way, the Ordinance, when it comes into operation, will retrospectively give effect to the criminal offences created. This offends the fundamental principle against retrospective criminal legislation and is unacceptable.

But, even without going to so fundamental a principle, this form of legislation is constitutionally unsound. It is not real legislation which carries with it the implication of due process and scrutiny by the legislature. The Bill is

little more than a mere vehicle to empower the Secretary to make regulations in which one finds the real substance of the law, but which the legislature has no opportunity to look into. This is like signing a blank cheque. While I have no intention to cast any doubt on the integrity and good intentions of the Government, clearly, this is inconsistent with the proper performance of this Council's legislative function.

We are now able to avoid the above problem by a device which I anxiously hope will be resorted to only rarely. The Bills Committee was shown a draft of the regulations, and in effect vetted these regulations at the same time as the Bill. In other words, with the Government's undertaking that the regulations to be made under section 6(1), or whatever number it turns out to be in the Ordinance, are as vetted by the Bills Committee, the practical effect of the Bill is now ascertained.

I understand that, with the Bill coming into operation this Friday, there is no need to provide for the Secretary to have the power to make regulations before the Ordinance comes into operation.

The Bills Committee has also suggested many changes to the drafting of the Bill, in every case to make the legislation more vigorous, the powers to be conferred more clearly defined, the checks and balances more explicit, and the entire structure more transparent.

We have applied the same approach to the draft regulations, particularly where criminal provisions are concerned, to make the components of each offence clear and concrete, and to ensure that the penalty commensurates with the nature and gravity of the offence. I shall not take up Members' time by going into the details. Suffice it to say that members of the Bills Committee and the Administration are reasonably in agreement over the end results.

We have worked very hard and very intensely on the Bill and the draft regulations, and by that I mean the Administration as well as members. We have pulled through but only just. I am sure the Administration feels the same as I do.

Finally, I should like to put on record my thanks to our own Legal Service Division for their vigilance and professionalism in drawing the problems of the

Bill to the attention of the House Committee. I say with very mixed feelings indeed that but for that warning note, I would not have joined in the scrutiny of this Bill.

Thank you, Madam President.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): Secretary for Commerce, Industry and Technology, please reply.

SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY (in the absence of Secretary for Economic Development and Labour): Madam President, the Merchant Shipping (Security of Ships and Port Facilities) Bill seeks to give effect to maritime security provisions under the December 2002 Amendments to the "International Convention for the Safety of Life at Sea, 1974" and the associated "International Ship and Port Facility Security Code" adopted by the International Maritime Organization (IMO). Upon entering into force on 1 July 2004, these maritime security provisions will be binding on Hong Kong because the Central People's Government, a contracting state to the Convention, has made the provisions applicable to Hong Kong by extension.

To fulfil our obligations under the international convention, we are required to give effect to the provisions through domestic legislation. Since the existing merchant shipping and port control legislations do not deal with security issues, nor cover any port facilities which are located on land, we need to enact new legislation to give effect to the new security provisions. The enactment of the Bill, and its subsidiary legislation, will empower the Director of Marine to require Hong Kong registered ships and port facilities in Hong Kong to implement relevant security measures, and impose security control measures on foreign ships visiting the port of Hong Kong.

The timetable for the legislative process had been tight, because many implementation issues were not resolved until mid-2003 by various agencies

under the IMO. In this connection, we would like to thank the support of the local maritime industry in working out the details for implementing the security provisions in Hong Kong, so that this Bill could be introduced into the Legislative Council on 24 March. More importantly, the assistance and support of the Bills Committee which began work on the Bill on 28 May have enabled us to resume the Second Reading debate today, so that with its enactment, we will be able to fulfil these international obligations.

In this regard, I would like to convey my sincere thanks to the Chairman, the Honourable Miriam LAU, and members of the Bills Committee, the Honourable Margaret NG, SIN Chung-kai and Dr David CHU, who had worked intensely on the Bill and its subsidiary legislation, the Merchant Shipping (Security of Ships and Port Facilities) Rules, within a very short period of time. Their pragmatic advice was instrumental to adopting the relevant IMO principles into this piece of domestic legislation. We note the views of the members on the very tight schedule within which the Bills Committee was required to complete its scrutiny work. Expeditious scrutiny of the Bill arose from the requirement of the Government of the Hong Kong Special Administrative Region to comply with the deadline for implementing the relevant international obligations on 1 July 2004. The circumstances were exceptional and we would not treat this case as a precedent in future. We would like to thank members for their special assistance on this occasion.

Detailed security requirements for ships and port facilities, the offences and penalties, as well as appeal procedures, will be stipulated in the Merchant Shipping (Security of Ships and Port Facilities) Rules, a piece of subsidiary legislation to be made under the Bill after its enactment. The Rules will be finalized on the basis of the draft Rules which have been examined at length and agreed to by the Bills Committee, and the amendments proposed by the Administration.

Madam President, the Bill is crucial to maintaining Hong Kong's status as a major international hub port and logistics centre. It is supported by the local shipping and port industry, the comments of which have been taken into account in the Bill. I urge Members to pass the Bill into law.

Thank you, Madam President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the Merchant Shipping (Security of Ships and Port Facilities) Bill be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Merchant Shipping (Security of Ships and Port Facilities) Bill.

Council went into Committee.

Committee Stage

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

MERCHANT SHIPPING (SECURITY OF SHIPS AND PORT FACILITIES) BILL

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Merchant Shipping (Security of Ships and Port Facilities) Bill.

CLERK (in Cantonese): Clauses 2, 16 and 19.

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Clauses 1, 3 to 15, 17 and 18.

SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY:
Madam Chairman, I move that clauses 1, 3 to 15, and 18 be amended, and the entire clause 17 on "Co-operation with other Contracting Governments" be deleted, as set out in the paper circulated to Members. Most of the proposed amendments have been introduced in response to members' views.

The amendments to clause 1 seek to enable the Ordinance to commence operation upon its publication in the Gazette.

The amendments to clause 3 seek to refine textually the drafting of the definitions on "authorized officer", "high-speed craft", "international voyage", "ship" and the replacement of "the Code" with "the International Code" so that they are consistent with the relevant definitions under the International Convention for the Safety of Life at Sea, 1974 (SOLAS). Moreover, definitions on "administration" and "ship/port interface", "designated port facilities" and "manager" are added.

The amendments to clause 6(2)(c) seek to set out clearly that the Director may confer part of the functions to recognized security organizations according to the provisions of the International Ship and Port Facility Security Code (ISPS Code). The said organizations refer mainly to classification societies which have considerable expertise in respect of security, ship and port operations, and enjoy reputation widely recognized in the international maritime sector.

The amendments to clause 13(5) seek to clearly provide that any person, who provides or gives to an authorized officer any document or information which is false in a material particular and being reckless as to whether the document or information is true in such particular, commits an offence.

As regards clause 17, we propose to delete the whole clause to eliminate any unnecessary ambiguity, since the Director of Marine, as the maritime administration of the Hong Kong Special Administration Region, has been co-operating with other administrations in respect of ship inspections and statutory functions under the SOLAS.

The amendments to clause 18 seek to delete the requirement of putting "the English and Chinese texts of Chapter XI-2 of the Convention and the Code in a website on the Internet for browsing free of charge." This is because we have obtained the consent of the International Maritime Organization (IMO) for uploading the amended resolution of the Convention and the ISPS Code contained in the relevant IMO paper onto the website of the Marine Department for public inspection.

Thank you, Madam Chairman.

Proposed amendments

Clause 1 (see Annex II)

Clause 3 (see Annex II)

Clause 4 (see Annex II)

Clause 5 (see Annex II)

Clause 6 (see Annex II)

Clause 7 (see Annex II)

Clause 8 (see Annex II)

Clause 9 (see Annex II)

Clause 10 (see Annex II)

Clause 11 (see Annex II)

Clause 12 (see Annex II)

Clause 13 (see Annex II)

Clause 14 (see Annex II)

Clause 15 (see Annex II)

Clause 17 (see Annex II)

Clause 18 (see Annex II)

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

CHAIRMAN (in Cantonese): As the amendment to clause 17, which deals with deletion, has been passed, clause 17 is therefore deleted from the Bill.

CLERK (in Cantonese): Clauses 1, 3 to 15 and 18 as amended.

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Long title.

SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY:
Madam Chairman, I move that the long title be amended as set out in the paper circulated to Members. The proposed amendments aim to improve the presentation and drafting aspects of the long title. Thank you, Madam Chairman.

Proposed amendment

Long Title (see Annex II)

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the amendment to the long title moved by the Secretary for Commerce, Industry and Technology, be passed.

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

(Members raised their hands)

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

(No hands raised)

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

CHAIRMAN (in Cantonese): Council now resumes.

Council then resumed

Third Readings of Bills

PRESIDENT (in Cantonese): Bill: Third Reading.

MERCHANT SHIPPING (SECURITY OF SHIPS AND PORT FACILITIES) BILL

SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY:
Madam President, the

Merchant Shipping (Security of Ships and Port Facilities) Bill

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

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Merchant Shipping (Security of Ships and Port Facilities) Bill be read the Third time and do pass.

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Merchant Shipping (Security of Ships and Port Facilities) Bill.

Resumption of Second Reading Debate on Bills

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

ELECTRONIC TRANSACTIONS (AMENDMENT) BILL 2003

Resumption of debate on Second Reading which was moved on 25 June 2003

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

MR SIN CHUNG-KAI (in Cantonese): Madam President, in my capacity as Chairman of the Bills Committee on Electronic Transactions (Amendment) Bill 2003 (the Bills Committee), I submit the Committee's Report to this Council.

The Bills Committee supports in principle the policy objective of the Electronic Transactions (Amendment) Bill 2003 (the Bill) to update and improve the existing legal framework so as to tie in with the latest development of e-business. The Bills Committee has discussed certain major provisions in the Bill and related legal and drafting matters with the Administration. It has also considered the submissions of eight organizations and individuals. Relevant details are contained and elaborated in the report.

Apart from digital signature, the Bill proposes to recognize other forms of electronic signature in transactions not involving the Government if the signature satisfies specified conditions. However, in order to enhance certainty and facilitate equipping government departments to deal with only one specified form of electronic signature, the Administration considered that digital signature technology should continue to be adopted in transactions involving the Government. The Bills Committee has noted that the proposal is an improvement over the existing requirement which accords legal recognition to digital signature only. Nevertheless, the Bills Committee has also requested the Administration to address the concerns of some organizations on security and details of implementation.

To facilitate the implementation of e-Government, the Bill proposes to add a new Schedule 3 stipulating that the service of documents in the form of electronic records shall be accepted as satisfying the requirement of service by post or in person under certain legal provisions. Provisions set out in the new Schedule are related to the service of documents under the Landlord and Tenant (Consolidation) Ordinance, the Rating Ordinance and the Government Rent (Assessment and Collection) Ordinance. In principle, the Bills Committee does not object to the proposed arrangement. However, on the legislative approach, some members have pointed out that amendments should be directly introduced to the relevant ordinances instead of adding the new Schedule 3 to the Electronic Transactions Ordinance (ETO) to specify the statutory provisions. They are of the view that the latter approach is not user-friendly.

As explained by the Government, the Administration intends to gradually expand the statutory provisions in order to widen the scope of documents which can be served by electronic means. As future amendments to the new Schedule 3 are to be made by subsidiary legislation, the Schedule can be updated without having to amend the principal ordinances *per se*. The Administration points out that the current legislative approach is more convenient and efficient and supported by the two legal professional bodies. Even though some members do not fully agree with the current approach of the Administration, they have not raised objection to the Bill.

The Bills Committee has also deliberated on the proposals on improving the operation of the voluntary recognition scheme for certification authorities and noted the concerns of the Privacy Commissioner for Personal Data (the Privacy Commissioner) on disclosure of information and collection of personal data.

The Administration will move Committee stage amendments to retain the requirements under the existing section 46(2)(a) of the ETO in order to prevent the scope of exemption in respect of obligation of secrecy from becoming too wide. In response to the concerns of the Privacy Commissioner, the Administration has also made a commitment to enhance the contents of the Code of Practice.

The Administration will move an amendment to stipulate 30 June 2004 as the effective date of the Bill. Meanwhile, the Administration has also completed a review of its institutional structure for delivering information technology functions. Subject to the approval of the Finance Committee, the Information Technology Services Department and the information technology-related divisions of the Commerce, Industry and Technology Bureau will merge and a new post of Government Chief Information Officer will be created to take over the previous responsibilities of the Director of Information Technology Services. The Administration has advised that it will declare the changes in the titles by notice published in the Gazette on 2 July 2004 by the Chief Secretary for Administration under section 55 of the Interpretation and General Clauses Ordinance. And the notice will be given retrospective effect on 1 July 2004.

The Bills Committee supports the proposed Committee stage amendments to be moved by the Administration and will not move any Committee stage amendments in its name.

With these remarks, I support the Bill.

MR HOWARD YOUNG (in Cantonese): Madam President, the increasing popularity of electronic and digital technology has induced the emergence of online transactions. However, electronic transactions are not widely accepted by consumers in Hong Kong mainly because members of the public lack confidence in the security and confidentiality of transactions or transmission of personal information over the Internet, apart from low recognition of electronic signature. As a result, members of the public are still not accustomed to online transactions and electronic signature. Efforts have been made in various parts of the world to cross the threshold. Unlike foreign countries where people living in remote areas find it inconvenient to buy things and make transactions without electronic means, Hong Kong conducts a huge volume of commercial

activities which is definitely one of its characteristics. So, there is an objective factor for Hong Kong's situation.

In view of this, the Liberal Party welcomes the Electronic Transactions (Amendment) Bill 2003 (the Bill) introduced by the Government which seeks to further expand the applicability of electronic signature as a measure to facilitate business transactions. One of the amendments stipulates that any form of electronic signature in transactions not involving the Government, subject to certain conditions as to reliability, appropriateness and the consent of the parties concerned, will be accorded legal recognition. We consider that this will help enhance the recognition of electronic signature.

In order to further promote the idea of e-Government, the Bill also proposes that service of documents in the form of electronic records will be accepted as satisfying the requirement of service by post or in person under some existing statutory provisions. The scope of applicability includes the service of notice, application or other documents under the Landlord and Tenant (Consolidation) Ordinance, the Rating Ordinance and the Government Rent (Assessment and Collection) Ordinance. The Liberal Party strongly supports the Government's approach which apparently tallies with the current circumstances.

As regards the question of security, we suggest that timely amendments should continue to be made to the legislation relating to electronic transactions so as to make it perfect. It should also step up enforcement actions to combat and prevent crimes making use of electronic transactions or the Internet with a view to providing a safe and secure environment for the conduct of transactions on the Internet by using electronic signature. In a nutshell, we consider that the amendment proposed this time will help implement e-Government and help promote electronic commerce and scripless transactions in society. It will also be conducive to environmental protection in the long run.

With these remarks, I support the Second and Third Readings of the Bill.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): I now call upon the Secretary for Commerce, Industry and Technology to reply.

SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY:

Madam President, I would like first of all to express my sincere gratitude to the Honourable SIN Chung-kai, Chairman of the Bills Committee, and members of the Bills Committee for their effort and time spent on scrutinizing the Electronic Transactions (Amendment) Bill 2003 (the Bill) as well as their valuable input to make improvements to the Bill. Taking into account their useful advice, we have proposed a number of amendments to the Bill. I shall move these amendments later on during the Committee stage. Now, let me briefly recapitulate the background of the Bill.

The Bill seeks to improve and update the Electronic Transactions Ordinance (ETO) which was enacted in January 2000 to provide a clear legal framework for the conduct of e-business. The ETO accords electronic record and digital signature the same legal recognition as that of their paper-based counterparts. A voluntary recognition scheme for certification authorities has also been established under the ETO to enhance public confidence in electronic transactions.

We have made a commitment to the Legislative Council to review the ETO 18 months after its enactment to ensure that Hong Kong continues to have the most up-to-date legal framework for e-business. Accordingly, we conducted a review of the ETO in 2001, having regard to the operating experience, international e-business development and technological advancement. The review was followed by a public consultation exercise in early 2002. In the light of the public comments received, we formulated a set of proposed amendments to improve the ETO, as contained in the Bill before Members today. I would now like to highlight the key features of the Bill.

First, at present, under the ETO, only digital signature generated by Public Key Infrastructure technology satisfies the signature requirement under the law. To ensure that our legal framework for e-business can keep pace with technological advancement, we propose to adopt a technology-neutral approach for transactions not involving government entities. Clause 4 of the Bill provides that signature requirement under the law can be met by any form of electronic signature so long as it is appropriate, reliable and agreed by the

recipient of the signature. For transactions involving government entities, we propose to continue with the existing practice of accepting digital signature only. This is to provide clarity and certainty to the public as to the form of electronic signature to be used for transactions with government entities. Also, it will be more cost-effective for government entities to be equipped to deal with only one specified form of electronic signature.

Second, we propose to remove unnecessary impediments to the adoption of electronic means created by legal provisions which contain obsolete requirements of serving documents "by post or in person". We propose to add a new section 5A and a new Schedule 3 to the ETO stipulating that, for the documents which are required or permitted to be served by post or in person under the provisions set out in the new Schedule 3, the service of the documents in the form of electronic record will be accepted.

Initially, the new Schedule 3 will contain certain provisions of the Landlord and Tenant (Consolidation) Ordinance, the Rating Ordinance and the Government Rent (Assessment and Collection) Ordinance which require or permit the service of certain notices, applications or other documents on or by the Commissioner of Rating and Valuation and related parties. The Secretary for Commerce, Industry and Technology may, by order published in the Gazette, amend Schedule 3. The order will take the form of subsidiary legislation. Our intention is to expand Schedule 3 to include other legal provisions as and when government departments are ready to accept submission of documents under those provisions electronically.

Some members of the Bills Committee, however, considered that amendments should instead be made to the ordinances containing the provisions in question. They considered this a more user-friendly approach, because the public perusing the respective ordinances would not be aware of the availability of an e-option for serving documents unless they also refer to the ETO.

Our view is that the proposed new section 5A and Schedule 3 is a more efficient legal vehicle for allowing the electronic submission of documents under different legal provisions. Schedule 3 also allows for adjustment and expansion, by order published in the Gazette, as and when departments are ready to provide an e-option. On the other hand, the alternative suggested by members will require amendments to the many individual ordinances, and hence entail a lengthy and complex legislative process. Our current proposal is consistent

with the ETO framework which provides for acceptance of electronic record and digital signature as satisfying the requirements under other ordinances without amending those ordinances *per se*. Moreover, this proposal has received general support during the public consultation in 2002. To address members' concerns about the user-friendliness of this approach, the relevant government departments will widely publicize the availability of the e-option when it is implemented.

A third feature of the Bill is the various proposals to improve the operation of the voluntary recognition scheme for certification authorities under the ETO. We propose that the requirement for a certification authority to engage an independent assessor to prepare a report on its compliance with the ETO should only apply to the trustworthiness aspects of its service. The other operational aspects can be dealt with by a statutory declaration made by a responsible person of the certification authority. We also propose to empower the Director of Information Technology Services to require a recognized certification authority to furnish such an assessment report or declaration, or both, when there are major changes in its operation between two annual assessments.

Madam President, I shall later on move a number of amendments to the Bill during the Committee stage to address the Bills Committee's concerns, to improve certain provisions of the ETO, and to appoint 30 June 2004 as the commencement date of the Amendment Ordinance, if enacted. All these amendments have been discussed and endorsed by the Bills Committee. Subject to the passage of these amendments, I recommend that the Bill be passed.

Thank you, Madam President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the Electronic Transactions (Amendment) Bill 2003 be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Electronic Transactions (Amendment) Bill 2003.

Council went into Committee.

Committee Stage

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

ELECTRONIC TRANSACTIONS (AMENDMENT) BILL 2003

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

CLERK (in Cantonese): Clauses 3, 4, 5, 8 to 15, 17, 18, 22 and 23.

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Clauses 1, 2, 6, 7, 16, 19, 20 and 21.

SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY:
Madam Chairman, I move the amendments to clauses 1, 2, 6, 7, 16, 19, 20 and 21.

Clause 1(2) of the Bill provides for the Secretary for Commerce, Industry and Technology to appoint the commencement date of the Amendment Ordinance, if enacted, by notice published in the Gazette. We now propose to amend clause 1(2) to specify 30 June 2004 as the commencement date.

The commencement date will tie in with the Administration's proposal to merge the Information Technology Services Department and the information technology-related divisions of the Communications and Technology Branch of the Commerce, Industry and Technology Bureau with effect from 1 July 2004. At its meeting on 16 June 2004, the Establishment Subcommittee agreed to recommend to the Finance Committee the creation of a Government Chief Information Officer post to head the merged organization, entitled Office of the Government Chief Information Officer. We shall seek the other necessary approvals of the Finance Committee for the merger on 25 June 2004.

Subject to the Finance Committee's approval, the Chief Secretary for Administration will, by notice in the Gazette, declare a change in the title of "Director of Information Technology Services" referred to in the Electronic Transactions Ordinance (ETO) to "Government Chief Information Officer" with effect from 1 July 2004. This declaration of change in title will be made in pursuance of section 55 of the Interpretation and General Clauses Ordinance which provides that the Chief Secretary for Administration may, by notice in the Gazette, declare a change in title of any public officer or of any person referred to in any ordinance.

The proposed amendments to clauses 6 and 7 of the Bill are to make sections 11(2)(a) and 12 of the ETO consistent with the proposed new clause 2A which I shall elaborate and propose to introduce later on.

The proposed amendment to clause 16 seeks to provide that, as suggested by the Bills Committee, the code of practice for recognized certification authorities issued by the Director of Information Technology Services should be published in the Gazette. We also propose to state in the ETO explicitly that the code of practice is not subsidiary legislation. As a consequence to these

amendments, the definition of "code of practice" in the ETO will have to be amended as well, and hence, the proposed amendment to clause 2.

The proposed amendments to clauses 19 and 20 are to make technical changes to the Chinese text of section 43 and new section 43A to maintain consistency within the text.

The final amendment is related to clause 21 which seeks to amend section 46. At present, section 46(1) provides that any person performing a function under the ETO shall not disclose the information which he or she has access to in the course of performing such function, unless it is allowed under section 46(2) of the ETO. To facilitate the disclosure of such information for other lawful purposes, we had proposed to, through clause 21(b), widen the scope of exemption under section 46(2) to allow disclosure of such information if the disclosure is necessary for performing a function under any other ordinance.

Members of the Bills Committee were however concerned that the scope of the proposed exemption was too wide. In view of members' concern and since disclosure of such information can be allowed under section 46(2) if it is made under the direction or order of a magistrate or court, we propose to withdraw the proposed amendment in clause 21(b).

All these proposed amendments to the Bill have been discussed and endorsed by the Bills Committee. I hope the Committee would support their passage.

Thank you, Madam Chairman.

Proposed amendments

Clause 1 (see Annex III)

Clause 2 (see Annex III)

Clause 6 (see Annex III)

Clause 7 (see Annex III)

Clause 16 (see Annex III)

Clause 19 (see Annex III)

Clause 20 (see Annex III)

Clause 21 (see Annex III)

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Clauses 1, 2, 6, 7, 16, 19, 20 and 21 as amended.

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): New clause 2A	Matters to which sections 5, 5A, 6, 7, 8 and 17 are not applicable
New clause 7A	Rules of court or procedure only to apply where relevant authority provides for application
New clause 20A	Recognized certification authority to maintain repository
New clause 22A	Schedule heading amended
New clause 22B	Schedule heading amended.

SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY:
Madam Chairman, I move that the new clauses read out just now be read the Second time.

The proposed new clauses 2A and 7A seek to amend sections 3 and 13 of the Electronic Transactions Ordinance (ETO) respectively. As I have said earlier, the ETO is a generic legal framework which accords electronic record and digital signature the same legal recognition as that of their paper-based counterparts. There are however certain exclusions from the application of this electronic process. Section 3 provides for exclusion of the matters in Schedule 1 to the ETO, such as wills and oaths, from the application of the electronic process, while section 13 provides for exclusion of the judicial and quasi-judicial proceedings in Schedule 2 from the electronic process. These exclusions were made because of, for example, the solemnity, significance and complexity of the transactions as well as the readiness of the concerned parties to deal with the related documents in electronic form.

One of the proposals in the Bill is to add a new section 5A and a new Schedule 3 to stipulate that, for the documents which are required or permitted to

be served by post or in person under the provisions set out in new Schedule 3, the service of the documents in the form of electronic record will be accepted. To make the application of exclusions consistent, the matters and proceedings set out in Schedules 1 and 2 should also be excluded from the application of new section 5A. We therefore propose to add new clauses 2A and 7A to effect the exclusion. New clauses 22A and 22B are consequential amendments to the headings of Schedules 1 and 2 to reflect the expanded scope of exclusion.

The proposed new clause 20A is to state explicitly that any list of repositories of digital certificates maintained by recognized certification authorities published in the Gazette by the Director of Information Technology Services under section 45(2) is not subsidiary legislation.

All the amendments which I have mentioned have been discussed and endorsed by the Bills Committee. I hope the Committee would support their passage.

Thank you, Madam Chairman.

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

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): New clauses 2A, 7A, 20A, 22A and 22B.

SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY:
Madam Chairman, I move that the new clauses read out just now be added to the Bill.

Proposed additions

New clause 2A (see Annex III)

New clause 7A (see Annex III)

New clause 20A (see Annex III)

New clause 22A (see Annex III)

New clause 22B (see Annex III)

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

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

(Members raised their hands)

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

(No hands raised)

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

CHAIRMAN (in Cantonese): Council now resumes.

Council then resumed.

Third Reading of Bills

PRESIDENT (in Cantonese): Bill: Third Reading.

ELECTRONIC TRANSACTIONS (AMENDMENT) BILL 2003

SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY:
Madam President, the

Electronic Transactions (Amendment) Bill 2003

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

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

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Electronic Transactions (Amendment) Bill 2003.

MEMBERS' MOTIONS

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

First motion: Appealing to the people to vote enthusiastically in the Legislative Council elections on 12 September.

APPEALING TO THE PEOPLE TO VOTE ENTHUSIASTICALLY IN THE LEGISLATIVE COUNCIL ELECTIONS ON 12 SEPTEMBER

MR MARTIN LEE (in Cantonese): Madam President, I move the motion as printed on the Agenda. Madam President, quite a few major events have taken place in Hong Kong over the last few months — interpretation of the Basic Law by the Standing Committee of the National People's Congress (NPCSC), leading to the thumbsdown on dual elections by universal suffrage in 2007 and 2008; "prominent radio hosts quitting the airwaves"; and, much more, recent signs suggestive of interference by the Central Authorities in the Legislative Council elections scheduled for 12 September.

With events happening incessantly, people cannot help worrying that the core values of Hong Kong might be harmed. Society is getting more and more split up. At the same time, under such execrable political circumstances, there is an ever-worsening communication gap between the Central Authorities and the people of Hong Kong. Gone is the mutual trust that should be there. Even the most fundamental relation of co-operation is gone. The people of Hong Kong

seem to have snapped into a quandary full of political conflicts and confrontations.

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

Why have things developed to such a state?

As a matter of fact, efforts made by the Central Authorities for our economy are visible to all the people in Hong Kong, which include the enhancement of economic integration of the two places as well as the formulation of many policies of mutual benefits for Hong Kong. Hong Kong people are, of course, very appreciative of the promotion and support given to our economy by the Central Authorities. However, the fact that the Central Authorities support our economy does not mean that the Central Authorities may put political pressure on Hong Kong continuously. In fact, the people of Hong Kong are still very much disgruntled by the Central Authorities' decision to rule out universal suffrage in both elections. The reason is that, from the standpoint of Hong Kong people, 20 years have passed since the conclusion of the Sino-British Joint Declaration and nearly seven years since the reunification, and so, it is now the right time to implement democracy. What is more, universal suffrage is allowed by the Basic Law, and is also the ultimate goal of political development under the Basic Law. Why did the Central Authorities so forthrightly give the thumbsdown and accuse Hong Kong people of committing a monstrous crime in deviating from the one-country principle?

I have this firm belief: Had the Central Authorities entered into thorough communication and dialogue with Hong Kong people and listened to them carefully before making the decision, the Central Authorities would have gained the full picture after gathering information from all sides, and I think things would not have developed to such a terrible state.

The Central Authorities have different channels to get in touch with various sectors of our community. In addition to getting information from the Hong Kong Liaison Office on Hong Kong matters, the Central Authorities have been sending their men here to gather first-hand information about Hong Kong. What is more, the voices of certain wealthy businessmen, leftists as well as NPC Deputies and CPPCC delegates can even go straight to Beijing. However,

many of those people "making reports" to the Central Authorities have failed to reflect the mainstream public opinions of Hong Kong people and the actual situation in our society thoroughly, bravely, frankly and accurately. As the Central Authorities have only listened to one side, misunderstanding has developed regarding public opinions in Hong Kong.

With regard to Hong Kong people's aspirations for democracy, the Central Authorities indeed harbour a lot of misunderstandings, equating the Hong Kong people's request for universal suffrage and their loud slogan for "returning power to the people" with plans to "make Hong Kong independent". Even ZHU Yucheng, Director of the Institute of Hong Kong and Macao Affairs, recently said some people in Hong Kong are trying to turn Hong Kong into an independent or semi-independent political entity. The Central Authorities even take Hong Kong people's bid for the right to select the Chief Executive by direct elections as "a bid to seize power". Because of all such misunderstandings, the Central Authorities fear that Hong Kong might "get out of control", and, therefore, have to tighten the grip on Hong Kong. So, on the issue of political development for the year 2007 and the year 2008, the NPCSC exercised its "supreme authority" to forthrightly rule out the dual elections by universal suffrage even before the people of Hong Kong were able to hold extensive formal discussions on the matter, making no mention even of the schedule for elections by universal suffrage in the days to come. To the people of Hong Kong, this is really disappointing and frustrating.

So, my motion today which "calls upon the people of Hong Kong to be united and to join hands with the Central Government to truly implement the policy of 'one country, two systems'" is intended as a bid to establish channels for the two sides to communicate and co-operate with each other, to eliminate, as far as possible, all unnecessary misunderstandings and disputes, and to foster ties of positive and constructive co-operation in the spirit of seeking common ground while agreeing to disagree so as to bring into effect "one country, two systems with a high degree of autonomy". I hold the firm belief that even if we democrats adhere to our political ideas and democratic stand, we still would not get into a position rendering us utterly antagonistic with the Central Authorities like water and fire. So long as there can be frank and sincere communication and dialogue between the Central Authorities and the representatives of Hong Kong people, and some sort of relationship of co-operation is created, there probably will be marked improvement in our political atmosphere.

Madam Deputy, Vice-President ZENG Qinghong yesterday appealed to us, "urging against division and polarization" and pushing for "solidarity" and "harmony" for the sake of economic growth. His words happen to coincide with the view of my motion today, the same meaning being expressed in different words. The fact is that State leaders ought to be able to even more accurately understand the positive meaning of the 1 July march if they have full knowledge about Hong Kong. The people of Hong Kong are just trying, in a peaceful, sensible and lawful way, to express their aspirations for democracy, and to defend the core values of Hong Kong, including the rule of law, freedom and social justice. It is precisely around these aspirations and values that the people are trying to get united so as to improve the governance of the Hong Kong Special Administrative Region (SAR).

With regard to the governance of the SAR Government, the people of Hong Kong adopt the yardstick of "applaud the applaudable, lament the lamentable", which is absolutely conducive to improving governance. Must Hong Kong people resort to flattery and submissiveness in order to present our political views? Hong Kong is an open, advanced and diversified cosmopolitan city. It is just normal and natural for the people to criticize or disagree with the government, and for society to have differences and discords. The Central Authorities as well as the SAR Government must understand this. Between the Central Authorities and the SAR, there should be harmony with differences, a search for common ground with room for disagreement and respect for dissidents. Democratic procedures with public recognition should also be used to iron out differences for the purpose of reaching a consensus. This, also, has long been the main theme in our fight for democracy.

Madam Deputy, we do not enter into communication just for the purpose of having communication. The reason is that communication is not merely for improving ties or forging friendship. It is also for reflecting public opinions and reaching consensus. The kind of communication we strive for should have the most practical function, that is, to make both sides reach a fresh consensus on the guiding policy of "one country, two systems with a high degree of autonomy." This requires much effort and patience. Both sides must listen to and accept the other side. They have to reflect on themselves continuously and conduct self-examination. However, the starting point for communication between the two sides should be marked by sincerity and openness, respect for each other and no prerequisite whatsoever. Proceeding from such a starting

point, it is bound to bring about consensus and mutual trust as well as further communication and co-operation.

Finally, Madam Deputy, I really hope that the Central Authorities are sincere in implementing "one country, two systems", the same way I hope the Central Authorities will believe that the people of Hong Kong do love our country, love Hong Kong and love peace.

Madam Deputy, no matter how great the differences in basic political ideas are, there is certainly much room for co-operation between the Central Authorities and the democrats. In dealing with Hong Kong issues, the Central Authorities should, I hope, face up to the 7 million Hong Kong people, all the social sectors, all different political opinions and dissident views. As a matter of fact, the bond between the Central Authorities and the SAR is not built on the interests or ties of individuals or groups. It is a bond pertinent to structure, system and duty. That is to say, the Central Government and representatives elected by the people in the SAR must be able to communicate and co-operate with each other by means of a legal mechanism and regular channels even if they hold different political views and are totally not acquainted with each other. This is what respect for a system should be. It should not be one in which reasoning and law give way to emotion and arbitrary will respectively.

However, ever since the reunification, the Central Government has been refusing to engage in formal communication or co-operation with Legislative Council Members from the pro-democracy camp, as a result of which, Central Government officials coming to Hong Kong have never officially visited the Legislative Council or held work conferences with its Members. Nor has the Legislative Council sent visiting groups back to the Mainland for study tours, visits, or work conferences. Ultimately, it has not even been possible to effect discussions between representatives of this Council and local authorities in the Mainland on such issues as cross-boundary infrastructure, cross-boundary crimes and economic co-operation in the Pan-Pearl River Delta Region. The Central Government and the SAR legislature just cut each other dead. This is a phenomenon most abnormal and unhealthy, one giving people the impression that the Central Authorities respect neither Hong Kong's parliamentary system nor the representatives of the people.

Seven years have elapsed since the reunification. There is a very pressing need for communication. Co-operation is an issue that brooks no delay.

People are desirous of mutual trust. Let us start afresh to develop democracy and develop Hong Kong.

Madam Deputy, I so submit.

Mr Martin LEE moved the following motion: (Translation)

"That, this Council calls upon the people of Hong Kong to be united and to join hands with the Central Government to truly implement the policy of "one country, two systems", "Hong Kong people ruling Hong Kong" with "a high degree of autonomy", so as to safeguard the cornerstones underpinning Hong Kong's success; this Council also calls upon all the people of Hong Kong to vote enthusiastically in the Legislative Council elections to be held on 12 September this year."

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

DEPUTY PRESIDENT (in Cantonese): Mr TAM Yiu-chung and Ms Cyd HO will move amendments to this motion respectively. Dr YEUNG Sum will move an amendment to Mr TAM Yiu-chung's amendment. Their amendments have been printed on the Agenda. The motion and the amendments will now be debated together in a joint debate.

I will first call upon Mr TAM Yiu-chung to speak, to be followed by Ms Cyd HO and Dr YEUNG Sum respectively, but no amendments are to be moved at this stage.

MR TAM YIU-CHUNG (in Cantonese): Madam Deputy, over the seven years since the reunification, there has been non-stop political disputes in Hong Kong. The issue on political development has led to further division in the community. With the fierce political confrontation upsetting social harmony and stability and hindering economic recovery and growth, certain international credit ratings agencies have, one after another, expressed worry about our future development.

Following the implementation of the Individual Visit Scheme and the conclusion of CEPA between the Mainland and Hong Kong, our economy has been picking up since the second half of last year, with employment opportunities increasing continuously. CEPA signed between the Mainland and Hong Kong brings economic and trading ties between Hong Kong and the Mainland even closer, providing more opportunities and even larger room for promoting economic prosperity in Hong Kong. Having experienced years of recession and the havoc wrought by the SARS epidemic, Hong Kong people, with the knowledge that today's recovery is hard to come by, are even more desirous of a stable social environment which may enable this wonderful trend of economic recovery to sustain. Hence, any move intended to resolve political arguments and capable of promoting social harmony and reducing confrontation is bound to win the support of the people.

We, the Democratic Alliance for Betterment of Hong Kong (DAB), a political body rooted in Hong Kong, definitely do not want to see the community divided up. We in the DAB, in carrying the political platform of "building a better community, achieving an affluent economy, making Hong Kong a peaceful and contented society", want to have a harmonious, stable, rational, united and accommodating society in Hong Kong so that every person may live and work in peace and contentment. In recent days we have even made an appeal to call to attention that "It is easy to destroy but we must cherish what we have established." We are convinced that these ideas are the common wishes and goals of all the people in Hong Kong. It has always been the people's common desire to engage in exchanges and dialogues to reconcile conflicts. Here also lie the cornerstones underpinning our prosperity and stability.

In moving an amendment to today's motion, the DAB intends to make the original motion more enriched and comprehensive. The ultimate goal of implementing "one country, two systems", "Hong Kong people ruling Hong Kong" with "a high degree of autonomy" is to build a harmonious, stable and promising Hong Kong.

Leveraging on the Motherland as its hinterland, Hong Kong has attained today's remarkable economic achievements by riding on the easterly winds of reform and liberalization. The continuation of Hong Kong's prosperity and stability depends, first of all, on whether or not China can maintain its growth and rise in the jungle of nations. It also hinges on the rejuvenation of the Chinese nation. So, it is the responsibility of every person in politics to uphold

the unity of the country as well as the integrity of sovereignty, and guard the Chinese nation against intimidation from foreign countries. It is even a constitutional duty incumbent on every Member of the Legislative Council to uphold the Basic Law. In order that there can be real protection for the cornerstones underpinning our success, it is necessary to truly understand that in "one country, two systems", "two systems" comes under "one country"; that "Hong Kong people ruling Hong Kong" means ruling Hong Kong by "Hong Kong people" who should mainly be "patriots"; and that "a high degree of autonomy" refers to the "high degree of autonomy" authorized by the Central Government.

"One country, two systems" is an innovation in the development of the Chinese society. It is a ground-breaking measure. On account of all the differences in social system, cultural background, ideological concepts, and values, there is an even greater need for mutual respect and accommodation in the course of implementation. To develop and consolidate this system with concerted efforts is a mission assigned to us by history.

In a recent report released by the United States — China Economic and Security Review Commission of the United States Congress, there is an improper comment to the effect that the NPCSC, in interpreting the Basic Law in accordance with legal provisions, has eroded the "high degree of autonomy" of Hong Kong. The United States Congress and Government are thus asked to tighten the trade policies towards Hong Kong. Cases in which the United States uses Hong Kong or Taiwan as chips to pressurize China are just too numerous, which is indicative of the magnitude of obstruction being faced by China in its peaceful development. If there are people who do not take the stand of the Chinese nation, who are willing to play the role of foot soldiers serving anti-China powers and sacrifice the economic growth of Hong Kong, then our voters are definitely going to make shrewd choices.

With regard to Dr YEUNG Sum's amendment, the DAB is of the view that democracy, freedom, human rights and the rule of law are common ideals being sought by people in different nations or under different social systems. However, such aspirations have to be built on a stable social foundation. For democracy, freedom, human rights and the rule of law to radiate in real glory, society must be stable. We also have no objection to Ms Cyd HO's amendment. However, the DAB is of the view that no matter in the past, the present and the future, voters' right to vote freely was not, should not and will not be interfered

with. We have confidence in the work of the Electoral Affairs Commission and the Independent Commission Against Corruption (ICAC).

Madam Deputy, Hong Kong is a pluralistic society, where all kinds of opinions can be found. However, so long as we can be true to facts, respect each other, hold amiable joint discussions, and let reason, dialogue and accommodation take the place of extremism, confrontation and discrimination, then society definitely can maintain its harmony, stability and prosperity. I so submit. Thank you, Madam Deputy.

MS CYD HO (in Cantonese): Madam Deputy, it came to my notice just now that the Secretary for Constitutional Affairs did not walk into the Chamber until Mr Martin LEE was already half way through his speech. I was very surprised. My fear was that there might be no accountability Secretary present when the issue of how to monitor the fair and impartial conduct of elections was under discussion. No wonder there was a proposal to cut his salary during a Budget debate in the past. Madam Deputy, it is right to do so.

Madam Deputy, today's motion calls upon the people to be united so as to gain the Central Authorities' trust, maintain "one country, two systems" and effect "a high degree of autonomy" by means of elections. People can use their votes to express their wishes. In order that the elections may gain credibility and the results be accepted by the people, it is necessary for us to ensure that the elections are not manipulated, or swayed by stick and carrot. In the event that there is some influence trying to manipulate the elections and yet the government gives the people the impression that it just sits by to watch or even offers tacit consent, then credibility in every aspect will go bankrupt, and the community will take the course of no co-operation with the Government.

The Legislative Council elections scheduled for September this year are drawing near. People have been making incessant complaints alleging that local figures or mainland officials have asked them to vote for certain candidates by subjecting them to pressure or by offering them monetary benefits; that some have even been asked to prove their ballot options by using mobile phones to take pictures of their stamped ballot tickets. Besides there have been cases in which people became registered voters due to some forged signatures. All these behind-the-scene events show that they are no isolated incidents. It was

probably an organized move intended to influence the Legislative Council elections scheduled for September.

Hong Kong has about 10 years' history of elections. Though so far our electoral system still cannot claim to be universal and equitable, the basic system has, on the whole, been accepted by members of the community as fair and impartial. On every occasion there were minor law-breaking incidents, Madam Deputy, but nothing has gone so far as to manipulate election results. This time, however, is different from the past, with the Legislative Council elections coming after the 1 July march by more than half a million people and the thumbsdown on universal suffrage for the elections in 2007 and 2008 by the NPCSC interpretation of the Basic Law. Moreover, recently "prominent radio hosts" claimed that they had been threatened and had to "quit the airwaves". We can tell that the electoral battle is bound to be very fierce. It is also understandable that the Central Government is going to pay close attention to the election results.

First of all, I must ask the Central Government to rest assured. What the Hong Kong people are going after is the realization of "Hong Kong people ruling Hong Kong" by taking part in the formulation of the SAR's public policies on the basis of "one country, two systems". Although our slogan is "returning power to the people", our request is limited to the above. If there is any misunderstanding on the part of the Central Authorities, we are prepared to give explanations repeatedly. We, however, are not going to curb ourselves and "shut up" just because there is misunderstanding on the part of the Central Authorities. We have to ensure that electors can enjoy the basic right to freely express their wishes in elections. The results might be different from the wishes of the Central Government. We still hope that the Central Government can respect the people's wishes. This is the only way to implement the spirit of the rule of law.

Any attempt to manipulate election results by combining threats with inducements must be forbidden, no matter whether or not the motive is good. When incidents of vote-rigging and complaints came to light one after another, the Electoral Affairs Commission (EAC) initially did not take the matter seriously. One EAC representative even openly suggested that one might take a picture first of the stamped ballot ticket inside a polling station, then tear it up and get another ballot ticket on the pretext of defacement. That really induced a public outcry, making the people call into question the Government's determination and sincerity in maintaining the credibility of the elections. As

complaints mounted, the Government referred matters to the police or ICAC for follow-up only recently. To regain the people's confidence, it is now necessary to work double hard before matters can be restored to the right track.

With regard to the issue on mobile phones, the EAC has indeed done something, that is, removing curtains fronting voting booths, a move to deter voters from engaging in misconduct by giving them the impression of being under surveillance. The EAC has also proposed that the votes be counted at the several hundred polling stations right after polling. Both Mr Andrew WONG and I have repeatedly called this into question. According to our observation of the election in Taiwan, where votes were counted at different polling stations, it was initially thought that it would be impartial and open, but more and more incidents of ballot frauds were brought to light by and by.

It also came to our notice that in last year's District Council elections, the standards of polling officers at different polling stations varied. There were cases in which polling officers let candidates go to the tables to touch the ballot tickets with their hands. It is apparent from this that the standards of workers at polling stations are not uniform, which leads people to doubt the ability to maintain a fair and impartial electoral system. Therefore, I call upon the EAC to give serious thought to the idea of separating Hong Kong into five regions to conduct centralized counting. We should absolutely agree to trade time for impartiality and credibility in the elections.

In the past, it was necessary to wait some ten hours for the results, said Mr Justice WOO Kwok-hing. But who will hurry him? Everybody is prepared to wait, for nothing can be more important than impartiality and fairness in the elections. Madam Deputy, I am confident that the Government is in a position to uphold fairness and impartiality in the elections so long as it is determined to do so. However, our worry is that the Central Government in the Mainland wants to know the results in advance. Because of excessive anxiety, officials of certain levels have acted inappropriately. I, therefore, call upon the Central Government to explicitly reiterate the ban on all acts, be it cross-boundary or taking place on both sides, that would violate the SAR's legislation against corrupt or illegal practices in elections.

Finally, Madam Deputy, I wish to reiterate that a fair and impartial election is the best way to safeguard electoral results. We have to ensure that there is protection for people to vote by secret ballot and use their votes to

express their demands freely and without fear. I also call upon the people to report to the authorities when they again encounter interference or threats, and always vote according to their conscience in total disregard of any pressure.

Thank you, Madam Deputy.

DR YEUNG SUM (in Cantonese): Madam Deputy, in total disregard of the due process long valued by Hong Kong people, the NPCSC, with the force of a thunderbolt, rejected Hong Kong people's request for universal suffrage in the elections in 2007 and 2008. Three "prominent radio hosts," one after another, "quit the airwaves". Further impacted by their total disappointment with the governance by the SAR Government, most people have been feeling terrible. Moreover, the economy has been in recession and the wealth gap between the rich and the poor has been widening. With the number of households earning less than \$4,000 a month having increased by 7%, those at the grass-roots level are, of course, being very hard pressed. And Members of the middle class enjoy no job security. So, in terms of both politics and economy, the people of Hong Kong are feeling far more terrible than what they used to feel. With such gloominess already prevailing, and the Central Authorities still resorted to swift and stern tactics in dealing with the issue of political reform, the people find it very dreadful. By and by, such gloominess gradually becomes collective depression in the community. Madam Deputy, the people cannot but ask what the people of Hong Kong are to do and what Hong Kong is to do.

Madam Deputy, here is my answer. The people of Hong Kong should be united and of one heart and one mind; fight for democracy and uphold freedom peacefully without being neither haughty nor humble; and uphold the rule of law and protect the disadvantaged groups.

In recent years, the SAR Government, in a bid to regain reputation and respect, has again and again asked the Central Authorities for economic support. Mainlanders think that all that Hong Kong people know is to seek help from the Central Authorities with extended hands. This hurts Hong Kong people's dignity, making them too embarrassed to lift up their heads. The past pride of Hong Kong people has gradually waned as the SAR slips into the doldrums both economically and politically. Madam Deputy, I call upon the people of Hong Kong to brace up, and with unity, to rekindle the will to advance and the spirit to fight on. For the sake of our next generation, we have to keep up with our hard

efforts to ensure that the torch can be passed on and that there is concerted effort to strive for democracy, freedom and social justice. Even if we were to be fallen flowers, we could "nourish flowers even better by turning into spring soil".

Madam Deputy, Hong Kong is a very advanced society, featuring an independent system of the rule of law, human rights, freedom, cultural diversification, free mass media, and open market economy. There have been both ups and downs in our economic development. However, when compared with other Asian-Pacific areas, it is still by no means inferior. Over the six years since the reunification, there has not been much interference in Hong Kong by the Central Authorities, whose popularity among the people is greater than that enjoyed by the SAR Government. However, the recent interpretation of the Basic Law by the NPC to rule out universal suffrage in the elections in 2007 and 2008 in total disregard of the due process of consultation brought to the people chills of the northerly winds. People now realize that "Hong Kong people ruling Hong Kong" with "a high degree of autonomy" has yet to be fully and effectively implemented.

Madam Deputy, in order that "one country, two systems" with "a high degree of autonomy" granted to the people of Hong Kong by the Basic Law can be effectively implemented, apart from being united, the people of Hong Kong also must work harder with perseverance so as to stand to reason with the Central Authorities continuously and peacefully, both inside and outside the Council. Meanwhile, members of the industrial and commercial sectors should stride out, come down from their high horses, readily let go their free political lunches, and play their roles in politics by forming their own political parties to voice and strive for the interests of the industrial and commercial sectors. As they support open market economy and fair competition, the industrial and commercial sectors should also object to the grant of political privileges by the Government through interference. How much longer are the industrial and commercial sectors to enjoy free political lunches with no toil on their part? Seven years have gone by since the reunification. It is time for the industrial and commercial sectors to make their wise choice. The first step that they ought to take is to give up their political privileges and enter political contests by forming political parties directly or indirectly.

Madam Deputy, the positive motion moved by Mr Martin LEE today on behalf of the Democratic Party is concrete evidence showing that the Democratic

Party has taken one step forward. Frankly speaking, to further effectively implement "one country, two systems" with "a high degree of autonomy" bestowed on Hong Kong people by the Basic Law, it is absolutely necessary to have the co-operation of the Central Authorities, in addition to the unity and hard efforts among Hong Kong people. Whilst "one country, two systems" denotes that authority of the two systems is derived from one country, it also reflects that differences and contradictions exist in the two systems. It is, in fact, a tough project to reconcile and bring together their differences and contradictions. In this process of assimilation, the Democratic Party's dialogue with the Central Authorities is surely important. However, co-operation of the Central Authorities is also indispensable. In the case of political reform, even if there is support from Hong Kong people, the Legislative Council and the Chief Executive for universal suffrage, it is still necessary for it to be reported to, and approved by, the NPCSC.

Madam Deputy, I wish to say a few words on the Democratic Party's communication with the Central Authorities. First of all, from the standpoint of development of "one country, two systems", such communication is essential. It is also something which the people are glad to see. However, on carefully reading Madam ZHANG Yihe's *The Last Nobles*, one can notice that the question of "dominance by the Party" mentioned by CHU Anping is still there and remains unsolved. In the end, ZHANG Bojun and LUO Longji, the two democratic figures of yesteryear, mournfully wondered if the democrats in the old days were too naïve and immature about politics. Nevertheless, after more than 20 years of reform and liberalization, the country indeed has had many changes. It is my belief that the general trend of the time is for the country to progress towards democracy and the rule of law. It is, therefore, my firm belief that the Democratic Party and the pro-democracy camp must communicate with the Central Authorities. It is also in line with public sentiments. We, however, must still stick to our fundamental position. Policies can be open to discussion. Attitude can be gentle. The fundamental position is, however, not changeable.

Also, no conditions should be set for communication so that the two sides may have in-depth dialogue or discussion in the light of the actual situation or requirements. I have to stress that communication should be two-way, not one-way. What is more, it should not just be collecting intelligence in Hong Kong or giving instructions to Hong Kong people. On this, the Democratic Party will try its very best to adopt a positive attitude.

Finally, it is hoped that Vice President ZENG Qinghong can understand that the pro-democracy camp's fight for democracy is conducive to the development of "one country, two systems". Its impact on social stability and economic growth is also dynamic and positive. A Chief Executive and a Legislative Council returned by democratic popular elections only serve to enhance the Chief Executive's representativeness and credibility, and strengthen the balance and co-operation between the executive and the legislature, thus fundamentally overcoming the governance crises encountered by the SAR Government, which may have the effect of smoothing administration and fostering social harmony conducive to the proper governance and stability of the SAR in the long run. The pro-democracy camp has never sought "independence of Hong Kong". With regard to the development of "one country, two systems", the difficulty involved can, in view of the inherent differences between the two, indeed be visualized. However, I have to stress that this policy is pivotal to the future of Hong Kong people, and that it provides the cornerstones underpinning the successful growth of the SAR. The people of Hong Kong must wholeheartedly work concertedly and be united so as to steadily implement "one country, two systems" through co-ordination and fair competition among political parties.

Madam Deputy, the Democratic Party will exert its utmost to strive for democracy and uphold our core values. I call upon the people to vote enthusiastically in the elections of September. Vote to show strength. Jointly forge a new Hong Kong.

With these remarks, I propose the amendment.

MR LAU CHIN-SHEK (in Cantonese): Madam Deputy, the motion under debate today is a new topic. No matter whether it is the so-called "a step backward", or "a step forward", or "breaking new grounds" or "big reconciliation", the most important message of the last two weeks is to undo a fast knot. The reason is that unless the knot is undone, there will be endless disputes as well as ceaseless internal erosion. It will then be impossible to "fix" Hong Kong with concerted efforts.

The purpose of untying this knot is to focus on our common target, that is, the content of Mr Martin LEE's motion, calling upon "Hong Kong people to be united and to join hands with the Central Government to truly implement the policy of "one country, two systems", "Hong Kong people ruling Hong Kong"

with "a high degree of autonomy". With regard to other topics, we have had countless discussions. It is possible for each point to carry different meaning or significance to you or to me. If we today still remain firm on our own views, and unyieldingly adhere to and put emphasis on topics of particular importance to ourselves, then the new topic, in comparison, would not be given prominence.

Moreover, if each of us pulls on one end of the rope, the knot will only get tighter and tighter, and become a fast knot. The fast knot can stand a chance of being loosened up only if we do relax a little. Only then can there be a chance to undo the knot. Put aside the differences first. Put aside old topics already discussed before. Concentrate energy on the new topic. When the people of Hong Kong join hands with the Central Government, there are much greater chances for "one country, two systems" to be truly implemented. It is, therefore, hoped that we can set down the dissident points of our old quarrels, and concentrate on a point of common agreement, that is, to bring about an opportunity to undo the knot that has been haunting us.

Do not say that the responsibility for this "fast knot" rests only with the Central Government or the pro-democracy camp. As a matter of fact, all our political parties and all Hong Kong people each constitute one end of the rope. It is up to each of us to pull or relax. No matter whether it is a fast knot or a loose knot, we are all responsible. A fast knot is bad to you, bad to me and bad to Hong Kong. Let us cast our vision farther beyond.

Thank you, Madam Deputy.

MR LAU PING-CHEUNG (in Cantonese): Madam Deputy, the pan-democracy camp has repeatedly expressed a willingness to show goodwill so as to better communicate with the Central Government and narrow the differences between both sides. This is indeed pleasing. Mr Martin LEE's motion today has two parts. The first part calls upon the people of Hong Kong to be united and to join hands with the Central Government so as to put in efforts to truly implement "one country, two systems", "Hong Kong people ruling Hong Kong" with "a high degree of autonomy". The second part calls upon the people to vote enthusiastically in the Legislative Council elections to be held on 12 September. The former is in keeping with the goodwill shown to the Central Government. The latter is an appeal calling upon the people to exercise their right as citizens. In each case, the wording is very mild. Similarly, the wording of the

amendment of Mr TAM Yiu-chung, as well as that of Ms Cyd HO, is relatively mild. I hope that all Members who are to speak can also express their views calmly and will not take this opportunity to voice emotional slogans to attack others and spoil the harmonious atmosphere.

In fact, communication has to be two-sided, involving different levels as well as different channels. For some time in the past, when the relations between the Central Government and the pan-democracy camp appeared to be tense, there were, as disclosed in the mass media, attempts made by the Central Government through different channels to keep in touch with the pan-democracy camp. Surely, we do not expect dramatic changes in the relations between the two sides within a short period of time. However, so long as both sides are bent on seeking common ground while agreeing to disagree and value every meeting, it does not matter even though it is "to seek common ground on minor issues while agreeing to disagree on major ones". The relations between the two sides can be improved so long as common ground on minor issues can be accumulated to become common ground on major issues whilst the agreement to disagree on major issues can evolve into minor differences.

Take the professional sector to which I belong as an example. We will seize every opportunity and provide platforms to present our views to the Central Government. Let me cite some examples to illustrate this. In late April, when the Standing Committee of the National People's Congress (NPCSC) was about to make a decision on the report submitted by the Chief Executive in respect of the elections in 2007 and 2008, the NPCSC sent Deputy Secretary-General QIAO Xiaoyang to Shenzhen to gauge the views of different sectors. Availing myself of the opportunity, I presented in writing my views to Deputy Secretary-General QIAO Xiaoyang through the Chief Secretary for Administration, making it known that I did not wish the NPCSC to hastily reject the option for election by universal suffrage before any in-depth discussion by the people of Hong Kong. In the end, my suggestion was not accepted. I, however, considered that a worthy attempt and that it not likely to upset communication in the days to come. Some other colleagues adopted a different approach in a bid to meet with Deputy Secretary-General QIAO Xiaoyang. The process was extensively covered by the mass media. I do respect their choice, but I am not going to make any comment.

Here is another example. When Ms LIU Yandong, Vice Chairman of the Chinese People's Political Consultative Conference and Director of the Central United Front Work Department, visited Hong Kong last month, members of professional sectors in Hong Kong took the opportunity to host a reception in Honour of Vice Chairman LIU Yandong and those Central Government officials accompanying her. Also present were persons representing certain professional sectors and considered to be figures from the pan-democracy camp. Everybody had the opportunity to present views to State leaders directly. Surely, because of limited time, everybody felt that no one was able to speak his mind as much as possible. But to me, so long as we can rationally discuss issues of concern to the people of Hong Kong, there is a basis for both sides to meet. Another meeting can always be scheduled. Supplementary opinions can also be submitted in writing. There is in fact no shortage of such platforms or channels.

Madam Deputy, the examples cited above show that rational discussions can build a platform for the two sides to meet. I hate to see the relations between the Central Authorities and the SAR going back to the state before the reunification, when the Central Authorities and the Hong Kong British Government had to engage in "microphone" dialogue. I so submit.

MR LAU KONG-WAH (in Cantonese): Madam Deputy, the DAB recently launched the "Let's Go! Hong Kong" campaign, calling on the people to concertedly build Hong Kong and fix the economy. Mr Martin LEE's motion today is precisely in line with the DAB's campaign and persistent advocacy. Some people think that Mr Martin LEE's timing in moving the motion is somewhat abrupt. I, however, am of the view that its contents come as a matter of course. Hong Kong people still hope for a peaceful life, satisfying employment, democracy, progress, economic recovery and national rejuvenation. So, there is the saying that "all things prosper when there is domestic harmony".

Over the past few years, the Hong Kong society has indeed been short of deference and tolerance. Also somewhat lacking are compassions and smiling faces. Poor economy and ineffective governance constitute one reason. Also responsible is the fact that this Council and the mass media are teeming with abrasive accusations, finger-pointing, attacks and verbal violence. For some people, "being loud" means being right; "to bully" is the way to success; "to

gather a lot of people together" is to have a licence to suppress; and "to have a pressing crowd" can cast challenges. However, to do these sometimes just to achieve the opposite results. In fact, attacks would not subdue attacks; nor can hatred dissolve hatred. So, there is the saying that "Clattering mouths bring down a family".

The people are smart. They surely want to see a situation of "domestic harmony" and discard factors leading to "family demise". The people are able to make their choices.

Recently, Sam HUI held a series of concerts and has been adding shows successively. The satisfaction shown by people in the Legislative Council has, however, dropped successively. The extensive popularity enjoyed by Sam's concerts is due to the fact that people are pleased with the warmth, romance and joy of the atmosphere, which stand in sharp contrast against the sentiments of extremism, sorrow and confrontation stirred up by some in society. The concerts made mention of the past when society was harmonious. It is now filled with fury. The people really miss the time when there were harmony and co-operation. In the past we also had difficult moments. However, we invariably would not try to blame or hold the other side responsible whenever something went wrong. According to Sam, he has had good times as well as periods of depression and reinvigoration. Is not Hong Kong also waiting for the moment when the people of Hong Kong can show solidarity and reinvigoration? Of course, we do not necessarily expect to see Mr Martin LEE and Mr TAM Yiu-chung singing "Row and row a boat together". However, at least, we should share the mentality of "charging forward in harmonious co-operation".

Here hundreds of thousands of people took to the streets to express their discontent and grievances. At the same time, hundreds of thousands of people "scrambled for" concert tickets in search of joy and harmony. A million people cast their votes to make political choices. At the same time, a million people paid homage to Buddha's finger relic in search of mental peace and social stability. Pluralistic though society is, the core aspirations of the people still are reason, harmony, stability and prosperity. "Cheering up" Hong Kong is better than knocking down someone. Kindling the fire of hope for Hong Kong is better than stirring up sorrow.

In our "hunt of big predators" during the financial storm as well as in our attempt to catch the little crocodile at Shan Pui River, Hong Kong had had moments of disappointment. However, so long as there are both hard work and good luck, Hong Kong can put up a good show. We in Hong Kong have got to press on and bring our strengths into play. "Being talents made by Heaven, we are all useful in our own way. We can soar high, not necessarily in dreams, with a spread of the wings." Dialogue is better than confrontation. To put up a good show is better than to sulk. Hong Kong has got to put up a good show!

In order that Hong Kong can put up a good show, people holding different opinions on the development of the political system should work out a consensus as soon as possible and engage in communication and consultation with the Central Authorities so as to achieve democratic progress assuring to the people of Hong Kong as well as to the Central Government.

Hong Kong has got to put up a good show. The economy is just picking up. With strong help from the Central Government to boost private enterprises and individual visits, together with the free trade zone to be opened up between China and ASEAN nations attracting investment from the outside as well as from China, a lot of employment opportunities will be created. This is certainly a terrific golden opportunity.

Prof LIU Zaifu of the City University of Hong Kong recently published an article on three modes of thinking currently contending with each other in the world. The first mode is one-way thinking, one person being bent on gulping down another person. This thinking goes along the line of "killing you for my survival". The second mode is two-way dialogue, with both sides respecting each other. This thinking can be said to be one going along the line of "enabling both you and me to survive". The third mode emerged only after the introduction of suicide bombing in terrorism. This thinking goes along the line of "killing both you and me".

Let us apply this to the political scene in Hong Kong. If it is said that over the last 10-odd years we have adequately tasted the bitterness of "killing you for my survival", I firmly believe that in the forthcoming elections of September, the people of Hong Kong will definitely forgo words and acts that are radical, antagonistic and destructive. The reason is that it can only lead Hong Kong to a phase of "killing both you and me". The people will opt for a rational, moderate and constructive course to lead the relations between Hong Kong and

the Mainland as well as the internal political environment to a phase of "enabling both you and me to survive", where everybody is allowed to live, exist and grow.

Madam Deputy, there can be delivery for Hong Kong only if rationality gains the upper hand.

MR TOMMY CHEUNG (in Cantonese): Madam Deputy, for a long time there have been contradictions and divergence of varying degrees between the Democratic Party and the Central Authorities over many issues. The relations between both sides have not been very harmonious. This is especially true in the recent issue on the development of political system. It can be said that their views are "poles apart". It has, therefore, made their relations even more tense. On this occasion, they have taken the initiative to call for joining hands with the Central Authorities. This is indeed very meaningful.

In fact, the Liberal Party has always been openly calling for building a "society of consensus". We firmly believe that so long as the channel for communication is open, the social atmosphere can be rendered more stress-free. On top of this, it can help to improve the administration of the entire Government, and contribute to the discussions on the development of political system. So, it does not matter whether or not this is an electoral ploy of the Democratic Party to move such a motion. So long as all can put aside all previous ill-will, show sincerity and sit down for a dialogue, it is bound to impact on our community favourably.

In sum, over the seven years since the reunification, the Central Authorities have been observing the Basic Law strictly, fully implementing the policies of "one country, two systems", "Hong Kong people ruling Hong Kong" with "a high degree of autonomy". This has been obvious to all. The Central Authorities, in compliance with the requirements of the Basic Law, refrain from interfering with the internal affairs of the Hong Kong Special Administrative Region (SAR) so as to let the SAR enjoy autonomy. In addition to this, mainland provincial and municipal governments have been ordered to strictly observe the instruction not to get into the way of SAR affairs. It is certainly sheer exaggeration for any person to dispute or deny the efforts and sincerity demonstrated by the Central Authorities over the past seven years in implementing these major policies.

There is, of course, room for improvement in all things. "One country, two systems" is an epoch-making concept. In recent history of the world, there is no similar case. In social, economic and political areas, Hong Kong has always been practising systems different from those on the Mainland, with differences in both their ideas and manners of work. In order that the system can function even better, it is incumbent upon the Central Authorities and different local sectors to step up communication and work concertedly. It is also the wish of the Liberal Party that every sector in Hong Kong can actively put forward ideas so as to contribute to the better implementation of "one country, two systems" and "Hong Kong people ruling Hong Kong".

In his amendment to Mr TAM Yiu-chung's amendment, Dr YEUNG Sum inserts words calling on voters to elect Legislative Council Members who "strive for democracy and universal suffrage, uphold the core values of Hong Kong". On this, the Liberal Party's position is that the ultimate implementation of universal suffrage is a promise made by the Basic Law and it also has long been the Liberal Party's stand that every effort should be made to strive for the early implementation of universal suffrage in accordance with principles laid down in the Basic Law when the conditions are ripe. For instance, if all synchronizing political arrangements do mature, we may consider enabling the election of the Chief Executive by universal suffrage in 2012 at the earliest or by 2017 at the latest. If someone insists on adopting universal suffrage in 2007 and 2008 so as to get it done "at one go", then we really have to beg to differ.

In his amendment, Mr TAM Yiu-chung calls on the people of Hong Kong to join hands with the Central Authorities to "build a harmonious, stable and promising Hong Kong". This, I believe, is the people's common goal. It is also something which the Liberal Party has always been pursuing. I believe it is just a matter of course for one "to elect Legislative Council Members who support the Basic Law, uphold the unity of the country, care about the future of the Chinese nation, and truly represent the interests of Hong Kong people". Nobody will go against it. The Liberal Party has confidence in voters' vision. Before casting their votes to make their shrewd choices, they probably will carefully consider the candidates' political platforms and achievements.

In her amendment, Ms Cyd HO urges the Electoral Affairs Commission (EAC) to take measures to ensure that electors vote freely without being interfered. We also do agree with this. In recent days many people have been complaining that some mainlanders belonging to certain provinces or cities have

contacted them in a bid to influence their votes in the Legislative Council elections of September. There have also been complaints about personal data thefts committed for the purpose of voter registration. We think the authorities concerned should take the relevant cases seriously and firmly follow up.

However, we think the truth of the matter still awaits further investigation, and are confident that the police will get to the bottom of the matter. We need not worry. It is the conviction of the Liberal Party that in no way should voters' right to vote freely be interfered with. Only the electors themselves are entitled to deciding which candidates to vote for.

According to Mr Justice WOO Kwok-hing, Chairman of the EAC, to prevent this, the authorities concerned are prepared to consider all reasonable suggestions, including raising the punishment appropriately. We think it warrants consideration. In sum, all electoral procedures have to be conducted impartially. Every effort should also be made to ensure that it can proceed in a fair, impartial and clean manner.

I wish to emphasize that Hong Kong is considered to top the world with respect to impartiality and integrity in elections. To maintain the people's confidence in fair elections, and to uphold such a hard earned reputation, the people must make concerted efforts to ensure that elections can proceed in a fair, impartial and clean manner.

Madam Deputy, I so submit.

MR HENRY WU (in Cantonese): Madam Deputy, Hong Kong's success is attributable to the fact that it has always been developing in the direction of "an economic city". Relying on shrewd business sense featuring great flexibility and a fighting spirit underlined by a willingness to work hard, and blessed with an ideal business environment with sound laws and infrastructure, Hong Kong successfully worked its way up to rank among top international financial hubs. In addition, Hong Kong has world-class shipping facilities, bringing prosperous development to various trades, such as logistics, exhibition, industry and commerce. It draws in from abroad capital and commercial activities, acquiring the fame as a cosmopolitan city. At the same time, our tourist industry prospers on the strength of the alluring radiance from the "Pearl of the

Orient", making Hong Kong a world-famous tourist centre and shopping paradise.

These economic activities are cornerstones underpinning our success as "an economic city". They are beyond what "a political city" can achieve. Unnecessary political quarrels can only jeopardize economic development. It is especially so now as Hong Kong faces strong competition. So, to maintain our prosperity and stability, we should, from now on, join hands with each other and eschew disunity. In addition, joint efforts should persistently be made to press on so as to progress in the direction of "an economic city".

Over the last few years, impacted by economic restructuring and external factors, our economy has been caught in a downturn. Last year, there came the epidemic of SARS. We had had our darkest days. Fortunately, we enjoy the advantage of having the Motherland as our hinterland, getting much care and support from the Central Government. Moreover, there were strenuous efforts from our united people. In the end, the adversity was eliminated, and there came the crack of dawn.

Madam Deputy, at present, when our economy is just showing initial signs of recovery, the economy, politics and people's confidence are very fragile, all vulnerable to swaying and meddling. One single slip is enough to knock society out of balance, and seriously upset its stability and prosperity. So, now we have to maintain social stability, promote economic prosperity, and rally the strength of every sector to build a harmonious society and revive people's confidence. Here I call upon every person to vote in the Legislative Council elections scheduled for 12 September to elect those who are sincere, who are persons of action, who are devoted, and who support the Basic Law, uphold the unity of the country and care about the future of the Chinese nation as legislators to "join hands with the Central Government" to truly implement the policies of "one country, two systems" and "Hong Kong people ruling Hong Kong" with "a high degree of autonomy" so as to really create a better future for Hong Kong.

Madam Deputy, I so submit.

MR LAU WONG-FAT (in Cantonese): Madam Deputy, in recent days a "wor fung" (meaning gentle breeze) has blown into our political scene, blowing away a lot of grudges and grievances. It is hoped that the breeze can stay on to

restore harmony and tranquillity to the community so that the people of Hong Kong can regain their spirit to help each other, make great strides again, and progress towards a smooth administration blended with social harmony

"Wor" (meaning harmony) is indeed a very good word. When combined with other words, it will form, just as random examples, expressions meaning modest, relax, kind and gentle, on good terms, reconciliation, affable, on friendly terms though differing, treasuring peace, peaceful disposition brings blessings, peaceful co-existence and all prosper in domestic peace, and so on. It is apparent that the Chinese people and Chinese culture all along attach great importance to the word "wor".

Ever since the reunification, there has been a series of events not to our liking. The economy went downhill. Epidemic occurred causing havoc. There are blunders in administration and disputes over political reforms. The society has been badly polarized. The pro-democracy camp has been utterly incompatible with the Central Authorities and the Hong Kong Special Administrative Region Government. Given the toughness and complexity of the situation, the word "wor", one embodying great traditional wisdom, can surely be brought into full play. Moreover, only with the realization of "wor" can we escalate the cohesion in the community and join hands with each other to make concerted efforts to solve problems and rise to challenges.

Earlier on Mr LAU Chin-shek proposed that both the pro-democracy camp and the Central Authorities should each take one step backward as a gesture of goodwill to bring about conditions conducive to communication. The proposal is highly commendable. To take one step backward would not necessarily lead to wider horizons. However, there is bound to be more room for manoeuvring. Now on Mr Martin LEE's motion, the wording is so mild that it is something never seen by me before in the 20 years we have worked together in this Chamber. The prerequisite of communication is, of course, that the two sides must be so inclined and sincere. To create a favourable atmosphere and to cut down on sharp opposing words or actions also constitute an essential prelude to communication.

Madam Deputy, according to those singing a tune against communication, there is not much point in having communication as the two sides are poles apart. I am of the opinion that so long as there is communication, there is a chance for

success. Even though it is difficult to arrive at a consensus right away, it can still serve a positive function in easing the tense relations or narrowing the divergence. "To seek a common ground on one country while reserving major differences on two systems" are words very well-spoken. If both sides agree with the meaning it embodies, then there is a solid basis for communication.

Madam Deputy, early this year when the New Territories Heung Yee Kuk held a Chinese New Year get-together, I, in response to a question on the discord over political reform, called upon Hong Kong people to speak up properly and to attach more weight to the overall situation and be less self-centred. In fact the Central Government wants to do Hong Kong good and maintain stability and prosperity in Hong Kong. This is beyond doubt. The determination in this respect has been made apparent since the formulation of the policies of "one country, two systems" and "Hong Kong people ruling Hong Kong". It is so too in the case of the recent launch of a number of highly effective initiatives designed to reinvigorate our economy. But, conversely, while receiving the Central Government's goodwill, have we appreciated the difficulties experienced by the Central Government in governing such a large and problem-ridden nation?

Madam Deputy, Hong Kong at present still has advantages in terms of time and place. What it lacks is social harmony. So, to seek harmony is to seek success. The question as to how to work the way to social harmony in order to really join hands with the Central Government to promote social development and well-being for the people very much depends on the wisdom and breadth of mind of the people concerned. I so submit.

DR DAVID LI: Madam Deputy, in recent months, respected voices in our community have expressed their concern over the growing polarization within our society.

Our community has experienced disagreements in the past. But these disagreements never stood in the way of each of us, and we in our own way, contributed to building a stable and prosperous society. Gradually, over time, the situation changed.

The debate over our future became hostage to a larger political agenda. Accommodation came to be regarded as a sign of weakness; compromise as surrender. But little progress can be made with society so divided. It is

therefore a welcome development that new voices have emerged, urging consensus on the basis of shared values.

The motion as amended by the Honourable TAM Yiu-chung and Dr the Honourable YEUNG Sum rekindles the common sense of purpose which we all felt on 1 July 1997. This motion recalls our commitment to the reunification of our great country under the principle of "one country, two systems".

With this amended motion, we have the opportunity to rise above petty politics. We have the opportunity to leave behind past divisions, and set a new course for ourselves. We must not forgo this opportunity. If today we reject consensus, we send a message of defiance in place of a message of hope. We endorse narrow self-interest and stagnation in place of reason and progress. We must not forgo this opportunity.

Great strength flows from the principle of "one country, two systems". Under "one country", we gain our identity and share in the remarkable process of transformation now underway on the Mainland. Under "two systems", we thrive on a unique interplay of contending views, and build on a heritage which gave us the rule of law and our "can-do" spirit.

It is time for all of us to recognize the strength we derive from "one country, two systems". This strength comes not from a narrow interpretation of this great principle, but from an inclusive interpretation which allows for a fluid interchange of views. How much stronger the principle of "one country, two systems" would be if an interchange of views took place, not only within each of the "two systems", but also between the "two systems" as well.

Many among us recognize that proper dialogue has been lacking for far too long. Suspicion and misunderstanding have grown as a result. The sooner an interchange of views begin, the sooner we will remove both suspicion and misunderstanding.

I have, over a number of years, tried to bring about such a dialogue. Little has come out of my efforts. Therefore, I was very encouraged by the response to the expressions of compromise heard in this Council just two weeks ago. The voices of support, from all sides of the political spectrum, add to my optimism.

To take these efforts to the next level, it is vitally important that this Council joins with one voice to support the motion before us. In so doing, this Council will send a powerful message to all concerned that we wish to see a new spirit of dialogue at the earliest possible opportunity.

Thank you.

MR NG LEUNG-SING (in Cantonese): Madam Deputy, I believe Members may still recall that I once moved a motion in this Council to thank the Central Government precisely for the reason that the Central Government, as an ongoing effort supporting the Hong Kong Special Administrative Region (SAR), had helped us combat SARS and improve the economy in the interest of our prosperity and stability. I certainly endorse what is mentioned and advocated in today's motion, according to which the people of Hong Kong should join hands with the Central Government to truly implement the policies of "one country, two systems", "Hong Kong people ruling Hong Kong" with "a high degree of autonomy". I also think that such a partnership of co-operation is the long-established foundation upon which the maintenance of our prosperity and stability depends. It should not be used as an expedient stop-gap measure catering for different political stages or campaigning strategies for election.

I am also of the view that it is incumbent upon those in politics not just to verbally call upon the people of Hong Kong to join hands with the Central Government. They have to live up to their words, practise what they preach, and show good intention and sincerity for co-operation with practical actions. If the so-called co-operation is nothing but empty talk or merely a request asking the other side to co-operate, then it inevitably will give people an impression of "making a show more than making a real effort", being expedient and tactical. It ultimately cannot help build mutual trust between the two sides.

Let us review a series of recent social events. It is apparent that our social harmony has been damaged by confrontation and defiance. Also affected are the mutual trust and co-operation between Hong Kong and the Mainland. This is not what the people of Hong Kong are looking forward to. With regard to the emergence of such a situation, I am of the view that there are some questions worthy of thorough consideration by people of all sectors. These questions, of course, also deserve reflection by a small group of people.

Our political development which should be carried out gradually according to the Basic Law is an internal issue and an internal affair of the SAR. It also involves the discharge of constitutional power and responsibility in accordance with the Basic Law by the Standing Committee of the National People's Congress, the highest state organ of power. If such an issue is taken to foreign political bodies, such as the United States Congress, for discussion, can that help to build mutual trust between Hong Kong and the Mainland? Can it ultimately help to solve the problem, and is it in line with the fundamental interest of Hong Kong? Recently, a foreign parliamentary body has used the Hong Kong issue as a chessman on the above pretext for the benefit of their trade policies and interests. It is obvious that resorting to drawing attention from abroad is, after all, not in line with the interests of Hong Kong or those of our country. Moreover, linking the issue of our political development with current political system in the Mainland, or even with slogans inconsistent with the Chinese Constitution, such as those calling for "ending the one party dictatorship", is by itself pernicious to the policy of "one country, two systems". If those in politics happen to be members of the SAR Legislative Council, then it is probably hard for them to be convincing enough. There can only be doubts as to whether or not it is possible for them to have a sufficient basis to establish mutual trust and co-operation with the Mainland. Similarly, if individual persons in politics say things not in line with the principle of upholding national unity, it is obvious that these individuals can only accentuate the distrust between the two places, not to mention helping to solve the long-standing problem of political polarization in Hong Kong.

Every citizen certainly has the right to present his political views or standpoint. However, I also think that those in politics should and must clearly understand where lie the fundamental interests of Hong Kong. All that those in politics strive for must be the well-being of the people, not any personal political ends or electoral advantages. They must speak and act sensibly, knowing when to advance or retreat, and foster favourable conditions for co-operation between the people of Hong Kong and the Central Government with sincerity and full commitment.

Madam Deputy, I so submit.

MR MICHAEL MAK (in Cantonese): Madam Deputy, Mr DENG Xiaopeng, the late State leader, put forward the ideas of "one country, two systems" and "Hong Kong people ruling Hong Kong" with "a high degree of autonomy" for

adoption as policies for the administration of Hong Kong. The reunification of Hong Kong with the Motherland became a major event drawing worldwide attention because "one country, two systems" could be said to be an unprecedented and ground-breaking initiative. There was worldwide attention on the question as to whether or not the above three policies could be implemented in the administration of Hong Kong.

Before the reunification, Hong Kong was already the bright and sparkling Pearl of the Orient. Following the reunification, everybody has been wondering if this Pearl of the Orient can still retain its lustre and sparkle. This is closely linked to the question of whether or not the above three policies may be implemented in the administration of Hong Kong. Under the policies of "one country, two systems", "Hong Kong people ruling Hong Kong" with "a high degree of autonomy", Hong Kong has managed to keep an independent judicial system, a free business environment, and freedom of association and speech for the people. These are indeed cornerstones underpinning the sustained prosperity and stability of the Hong Kong community.

In order that the above three policies can be truly implemented, the people of Hong Kong must be united and co-operate with the Central Government. What the Hong Kong people can do is to keep up with their efforts to uphold freedom and democracy so as to demonstrate to the world that Hong Kong does indeed enjoy freedom of association and speech under "one country, two systems".

The Government of the Hong Kong Special Administrative Region (SAR) should cherish the power of "Hong Kong people ruling Hong Kong" with "a high degree of autonomy" granted to Hong Kong by the Central Government, and should not lightly seek interpretation of the Basic Law by the NPC to avoid jeopardizing our judicial independence and "high degree of autonomy".

What the Central Government can do is to truly implement the above three policies and respect Hong Kong people's wishes. A right given to the people of Hong Kong under the Basic Law is to elect the Chief Executive and all Members of the Legislative Council by universal suffrage. According to many opinion polls, there is a strong demand for universal suffrage among the people of Hong Kong. For instance, an opinion poll conducted by the University of Hong Kong in mid-May showed that 62% of the people were in favour of electing the Chief Executive by universal suffrage in 2007 and 61% were in favour of electing all

Members of the Legislative Council by universal suffrage in 2008. According to a survey conducted by the Hong Kong Transition Project last November, 70% of those surveyed believed that the Chief Executive should be elected by universal suffrage in 2007.

Universal suffrage is the best proof of the implementation of "Hong Kong people ruling Hong Kong" with "a high degree of autonomy". It is hoped that the Central Government will respect Hong Kong people's aspiration for universal suffrage, and demonstrate to the world their determination to truly implement in Hong Kong the policies of "one country, two systems", "Hong Kong people ruling Hong Kong" with "a high degree of autonomy".

Madam Deputy, 12 September is the polling day for the Third Term Legislative Council. It is going to be the best occasion to implement, and demonstrate to all the policies of "one country, two systems", "Hong Kong people ruling Hong Kong" with "a high degree of autonomy". I call upon the people to cherish this valuable opportunity and vote enthusiastically. The reason is that the sacred vote to be cast by each of us can help to boost the credibility and representativeness of the Legislative Council, and urge the Government to address squarely the people's wishes and respect the representatives of public opinions.

Madam Deputy, in the last few elections of the legislature, the turnout rate of my constituency, that is, the constituency of health services, was relatively low. This probably has something to do with the work nature of fellow workers in my constituency, they being required to work shifts. However, I still have to make an appeal to my fellow workers here. While they are providing society with their professional services, each should still take some time off one's busy work schedule to cast his vote so as to cherish the right to vote, discharge a citizen's duty, and elect Members who can really represent one's geographical constituency and functional constituency by casting one's sacred vote to candidates whom one trusts.

In recent days, our community has seen a lot of disputes, because of which there is even stronger justification for the people of Hong Kong to indicate their choices with actions and express their wishes through ballots so as to achieve the optimum effect of having harmony while still agreeing to disagree. I also believe that the people are sharp-sighted. They definitely can elect Legislative Council Members really representing the interests of Hong Kong people.

Regardless of the outcome of the poll, we have to "readily and willingly" accept the results of the elections.

The value of democratic election lies in the fact that all qualified citizens may vote. Furthermore, all candidates may compete in the election under conditions that are fair, open, impartial and healthy. Unfortunately, many people have recently made complaints to radio programmes, saying that they or their family members have come under considerable pressure directing them to vote for a certain party or that party's candidates. In addition, there have been complaints about personal data thefts from some people for whom registration as voters was done without their knowledge.

I call upon the police to look into the relevant cases thoroughly. I also call upon the Electoral Affairs Commission to take effective measures to ensure that voters may vote without any interference on 12 September so that the elections can be conducted in a fair and impartial manner. I so submit.

MR AMBROSE LAU (in Cantonese): Madam Deputy, in order for Hong Kong to truly implement "one country, two systems", "Hong Kong people ruling Hong Kong" with "a high degree of autonomy", it is indeed necessary for the people of Hong Kong to be united and join hands with the Central Government. In fact, the doorway through which the Central Government communicate with different parties, organizations or sectors in Hong Kong has always remained wide open. Here in Hong Kong, parties, organizations and sectors that support the Basic Law, uphold the unity of the country, care about the future of the Chinese nation, and protect the interests of Hong Kong people have been co-operating with the Central Government. The issue of Hong Kong people co-operating with the Central Authorities constitutes no problem. Yet it has now been raised as an issue. Objectively, it reflects the point that some people cannot communicate with the Central Authorities, or even have tense relations with the Central Authorities. We should address this fact and get to the crux of the problem.

The essence of "one country, two systems" lies in maintaining the great harmony of "one country" while preserving the major differences between the "two systems", with the Mainland not changing Hong Kong's capitalist system and Hong Kong respecting the socialist system led by the Communist Party of China (CPC) on the Mainland. Some people seek to "end one-party

dictatorship", overturn the leadership of the CPC which is recognized by the Constitution, and change the socialist system of the Mainland which is prescribed by the Constitution. This goes beyond the limit of "one country, two systems". Here lies the crux of the problem why they cannot communicate with the Central Authorities. With the crux of the problem identified, the answer to the question as to how they are to co-operate with the Central Authorities is found whilst conditions leading to communication are also created.

Madam Deputy, co-operation with the Central Government should not be just a slogan. Actions also matter. One who is doing things to defy the Central Authorities while claiming to be trying to co-operate with them is self-contradicting.

In order to communicate and co-operate with the Central Government to truly implement the policies of "one country, two systems", "Hong Kong people ruling Hong Kong" with "a high degree of autonomy", and to build a harmonious, stable, promising Hong Kong, it is necessary to elect as Legislative Council Members those whose deeds are consistent with their words. They ought to support the Basic Law, uphold the unity of the country, care about the future of the Chinese nation, and truly represent the interests of Hong Kong people. The Hong Kong Progressive Alliance calls upon the people to vote enthusiastically in the Legislative Council elections to be held on 12 September so as to elect as Legislative Council Members those who really work for the good of Hong Kong.

Madam Deputy, I so submit.

MS EMILY LAU (in Cantonese): Madam Deputy, the elections scheduled for 12 September this year are very important. Here I call on all voters to vote enthusiastically. So there ought to be no problem whatsoever with a motion calling upon the people to vote. To ask the people to be united should not be a problem too. It is in fact something we really hope to see. However, according to quite a few Honourable colleagues who have spoken, Hong Kong is now very divided. Why is society so badly divided? Why are there so many grievances in society?

In reply to my oral question in the meeting earlier today, the Chief Secretary for Administration said that the people still had a lot of grievances and discontent following the mass march of 1 July last year. In what areas do they

have grievances and discontent? In terms of the economy, there has been some measure of recovery. However, many people have yet to benefit from it. In terms of the Government's administration, there have been changes. However, the people remain dissatisfied. Many people were baffled by the interpretation of the NPC, finding it not acceptable. "Popular radio hosts quitting the airwaves" also constituted a question as well as a warning.

Madam Deputy, these problems have not been our making. How can there be unity if the SAR Government and the Central Government have made so many moves to worry the people and split up society? Talking about joining hands and co-operating with the Central Authorities, how can some people join hands when they cannot even go to mainland China? We are not responsible for all these. Some people, however, do not think so, saying that it will be fine so long as we refrain from doing and saying certain things. I am speaking on behalf of the Frontier. We would not do that. Also, with regard to things done or said by us over the past few years, we find no fault at all which should justify any punishment of us by the people, or a need for us to "change stand".

Madam Deputy, that is really beyond us. What is more, we are representatives of public opinions. We are absolutely fearless. As there are ballot boxes, we should not take these seats if we are not qualified to represent the people. I do not have the impression that our voters have told us, "You have gone too far. Do not be like that." On the contrary, citizens have been telling us very vehemently, "Do not retreat no matter what. Stand firm." Madam Deputy, to stand firm on what? To stand firm on "one country, two systems", on "a high degree of autonomy," and on Hong Kong people's freedom and the rule of law. What is being said here about standing firm does not mean bankrolling an army to fight the Central Authorities. We have neither power nor guts. How can we get into a position or acquire the ability to challenge the Central Authorities? Are there still freedom of speech and freedom of expression if it is not permissible to challenge them by speaking out against their decisions?

So, Madam Deputy, with regard to words said today, is it possible to seek a spectrum agreeable to all? But how? How much can we do? According to some people, much can be and indeed should be done. However, I think I would not do that. If it is necessary for me to yield exceedingly far, then I would not do it. Should there be communication? Yes, of course. However their doorway is too high and guarded by ferocious dogs. We, the Frontier, just would not wag our tails ingratiatingly when they are unwilling to communicate

with us. Those who elected us also do not encourage us to wag our tails ingratiatingly. The people of Hong Kong attach enormous weight to their dignity. I also understand that the people do not want to have disputes with the Central Authorities. If there are disputes, we are going to lose. However, if "one country, two systems" cannot be successfully implemented, the entire China is going to be the loser. By then, everybody will have to pay for it.

We are most willing to put in full efforts and work really hard. However, Madam Deputy, you know very well that the power to make decisions often does not rest with us. Are we qualified to do this? Though we are small potatoes, we do have dignity and principles, and will exert our very best. We believe in democracy. If we can no longer represent the voters, then we should cease to be representatives of public opinions.

So, Madam Deputy, I do support all points brought up here today. I, however, must state clearly our position. I hope there is no conflict. Madam Deputy, we know not how to retreat. We have already retreated to the wall, we can retreat no further. Must we, as I have said, step back and just fall into the Victoria Harbour? That sea is now so filthy that we will be drowned right away if we fall into it.

Madam Deputy, I believe society is badly divided now. Some people are very supportive of my words, which are, however, unpleasant to the ears of others. Some even went to set fire on my office, causing grave worries to me and my staff. Where does such violence intend to lead Hong Kong? Can today's motion debate reverse the situation?

Madam Deputy, I so submit.

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

MR ALBERT CHAN (in Cantonese): Madam Deputy, in the '80s, communication and co-operation between the pro-democracy camp and the Central Government was a common phenomenon. In preparation for the recovery of sovereignty over Hong Kong, some figures from the pro-democracy camp as well as a few political parties and political commentary groups worked concertedly with the Central Government in Beijing. On many occasions, they

filled the wine cups for each other and jointly cracked jokes. In addition, there were many visits to Beijing by leaders of our pro-democracy camp. Beijing's representatives also came here. It can be said that at that time everybody could speak his mind freely. However, the 4 June incident totally changed the political ties between the Central Authorities and the pro-democracy camp. This marked an important milestone prior to the year 1997.

(THE PRESIDENT resumed the Chair)

After 1997, one more barrier cropped up between the pro-democracy camp and the Central Authorities, namely, TUNG Chee-hwa. The Central Authorities, under the illusion of being a BO Le who by legend was good at identifying steeds, picked a horse, which turned out to be a lame horse. This horse has led the masses into dire poverty, causing more and more grievances. With people's resentment pumping up on account of TUNG Chee-hwa's ever-worsening incompetent administration, half a million people took to the streets on 1 July last year. However, the Central Government does not realize that it has chosen a lame horse, and just keeps on defending this horse. As they have not been happy with the Government, the people of Hong Kong subsequently shifted their discontent from the Government to the Central Government. Thus, in dealing with the communication problem between the Central Government and the pro-democracy camp, and that between the Central Government and the people of Hong Kong, the 4 June incident is a key factor, so is TUNG Chee-hwa.

Earlier on, in response to a question pressed on him by a reporter regarding statements made by SZETO Wah and Martin LEE about improving relations with the Central Authorities as to what further substantive actions should be taken, TUNG Chee-hwa said with a smile: "I think they know it too well, indeed they do." The reporter pressed further on with the question. He still said with a smile: "They do know it too well." He would answer in the same way even if the question was put to him 10 times more. According to outside comments, today's motion is a gesture of goodwill to the Central Authorities from the pro-democracy camp. However, when the pro-democracy camp was seeking to forge better ties with the Central Authorities, TUNG Chee-hwa offered no specific assistance. On the contrary, he responded by just saying "(they) know it too well." I do not know what he was thinking of when

he said "(they) know it too well". I wonder if he is aware that he himself is (as I just said) one of the barriers.

I want to use 10 "know it too well" situations to comment on TUNG Chee-hwa. The administration of TUNG Chee-hwa is in a complete mess. His popularity rating has been dropping continuously. Yet he has been appointed by the Central Authorities as the Chief Executive term after term. He knows it too well the reason for that. Whilst countless assets of Hong Kong people have been vapourized, the share value of TUNG Chee-hwa's family business — Orient Overseas (International) Limited — has gone up by eight folds between 1998 and now. In 2003, the after-tax profit of Orient Overseas (International) Limited amounted to US\$320 million, a six-fold jump over that of 2002. TUNG Chee-hwa knows it too well why Orient Overseas (International) Limited, his family business, has been so profitable. Orient Overseas (International) Limited chose to invest in Shanghai's real estate market, but not in Hong Kong's. Their investment items in Shanghai have been profitable. He knows it too well the reason for that. Members of the middle class have, one after another, become owners of negative assets. Yet major developers in Hong Kong can still make a lot of profit. He knows it too well the reason for that. TUNG Chee-hwa knows it too well why he is so well received in Beijing but so unpopular in Hong Kong. TUNG Chee-hwa knows it too well why the Central Authorities have been bypassing him and directly interfering with our affairs since 1 July. TUNG Chee-hwa knows it too well why he has not been able to achieve anything even though he claims to be working from seven o'clock in the morning to 11 o'clock in the evening every day. He knows it too well whether or not "one country, two systems" exists in name only. TUNG Chee-hwa knows it too well why last year half a million of people took to the streets to demand his resignation. TUNG Chee-hwa knows it too well whether or not he has discredited the pro-democracy camp before officials of the Central Government.

Madam President, it is certainly necessary for the two sides to find a consensus or suitable opportunity to deal with the gap between the pro-democracy camp and the Central Authorities. For such a gap and such terrible relations are not at all inevitable as historic developments. Some people here were on very bad terms with the Central Authorities prior to the reunification. However, during the transitional period around 1997, quite a few of them became political figures groomed by the Central Authorities. Often matters are determined by political development on either side. Another

determinant is the limitation of the objective reality. These contradictions and gaps are often attributable to many who have been trying to stir up discord, discredit others and forge conflicts. Has our Chief Executive, the top leader of Hong Kong and the person serving as the main bridge of communication between Hong Kong and the Central Authorities, fully discharged his duties and made efforts to improve their relations? This is a key link.

TUNG Chee-hwa has recently made appointments with many members of the pro-democracy camp for meetings. I wonder if Ms Emily LAU has been approached for such an appointment. He has had meetings with LAU Chin-shek, the Democratic Party and Article 45 Concerned Group. However, I have never been approached; nor has Ms Emily LAU. It is probably because both of us have a clear-cut stand of "toppling TUNG Chee-hwa". From this TUNG Chee-hwa's double standards are evident. He is still in a complete mess in doing things, saying one thing and yet doing another.

Madam President, this motion debate is, in fact, about improving the relations between the Central Authorities and the SAR. However, as stated by me earlier on, so long as the barrier, TUNG Chee-hwa, remains, it is going to be very difficult to improve the Central Authorities' relations with Hong Kong people, or the pro-democracy camp in Hong Kong. The Central Authorities should not ask us to defend and support a lame horse. If this horse is no good, replace it. Uprooting or removing the barrier, TUNG Chee-hwa, is going to provide the best turning point for improving the relations between the Central Authorities and the pro-democracy camp and that between the Central Authorities and the SAR. It is hoped that the Central Authorities will carefully consider this suggestion for implementation.

MS AUDREY EU (in Cantonese): Madam President, when Mr LAU Wong-fat spoke earlier on, he quoted quite a few expressions with the word "wor" in a bid to illustrate the importance of "wor" (meaning harmony). Today's motion also makes mention of the need to be harmonious.

Madam President, I am strongly in favour of using the word "wor", and also support harmony. I, however, want to make it clear that "wor" does not mean going with the tide in all matters. In the past, we also made mention of the core values of Hong Kong. As a matter of fact, the core values to which the pro-democracy camp has all along adhered are democracy, freedom, human

rights and the rule of law. This is absolutely not in conflict with building "a harmonious, stable and promising Hong Kong" as stated in the motion. I, therefore, have to make it clear. On the one hand, we are, of course, in favour of forging good relations with the Central Authorities. Is it, however, possible to take one step backward? How the pro-democracy camp is to communicate is, of course, a very important issue. With regard to the concepts held by the pro-democracy camp, there is no room for retreat in the values of democracy, freedom, human rights and the rule of law. It is precisely because of our firm adherence to these values that we have been able to get extensive endorsement and support from the people. If the pro-democracy camp drops such a firm adherence, it will cease to be what it is, and become a fence-sitting faction, one that trims the sail to the wind.

In fact, the above core values, namely democracy, freedom, human rights and the rule of law, are essential to maintaining our prosperity and stability and implementing "one country, two systems". If Hong Kong were deprived of freedom of speech, if the annual candlelight vigil could no longer be held on 4 June, if no more rally could be organized on 1 July, and if the law became a tool of those in power, then Hong Kong would cease to be the sparkling pearl we all know.

WANG Rudeng, Assistant to the Director of the Central Government's Hong Kong Liaison Office, recently said that to hold a march on 1 July was to put pressure on the Central Authorities. WONG Man-kwong, a Hong Kong Deputy to the National People's Congress (NPC), said emphatically that it was a monstrous crime for Hong Kong people to take to the streets on 1 July. Furthermore, when asked by the media whether the Hong Kong Alliance in Support of the Patriotic Democratic Movement in China should be dissolved, Mr TUNG Chee-hwa said the pro-democracy camp "knew it too well". All these show that the Central Authorities want the pro-democracy camp to abandon their original principles, and that they must be obedient, otherwise they cannot have their Home Visit Permits back, or communicate with the Central Authorities.

Obviously, with regard to the relations between the Central Authorities and Hong Kong, many people still stick to the mentality of "father and son" of feudal days, looking upon the Central Authorities as father, or even as grandpa. In sum, all that "Dad" says or does, including interpretation of the Basic Law, and rejecting universal suffrage in the elections in 2007 and 2008, are for the good of Hong Kong, regardless of their congruity with public opinions. The

people of Hong Kong, being "kids", should not call them into question. To be defiant, especially to be so on the day commemorating the reunification, is a monstrous crime. What has just been said is, however, just a traditional father-and-son relation. In the modern world, kids may dissent. I know of some families where the father voted for the Democratic Alliance for Betterment of Hong Kong, the mother voted for the Democratic Party and the kids took to the streets. But that does not mean any disharmony in the family or any incompatibility.

In fact, it is inherently inappropriate to compare the relations between the Central Authorities and Hong Kong to that between father and son. Hong Kong is, after all, different from the Mainland. Hong Kong is an open and pluralistic society, where it is not possible to have total submission to superiors' views and complete absence of dissension.

Given these, the communication and dialogue between the Central Authorities and the pro-democracy camp should be built on a foundation of mutual respect. There cannot, and should not, be any prerequisite. What is more, there should be no harm done to "one country, two systems". The pro-democracy camp's fight for universal suffrage and objection to the NPC making whimsical interpretation of the Basic Law are firm and unshakeable stands. It is my hope that the rally marking the 4 June incident can be held annually until there is vindication. It is also my hope that the 1 July march can be organized annually until there is universal suffrage in Hong Kong. These are to show to the outside world Hong Kong people's firm adherence to and perseverance for democracy.

Madam President, the people of Hong Kong are not "going for independence of Hong Kong". They are also glad to see the Motherland growing in prosperity and strength. Our request for universal suffrage is very moderate. We are not trying to defy the Central Authorities, but just want to forge an open, transparent and sustainable political system that can ensure effective administration by the Government. The pro-democracy camp has made one friendly move. Whether or not the Central Authorities ultimately are able to communicate with the pro-democracy camp and accommodate dissenting voices in Hong Kong society remains to be seen.

Finally, I also call upon the people to vote enthusiastically in the Legislative Council elections scheduled for September. I think the people know

how to choose their representatives. The motion also mentions the need to support the Basic Law and to elect Legislative Council Members who support the Basic Law. In fact, Articles 45 and 68 of the Basic Law clearly state that the ultimate aim is to have universal suffrage, that is, to select the Chief Executive by universal suffrage and to elect all Legislative Council Members by universal suffrage. Going in this direction, and following the ultimate aim stated in the Basic Law, we definitely should favour supporting more Members from the pro-democracy camp, and having dual elections by universal suffrage as soon as possible, instead of electing as Members of the Legislative Council those who favour and aspire for the retention of functional constituencies.

With these remarks, Madam President, I support today's original motion and all the amendments.

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

MR ANDREW WONG (in Cantonese): Madam President, what I have to say on this motion was actually said two weeks ago. However, I am still very glad that Mr Martin LEE has moved this motion.

When I spoke on the last occasion, I mainly quoted from my ICQ replies. Here today I want to tell you all about the ICQ conducted over the past two weeks. The first one is an ICQ of 14 June. Someone called Joe asked: "Would LAU Chin-shek's words be regarded as a split in the pro-democracy camp?" In reply to him, I said: "According to some, the divergence between LAU Chin-shek and SZETO Wah is a split in the pro-democracy camp. But is it a break and divergence in terms of principle or is it a break and divergence in terms of style in political participation? I cannot pass the final verdict. It is still necessary to look at the development in the days to come. I am inclined towards the new style and new attitude adopted by LAU Chin-shek. They have always been my style and attitude. That is to say, to be in harmony while disagreeing, to part while not breaking, and to contest while not contending. Last Wednesday, when I spoke on the motion on the march of 1 July, I expressed agreement with the entire speech of LAU Chin-shek. While I also agree with every single word that he said today, I must point out that the Central Authorities and the pro-democracy camp should not 'perish by the double' but should 'survive by the double'. There has to be goodwill from both sides. I all along

have goodwill. LAU Chin-shek has already shown goodwill. So has Martin LEE as he already announced his plan to propose this motion. In addition, also showing goodwill are academics and lawyers. As a next move, must the Central Authorities also show goodwill?" Let me quote from LAO Zi. According to LAO Zi, "I am nice to those who are nice to me; I am also nice to those who are not nice to me, for this kind of niceness is a virtue." It means that I will treat those who well treat me; to one who ill-treats me, or is ill-disposed towards me, or is a bad person, "I am also nice", that is, I will treat him well. This kind of niceness is a virtue. These words were intended for rulers, Madam President, for LAO Zi mainly spoke to rulers. Given the point that these are words for rulers, then must the Central Authorities also show goodwill no matter people are being nice or not?

Then Joe went on with another question for me, saying: "The pro-democracy camp always defies the Central Authorities. Is not this out of keeping with the times?" In reply to him, I said: "I am of the view that politics is an art to do things feasible whenever possible. So, it is never advisable to remain defiant and foolhardy. There must be communication, preferably on the basis of mutual trust. Even if there is no mutual trust or even if there has yet to be mutual trust (for example, the Taiwan issue and the Middle East issue), it is still necessary to seek communication, otherwise both sides will lose out. Even if there is a winner, devastation is bound to be very extensive, and the ones who are to suffer will inevitably be the common masses."

Madam President, here is the message of what I just said: In politics, never make wild guesses at others' intentions and motives. I always say so when coping with life or teaching at the university. The reason is that when you are correct with your guesses, the other side might be shamed into anger, and yet if your guess turns out to be wrong, the other side might take it as an attack out of malice. So, in the end, both sides lose out. Therefore, what LAO Zi said in the *Book of Ethics* are not just for rulers; they are also meant for all those in politics.

Furthermore, other friends having ICQ with me also put to me some other questions, for example, those about the likelihood of dropping certain slogans. I told them some ways of saying things considered to be correct by me. They have already been said by me over the years in this Council. Another ICQ went back to 14 June. A friend calling himself Steve asked me: "Do you think there is something wrong with the slogan 'returning power to the people'?" In reply I

said: "All along I consider the idea of 'returning power to the people' wrong. Democracy, so to speak, is not a question about 'Who should rule'. The reason is that so long as there is a chance to exercise absolute power, no matter whether it is by one person, or by a minority group or even by a majority of the people, it might still bring in bad rule, evil rule or even oppression and bullying of the minority by the majority. Democracy, in fact, ought to be 'an idea on how to minimize bad rule'."

"To minimize bad rule and evil rule, it is, first of all, necessary to put emphasis on the freedom of speech. Let all others have ample opportunities to speak out so that the authority then in power, be it one single person, or a minority group, or a majority of the people, may hear different opinions. These different opinions might, on the contrary, be correct. Certainly, if the authority in power does readily accept good advice, then it is so much the better. Even if it is bent on having its own way, correction can still be made as soon as the government errs."

"Secondly, democracy places emphasis on elections at regular intervals or elections for limited terms. An election must satisfy the principles of being general, equal, direct and confidential. Surely, it also must satisfy the principles of being fair and free. Only a government returned by general election can lead to changes in policies. With regard to those in power, the process of their replacement can be very peaceful and bloodless because of the existence of elections. My idea of minimizing bad rule is conceptively very different from 'returning power to the people'. The point is that 'returning power to the people' means more or less that 'truth is what the majority of the people agree upon.' This definitely is not the essence of democracy.

"However, it is necessary to return to one point. Those bringing in the slogan 'returning power to the people' are probably just calling out some slogans without supporting mob politics. So long as the reasoning just presented by me is being understood, one should not bother or take offence at the issue on whether to stick to or give up a slogan or just half of it."

So, Madam President, I am of the view that today's topic, that is, the original motion, is basically a very simple motion. However, with the addition of the amendments, many obstacles have been erected as some words carrying offensive undertones have been brought in. I am not quite happy with all the amendments. Although I agree with the contents of the amendments, the move

to introduce the amendments just adds complexity to a basically simple motion, which shows goodwill and is seeking communication and reconciliation. Madam President, when it is time to vote, I am going to vote against every amendment but will vote for the original motion. If any amendment does manage to get passed, I will still show my goodwill and support an amended motion which has got general approval. Thank you, Madam President.

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

MR JAMES TO (in Cantonese): Madam President, I have had a profound experience recently, especially over the last few days, when we began asking people to join the 1 July march with the reminder that the said march is meant to demonstrate peacefully and steadfastly our stand on our aspiration for democracy. I keenly felt that the community is far more divided than it was before. Take the last few days as an example. We did publicity work, distributed leaflets and carried out some other activities in the street for about one hour. There were these opponents of the pro-democracy camp. Some of them were very fierce, hurling abuses at us. It has been noticed that people of this kind have increased. Similarly, people supporting us have also increased. They came over to shake hands with us or to cheer us up. What does it mean? It means that society is very tense. Those voicing certain aspirations and those in opposition are in fact more fervent, more acting on their own accord, and even can be said to be more fierce.

The problem is, on the other hand, when we have discussions on communication and reconciliation, we are not trying to smooth things over. To communicate is not just for the sake of communication. As stated in the motion moved by Mr Martin LEE, to communicate is to truly implement the policy of "one country, two systems". It is not just sitting down to talk; nor is it just to improve the atmosphere. Also, as Mr SZETO Wah said, even if agreement cannot be reached right away, we should still be able to ease the atmosphere. However, nothing should be conducted in secret. All things have to be conducted openly. In fact, some of the hostilities in the community can also be released in this way, thus contributing to the overall atmosphere.

However, since Mr LAU Chin-shek put forward the theory of reconciliation some time ago till Mr Martin LEE moved this motion today, we

still have to proceed very cautiously. For instance, some thoughts came to me when I heard the speech just delivered by Mr LAU Chin-shek. I must state what is on my mind.

According to Mr LAU Chin-shek, as each of us is on one side of a rope, if all pull at it at the same time, the rope will be tighter than before. The problem is: What is the reason for people to pull at the rope? For certain topics, we need not discuss them at every meeting; nor are we to discuss them with every person that we run into. Even when we do sit down and talk with the leaders, should we tell them right away "as soon as the match starts" that we have a prerequisite: Vindication for the 4 June incident, otherwise no talks? I can recall that in some previous elections, some people asked a question seeking to know if someone successfully ran for a seat in the NPC and had to go to Beijing, whether it would be fine not to shake hands with the then NPC Chairman LI Peng. Similar questions have all been asked. The problem is that in the case of certain matters, even if things are done the other way round, it is still not possible to smooth things over. According to what I heard from Mr LAU Chin-shek, every person has the duty not to pull at the rope. (Perhaps I am sensitive.) I instantly linked it with another issue. Does he mean that it is not right even to join the 1 July march? Does participation in the march mean pulling at the rope? Given my long acquaintance with Mr LAU Chin-shek, I do not think he means that. However, it is easy to arouse suspicion to say such things at this moment. I am of the view that (at least I am speaking for myself) the people definitely are not pulling at one end of the rope in their fight for the aspiration for democracy in a peaceful and dignified manner.

Furthermore, Mr LAU Chin-shek also said that we should put aside differences as well as old topics already discussed, and focus on the new topic. I do agree with this. However, if our old topics are not to be discussed, then what should we discuss? This point is likely to make one wonder whether or not we should refrain from talking about universal suffrage for the elections in 2007 and 2008, and whether or not we need only discuss the third report. Surely not. The reason is that universal suffrage for the elections in 2007 and 2008 is still the people's aspiration. Should we not talk about the 4 June incident and its vindication? Also not so. These are still our stand.

In fact, we need not discuss these right away after sitting down. However, at this moment we have to make particularly clear our principles and

bottomline even if we are to show goodwill to someone, no matter who that person is. We are not to show goodwill only, which by itself is not the ultimate value; nor is it of substantive significance. I think we should look forward to reaching a certain state or a certain course for progress. This may include saying that there is a firm thumbsdown on universal suffrage in 2007 and 2008, would the Central Authorities have sufficient goodwill to allow, on such basis, universal suffrage to a certain extent or something equivalent to having universal suffrage in 2007 and 2008? This, of course, depends on whether or not the Central Authorities are willing to show goodwill. In fact, if we are to talk it over slowly, the year 2012 should also be an option open to discussion. Some people wonder whether or not the Central Authorities extend the hands only because the elections scheduled for 12 September will soon take place. Is it that the Central Authorities have extended the hands because by so doing the pro-democracy camp can get 23 or 24 seats? If not so many seats are to be won then, the hands will be pulled back? In fact, in order to get some feelings, we have to proceed step by step. On the other hand, if we talk just for the sake of talking and communicate for the sake of communication, we are merely staging a show, which should not have any particular significance.

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

(Mr LAU Chin-shek raised his hand to ask for permission to make clarification)

PRESIDENT (in Cantonese): Mr LAU Chin-shek, do you want to make clarification? You may clarify the speech just delivered by you, but may not add new points.

MR LAU CHIN-SHEK (in Cantonese): I just want to clarify the speech made by me earlier. Those old topics already discussed before and referred to by me denote those amendments. I refer to neither universal suffrage in 2007 and 2008 nor the 1 July march. I refer to today's topic and those amendments.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): Mr Martin LEE, you may now speak on the amendments and you have five minutes.

MR MARTIN LEE (in Cantonese): Madam President, there are several amendments today, three in all. I agree with the views of Mr Andrew WONG. I am the mover of the original motion. He thinks that there is no need to amend my motion, my original motion being the "best". (*Laughter*) However, I find there is nothing wrong in proposing the amendments. The reason is that the amendments, without deleting any words from the original motion, only add some supplementary points. It is like decorating a Christmas tree — even though Christmas is still quite far away as it is still very warm now. I object to none of the amendments. Furthermore, I find the amendments proposed are all correct. It is hard to object to them.

According to Mr Andrew WONG, he will object. However, his objection is not to the contents of the amendments. He only finds it more troublesome after amendment. For instance, Mr TAM Yiu-chung inserted the words "to build a harmonious, stable and promising Hong Kong" after the words "to truly implement the policy of 'one country, two systems' to safeguard the cornerstones underpinning Hong Kong's success" in my motion. This is tantamount to saying that "Mom loves me very much." There is no ground to disagree. After calling on the people to vote enthusiastically, he added ", and to elect Legislative Council Members who support the Basic Law, uphold the unity of the country, care about the future of the Chinese nation, and truly represent the interests of the Hong Kong people". Again, I think there is nothing wrong with this. All parties think that only they themselves truly represent the interests of the Hong Kong people, thus implying that it is not so in the case of other parties. It is, therefore, right to support this amendment, the reason being that their own voters, as well as those supporters of other parties, all think that only the legislators whom they support are Legislative Council Members really representing the interests of Hong Kong people and that it is not so in the case of other Members. They, therefore, would not vote for them, which is, of course, reasonable.

Now on Dr YEUNG Sum's amendment. He added the words "strive for democracy and universal suffrage, uphold the core values of Hong Kong," to the amendment moved by Mr TAM Yiu-chung. Being the former Chairman of the Democratic Party, I have no justification not to support this amendment. I believe nobody in Hong Kong will oppose this. The people of Hong Kong have

no reason to want us to do anything pernicious to the core values of Hong Kong. So, I think it is very difficult as well as unreasonable to oppose the amendment proposed by Dr YEUNG Sum.

Finally, at the end of the motion, Ms Cyd HO also added the words ", and urges the Electoral Affairs Commission to immediately take effective measures to ensure that electors vote freely without interference and express their demands without fear". Similarly, no party will indicate a desire to get others to support them by resorting to "foul play". I, therefore, think that there is not going to be any objection. However, I want to say a few words more on Ms Cyd HO's amendment. Some people are probably wondering whether or not the Central Authorities are trying to interfere with our elections. As a result, there have been many phone calls of queries to "Teacup in a storm", a radio programme hosted by Mr Allen LEE. I, however, do not think there is proof that these are acts of interference by the Central Authorities. This is probably attributable to individual officials, those of provincial or local level, who are over-zealous or too nervous about the election results. Perhaps the situation is just like that.

However, here I have to solemnly point out that such a development is definitely unhealthy and unlawful. It is, therefore, hoped that the Central Authorities can declare that it will firmly adhere to the principles of lawfulness and neutrality, and uphold fairness and impartiality in the elections. I call on all Members to support the amendments.

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Cantonese): Madam President, over the past two weeks, all of us have been so delighted to see the emergence of a fresh atmosphere in Hong Kong. There has been lots of healthy interaction, with people from various factions all advocating that we should brush aside our differences and disputes and return to the proper position of communication.

The topic of constitutional development has indeed generated endless arguments in the society of Hong Kong over the past few months, turning everybody a bit nervy. But with the development of events to this very stage, the people of Hong Kong should have realized that there must be healthy communication and interaction as well as a basis of mutual trust between Hong Kong and the Mainland. This is not the same as asking Hong Kong to give up

the principle of "two systems". Rather, we should seek to do better with "two systems" on the premise of respect for "one country".

If Hong Kong remains so impervious, paying no heed to the views of the Central Authorities, we will victimize the interests of society and the people in the end, instead of succeeding in achieving anything.

Two weeks ago, Mr LAU Chin-shek advocated in this Chamber that the pro-democracy camp should improve its relationship with the Central Authorities. Mr Martin LEE has moved a motion of similar advocacy today.

On 12 June, the Chief Executive held a meeting with academics and professionals on the core values of our society. Last week, the Chief Executive also met with a number of democracy advocates. It is obvious that these have been some easing of tension and improvements to the relationship, creating better conditions for further communication in the future.

The Chief Executive has also undertaken to enhance the communication between the two sides in the future. As long as all of us are determined and sincere, as long as all of us can do our very best, I believe that sooner or later, our efforts will certainly bear fruit.

The future of Hong Kong should not be the exclusive concern of any particular organizations or individuals. In this big family called Hong Kong, everyone has a say. It is most imperative that all of us can agree to disagree, can tolerate differences while seeking common grounds. Therefore, we very much welcome everybody to put forward different viewpoints for sensible debate, so that we can draw on collective wisdom to work for the betterment of Hong Kong.

The Government of the Hong Kong Special Administrative Region (SAR) agrees in principle that there is a need to foster a harmonious atmosphere in society. We are in many ways agreeable to the different viewpoints advanced by Members. I now wish to respond to several of them.

Mr Martin LEE's original motion urges that we must do our utmost to genuinely implement "one country, two systems", "Hong Kong people ruling Hong Kong" with "a high degree of autonomy". I wish to make it very clear to

Members that since the reunification, the Central Authorities and the SAR Government have been making strenuous efforts to implement and enforce the principle of "one country, two systems" in strict accordance with the Basic Law.

This however does not mean that we have never encountered any difficulties. After all, the co-existence of the socialist system and the capitalist system in one single country is unprecedented in the whole world. Therefore, for a brand new system that has never been tried out before, it is not at all surprising to encounter some sort of operational problems and difficulties.

If we are to implement the Basic Law truthfully, we must have a proper understanding of "one country, two systems". As a component of the two systems, Hong Kong can retain its previous way of life and continue to adopt its previous systems, including the rule of law, judicial independence, the free flow of information, a clean civil service and fair competition. These systems were the cornerstones of Hong Kong's success in the past, and they also guarantee the future prosperity and stability of the territory.

However, we must also recognize the fact that there are two sides to "one country, two systems". On the one hand, Hong Kong can continue to adopt its previous systems after the reunification. On the other, there has actually been a change in Hong Kong's constitutional status following the reunification.

We are now a Special Administrative Region of the country. The powers enjoyed by Hong Kong are delegated by the Central Authorities. Hong Kong can handle and manage all those matters within the scope of its autonomy. For matters outside the scope of autonomy, however, the Central Authorities will have the final say. Constitutional development is one of the examples.

While all of us accept that the Basic Law provides for universal suffrage as the ultimate aim, we must also recognize that it is entirely legal and constitutional for the Standing Committee of the National People's Congress (NPCSC) to interpret the Basic Law and make decisions in accordance with the law. The SAR must comply with the decisions of the NPCSC in its handling of constitutional development.

Although we will not be able to introduce universal suffrage in 2007 and 2008, there is still room for improving the existing electoral system. Any

changes to the electoral system must be able to upgrade the governance of the SAR, maintain a balance of different interests and enhance the representativeness of the electoral system itself.

Since the release of the Third Report of the Constitutional Development Task Force, we have organized two seminars on constitutional development. We welcome different organizations and political factions to take part and put forward concrete proposals on how best to improve the electoral system. We intend to hold a number of cross-sector panel discussions in the next one or two months to gauge the views of different sectors.

We also hope that Members can continue to participate actively in the consultation exercise held by the Constitutional Development Task Force. It is hoped that Members can contribute to the consultation, with a view to narrowing the gap between the current electoral system and the ultimate universal suffrage.

Madam President, Dr YEUNG Sum's amendment also urges us to safeguard the core values of Hong Kong. Besides the development of democratic government discussed just now, Members are also concerned about human rights, freedom and the rule of law. We trust all political factions and individuals, regardless of their background and affiliation, will agree that we should treasure and safeguard these core values.

Members of the public can continue to voice their views, and this will remain a feature of Hong Kong society. The new hosts of phone-in radio programmes are as fearless in voicing their views as their predecessors, and dissenting political opinions are disseminated through various media every day. We in the Government also continue to have dialogue with these talk-show hosts, to take questions from the media and to explain our position.

Since the reunification, the rule of law in Hong Kong has remained intact. A new constitutional basis is however laid down in the Basic Law. The Basic Law provides that the NPCSC shall have the power to interpret the Basic Law, and the Court of Final Appeal of Hong Kong shall be vested with the power of final adjudication in respect of lawsuits within the SAR. This is a unique constitutional arrangement which reflects the unique status of Hong Kong. On the one hand, it can manifest the State's resumption of sovereignty over Hong Kong, and on the other, it can preserve the common law tradition in Hong Kong.

Hong Kong is indeed a unique city. As early as the mid-1980s, before democratic elections were introduced to the legislature, Hong Kong was already one of the freest cities in Asia, featured by a full system based on the rule of law. The coming into existence of such an environment was largely attributable to the unique circumstances of the time.

We founded the first law school of Hong Kong as early as the late 1960s with the objective of training up the talents and elites required by the legal profession. Some of the law school graduates in the early years have become Legislative Council Members; others have become Judges in Hong Kong. In the 1970s, we founded the Independent Commission Against Corruption (ICAC), with a view to enhancing the rule of law in Hong Kong and sustaining the protection of fair play. In the 1990s, we established the Court of Final Appeal, which preserves our common law system and enables it to continue to flourish and evolve. We also enacted the Bill of Rights for the protection of Hong Kong people's human rights and freedoms. The purpose of my mentioning all this to Members is to highlight the point that our existing systems can already provide adequate protection to civil liberties, human rights and the rule of law in Hong Kong.

The core values of Hong Kong are not the exclusive properties of the SAR Government or any individual political parties. These values are the embodiments of Hong Kong people's convictions, which underpin Hong Kong's way of life every day. Therefore, the Government, political parties and all those who participate in public affairs in Hong Kong do share one mission, that is, the mission of safeguarding these core values with all their resources.

Some Members have talked about the Legislative Council elections in September. In this connection, I wish to report to Members once again that more than 3.2 million registered electors will be able to vote in the September elections. There is thus an increase of 200 000 registered voters when compared with the figure of the previous year.

In regard to the distribution of the 60 seats, 30 of them will be returned by direct elections, and the number of functional constituency seats will be maintained at 30. All Legislative Council Members, whether returned by direct elections in geographical constituencies or by functional constituency elections, are expected by the community to join hands to foster the overall interests of Hong Kong, instead of just representing their respective geographical or

functional constituencies. Therefore, like Members, the SAR Government also calls upon the people of Hong Kong and all registered electors to vote on 12 September, so as to select candidates that can best represent them.

The SAR Government will definitely exert its utmost to maintain the fairness, openness and impartiality of the elections, so as to provide a level playing field where all candidates can vie for electors' support on the strength of their electioneering strategies and track records of serving the people.

Ms Cyd HO is concerned about the possible use of force or duress to influence the voting decisions of electors. As always, the Electoral Affairs Commission (EAC) will co-operate closely with the ICAC to ensure that the Legislative Council elections in September can be held in a fair, open and impartial manner, and that they will be free of any corrupt and illegal conduct.

Under the Elections (Corrupt and Illegal Conduct) Ordinance, a person who uses force or duress against another person to induce the other person to vote or not to vote for a particular candidate commits an offence. Members of the public who encounter any such situations are encouraged to report to the ICAC immediately. The offender is liable upon conviction to a maximum penalty of a fine of \$500,000 or imprisonment for seven years.

At a recent meeting of the Legislative Council Subcommittee on subsidiary legislation relating to 2004 Legislative Council Elections, some Members proposed the EAC to take further measures to protect ballot confidentiality. To address Members' concern, the EAC has proposed to adopt the following additional measures in the elections to be held in September:

- (1) The number of registered electors defining a "small polling station" shall be raised from 200 to 500. The ballot papers of a polling station with fewer than 500 registered voters shall be transported to a large counting station and mixed with the ballot papers of the latter before counting.
- (2) We also propose to remove the front veil of the voting compartment. This is intended to make it more convenient for polling station staff,

candidates and their agents to observe the general behaviour of electors in the course of voting. A yellow line will be drawn on the ground outside the compartment. When an elector is filling out the ballot paper, other electors are not allowed to step or stay beyond the yellow line. Generally speaking, the yellow line will be drawn at least 1 m from the voting compartment, but where circumstances in polling station permit, the distance may be lengthened to 2 m.

- (3) The Subcommittee will continue to explore the proposal on increasing the penalties for using mobile telephones or video cameras in polling stations.

The Government will continue to conduct publicity activities to raise people's awareness of the various arrangements and rules pertaining to the protection of ballot confidentiality, so as to ensure that members of the public can grasp the various measures against corrupt and illegal conduct in elections, including the relevant provisions of the Elections (Corrupt and Illegal Conduct) Ordinance.

Madam President, before I conclude my speech, I must tender my apologies to Mr Martin LEE. We initially reckoned that this motion debate would start at around 7.30 pm. However, owing to the great efficiency of this legislature and its Members, the handling of bills was completed earlier than we expected. I must also thank Ms Cyd HO for reminding us and driving us on. She is indeed highly efficient in monitoring our performance. But I can vaguely recall that a few months ago, Ms HO herself also requested the President to adjourn the meeting because she had misplaced her script. No Members at that time blamed her. Well, since everybody is talking about harmony today, I suppose Members will also bear with me.

Madam President, generally speaking, the economy has shown some sure good signs over the past few months, indicating that the measures put in place by the SAR Government in the past few years to promote economic restructuring have started to yield results. Market sentiments have improved, and the unemployment rate has even dropped to the lowest level in 26 months. It is expected that the rate of economic growth in the second quarter of this year will be close to and even attain a double-digit level.

Today, different political parties and various Members have expressed the desire of joining hands to foster harmony, to make a fresh start, in the political arena of Hong Kong. The SAR Government, Members and the various political parties all share such a common aspiration.

I believe that if Members can really make efforts in this direction, then a few years on, when we look back at today, we may find that the motion moved on 23 June was in fact the beginning of a fresh political climate in Hong Kong, instead of a show of political stance on the eve of an election as speculated by so many outsiders.

Politics is a highly competitive tug-of-war, and very often, such a tug-of-war will reach its height in times of elections. However, I can see that most Members present today, either as representatives of political parties and factions or as independent, veteran politicians, have expressed the common desire to do something for Hong Kong, to work for its betterment.

I once stayed in Britain and Canada for more than a decade, working for the Hong Kong Economic and Trade Offices there and coming across many foreign politicians in the course of my work. Some of them were from the ruling parties and others the opposition parties. In times of elections, they would of course do all they could to canvass votes, and at other times, they would still work hard for the interests of their fellow countrymen both inside and outside their legislatures. But they were all the time able to agree to disagree, sharing the common goal of working for their countries. This is a fine example of political maturity.

I believe such political maturity is also possible in Hong Kong. However, for this to be possible, we must uphold a fundamental attitude. I mean, all organizations participating in politics and all candidates must respect the constitutional order between the Central Authorities and the SAR. Both before and after elections, they must all uphold the common objective of serving the State and Hong Kong.

Therefore, I hope that all Members, be they from the democratic camp or other political factions, can affirm the common objective of safeguarding the overall interests of the State and Hong Kong, can respect the constitutional order set down in the Basic Law. In this way, we will be able to create the basic condition necessary for building up a harmonious SAR. In this way, there will

be hope for Hong Kong's political and constitutional development, there will be hope for positive prospects.

Madam President, I so submit.

PRESIDENT (in Cantonese): I now call upon Mr TAM Yiu-chung to move his amendment to the motion.

MR TAM YIU-CHUNG (in Cantonese): Madam President, I move that Mr Martin LEE's motion be amended as set out on the Agenda.

Mr TAM Yiu-chung moved the following amendment: (Translation)

"To add "and to build a harmonious, stable and promising Hong Kong" after "Hong Kong's success"; and to add ", and to elect Legislative Council Members who support the Basic Law, uphold the unity of the country, care about the future of the Chinese nation, and truly represent the interests of the Hong Kong people" after "this year"."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr TAM Yiu-chung to Mr Martin LEE's motion, be passed.

PRESIDENT (in Cantonese): I now call upon Dr YEUNG Sum to move his amendment to Mr TAM Yiu-chung's amendment.

DR YEUNG SUM (in Cantonese): Madam President, I move that Mr TAM Yiu-chung's amendment be amended as set out on the Agenda.

Dr YEUNG Sum moved the following amendment to Mr TAM Yiu- chung's amendment: (Translation)

"To add "strive for democracy and universal suffrage, uphold the core values of Hong Kong," after "care about the future of the Chinese nation"."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Dr YEUNG Sum to Mr TAM Yiu-chung's amendment, 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)

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

PRESIDENT (in Cantonese): I now put the question to you and that is: That Mr TAM Yiu-chung's amendment, as amended by Dr YEUNG Sum to Mr Martin LEE's motion be passed.

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

(Members raised their hands)

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

(Members raised their hands)

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

PRESIDENT (in Cantonese): Ms Cyd HO, as Mr TAM Yiu-chung's amendment, as amended by Dr YEUNG Sum, has been passed, I have given leave for you to revise the terms of your amendment, as set out in the paper which has been circularized to Members on 23 June. In accordance with the House Committee's recommendation which I have also accepted, when you move your revised amendment, you have up to three minutes to explain the revised terms in your amendment.

MS CYD HO (in Cantonese): Madam President, I move that Mr Martin LEE's motion, as amended by Mr TAM Yiu-chung and Dr YEUNG Sum, be further amended by my revised amendment.

Madam President, this is the first time in six years that so many amendments to one single motion are all passed. My amendment is one of them. The contents of all the amendments are in fact not different, and their wording has already been circularized to Members. I just seek to add points I believe worth noting and words I believe to be good after the words thought to be good and the points believed to be worth noting by several Members so as to make it a motion considered by all to be good as a whole. I, therefore, trust that Members will support my amendment. Thank you, Madam President.

Ms Cyd HO moved the following further amendment to the motion as amended by Mr TAM Yiu-chung and Dr YEUNG Sum: (Translation)

"To add "; this Council also urges the Electoral Affairs Commission to immediately take effective measures to ensure that electors vote freely without interference and express their demands without fear" after "and truly represent the interests of the Hong Kong people".

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Ms Cyd HO to Mr Martin LEE's motion as amended by Mr TAM Yiu-chung and Dr YEUNG Sum, 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)

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

PRESIDENT (in Cantonese): Mr Martin LEE, you may reply now and you have three minutes 55 seconds.

MR MARTIN LEE (in Cantonese): Madam President, I thank the 18 Members who have spoken in support of my motion. I also thank the Secretary for Constitutional Affairs for his apologies. In fact he need not mind Ms Cyd HO's reference to his tardy arrival. As the atmosphere is so harmonious, I do not mind at all. Vice-President ZENG Qinghong was just interviewed in Tunisia by a reporter from a radio station of Hong Kong. When asked by the reporter about the communication between the Central Authorities and the pro-democracy camp in Hong Kong, he said that there is no conflict between the Central Authorities and the pro-democracy camp and, therefore, there is no question of reconciliation. This is a very positive view. The reporter followed up with a question about the 1 July march. 1 July is, he said, the occasion to

commemorate the reunification, but people are free to express themselves in any manner. This is also a very positive view.

For the 1 July march of last year, the organizers put forward two targets, namely, to oppose the legislation on Article 23 of the Basic Law and to fight for democracy. For the current year of 2004, the target is definitely to uphold democracy. An opinion survey has also indicated that most of those going to join the march consider the upholding of democracy to be the reason for their participation. I want to tell the people of Hong Kong that these marches are in fact useful. For instance, immediately after last year's march, the Government made positive responses to issues in different areas, including the legislation on Article 23 of the Basic Law. As we all know, the Central Authorities are paying too much attention to this march. In the event that it again attracts many participants, it is hoped that the Central Authorities will take a positive view in considering the total number of participants. I also believe that the march is useful.

Madam President, I have served in this Council for many years. Usually the whole thing would come to nothing when many amendments are proposed. However, it is hoped that this occasion is one of "a complete get-through", that is to say, "passing through". Then all will be completely happy. Thank you.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Mr Martin LEE, as amended by Mr TAM Yiu-chung, Dr YEUNG Sum and Ms Cyd HO, be passed.

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

(Members raised their hands)

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

(No hands raised)

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

PRESIDENT (in Cantonese): Second motion: Providing appropriate support for aspiring home owners.

PROVIDING APPROPRIATE SUPPORT FOR ASPIRING HOME OWNERS

MRS SELINA CHOW (in Cantonese): Madam President, I move that the motion, as printed on the Agenda, be passed.

Madam President, acquiring one's own home has always been the dream of many people. In the past, the Government actively assisted people from all walks of life in home ownership. Apart from the well-known Home Ownership Scheme (HOS), many different home purchase schemes had been launched one after the other, such as the Home Purchase Loan Scheme (HPLS), the Home Starter Loan Scheme (HSLs) and Sandwich Class Housing Loan Scheme (SCHLS). All of these carried the good intention of the Government in doing its best to assist the people to live in peace and work in contentment.

Last year, the Hong Kong Housing Authority (HA) combined the two schemes, the HPLS and the HSLs, to launch the Home Assistance Loan Scheme (HALS) to continue providing tenants living in public and private housing with interest-free loans or monthly mortgage subsidies, so as to enable them to buy affordable flats of their preference. However, in the light of its own financial difficulties, the HA has recently terminated the HALS. As a result, the people will no longer be able to enjoy the interest-free home purchase loan arrangement provided by the Government; or we can say that the people will no longer be able to enjoy the home purchase loan arrangement provided by the HA.

The HALS, launched in January last year, has a quota of 10 000. As at November of the same year, when the HA stopped receiving applications,

altogether 14 268 applications had been received, which exceeded the quota by more than 40%. This illustrated that the people had a strong demand for assistance under the HALS. The Liberal Party has just completed a survey on the HALS, in which more than 1 000 eligible applicants who had applied for loans under the Scheme were successfully interviewed. Altogether more than 65.3% of respondents opposed the termination of the HALS. Nearly 10% of the respondents said that they intended to buy their own homes; those who planned to buy flats valued at less than \$1 million accounted for 33%; 26% of respondents planned to buy flats of a value between \$1 million and \$1.25 million; and 17% of respondents planned to buy flats of a value between \$1.25 million and \$1.5 million. Besides, 11% of respondents even wanted to buy flats of a value between \$1.5 million to \$2 million. These findings show obviously that the people still have certain demand and expectation for home purchase loans. What is more, during the SARS outbreak of last year, the property prices plummeted to a very low level. After that, however, the property prices have now rebounded by 40%, making it very difficult for many people to secure the amount of money required to meet the downpayment which is equivalent to 30% of the property prices, to become home owners.

A survey conducted by us also reveals that, among families interviewed, 70% think that the income ceiling for application under the HALS should be fixed in proportion with the number of members in a family. In other words, a family with more members should receive a higher amount of interest-free loan or subsidy. Nearly 12% of the respondents think that the ceiling of family monthly income should be set at a level higher than \$25,000, that is, the ceiling of the family monthly income should be adjusted upwards to \$30,000, so as to cope with the actual needs of the borrowers or families. Meanwhile, the ceiling of monthly income for single persons should also be adjusted upwards to \$15,000. There were also a substantial number of persons, that is 11%, who wanted this to be adopted. The Liberal Party strongly hopes that the Administration can expeditiously relaunch the home purchase loan arrangement on a permanent basis, so as to assist middle-class people (we call them the basic taxpayers) who have the need to buy a flat but are not earning too much money.

We suggest that the new home purchase loan arrangement should be targeted at helping applicants to buy properties valued at about \$1.5 million, depending on the categories of flats in question. This is because, according to information collected by us from property agencies, flats purchased by first-time home buyers usually would not exceed this value. We suggest that an

interest-free loan equivalent to 20% of the property price or up to \$300,000 be provided to an eligible applicant for buying a flat at this value, that is, \$1.5 million. In this way, even under the present guideline of restricting mortgage loans to 70%, they can still secure sufficient money to pay the 30% downpayment, thereby fulfilling their dream of home ownership.

As for the quota, we suggest that the Government should take the feedback on the closing date of application for the HALS as a reference point, that is, the annual quota should be set at 15 000. With regard to the income ceiling of applicants, in the light of the findings obtained from the questionnaire survey conducted by the Liberal Party, we suggest that the monthly income ceiling for a person applying for an interest-free loan should be relaxed to \$15,000 or below, whereas for families with two members or more, the ceiling should be adjusted upwards proportionally to \$30,000. This suggestion is made specifically to improve the imperfections in the procedure of application and the quota under the old scheme. For example, for a White Form family, be it a two-person family or an eight-person one, they are subject to the same monthly income ceiling, that is \$25,000. From this, we can see that this policy has not taken into account the different needs of families with more members.

Besides, for applications submitted by families, be they submitted in White or Green Forms, the amounts of interest-free loans or the subsidies a family may get are just double the amount for a single person, without any reasonable adjustment with reference to the different numbers of persons in the families concerned. I must stress that the proposed loan arrangement is by no means financial assistance provided as a kind of welfare by nature. They are just targeted at this group of persons who earn less than \$15,000 a month for a single person, or not more than \$30,000 for a family, and we describe this group of people as basic taxpayers. Although they have to pay tax, the money they have in their possession may not be sufficient to pay the 30% downpayment. Therefore, upon charging these people an administrative fee, we should provide them with interest-free loans. We hope such an arrangement can help these basic taxpayers achieve the objective of acquiring their basic homes.

The implementation of the new HALS arrangement will actually enable more Green Form applicants, with the aid of the loans, to surrender their public rental housing (PRH) flats. This is also in line with the Government's traditional stance of encouraging more PRH tenants to buy their own homes. In the HALS terminated recently, Green Form applicants accounted for 45% of the

total number of applications. Among Green Form applicants, 72% of them were PRH tenants. As at 31 March this year, 3 457 applications have been vetted and granted either loans or subsidies; of these, 80% of the successful applicants, that is, over 2 700 applicants, have to surrender their PRH flats. From this, we can see that this Scheme does enhance the liquidity of PRH flats, and is helpful in shortening the time required for allocation of PRH flats to applicants on the General Waiting List. Calculating at the current costs of PRH flats, we can see that the rents of such flats are far below the market level. As tenants are only required to pay a very low rent, the rest of the costs has to be borne by the HA. If costs such as management and maintenance expenses are also factored into the calculation, the Government has to subsidize over \$1 million in the long run for each PRH flat. However, with reference to the HALS which was terminated recently, all that the Government has to provide is, at most, either a loan of \$660,000 or a subsidy of \$182,000. If the proposal of the Liberal Party is adopted, it can even save more HA's funds which might otherwise have to be spent on building and maintaining more PRH flats. To put it in layman terms, the savings in subsidy are already justified for launching the Scheme.

After the termination of the HALS, aspiring home buyers unable to pay 30% of the property price as downpayment may still be able to secure mortgage loans beyond the 70% limit through other channels. If they are buying first-hand flats, then they will be able to enjoy the speedy services jointly offered by developers, banks and second mortgage providers. Otherwise, many aspiring buyers who want to purchase second-hand flats may have to face complicated second mortgage formalities required by the banks or the Mortgage Corporation, or they may even have to pay a high mortgage premium. This has created a lot of obstacles for aspiring home buyers, especially those who want to purchase second-hand flats. Later on, Mr Howard YOUNG will further elaborate on this aspect.

I must point out that there are some unreasonable elements in the second mortgage arrangement provided by the banking sector. For example, in the present private property market, individual developers may collaborate with certain banks in launching new development projects in the market by providing some preferential interest rates, which may generally be set at P minus 2.5%. Some banks may even offer the astonishing rate of P minus 3.2%. However, second-hand flats usually cannot enjoy any preferential interest rates for their

mortgage loans. This has actually constituted some hindrance to transactions in the secondary market, which is not conducive to the development of the property sector as a whole.

Besides, in vetting and approving second mortgage loans, as far as I know, certain banks have provided one-stop mortgage services for property buyers. However, the time taken for vetting and approving second mortgage loans is different for buyers of first-hand and second-hand flats. While applications for second mortgage loans for new flats can be approved as fast as within a week, second-hand flat buyers cannot enjoy such convenience. Besides, very often, they have to wait up to two weeks before their mortgage loan applications are approved. This may deter many buyers for fear that the formal transaction might not be completed because of the failure to secure second mortgage within 10 days after the signing of the provisional sale and purchase agreement. As such, the Liberal Party suggests that the Administration should encourage banks to exercise impartiality and fairness in the interest rates offered as well as the procedures and the time taken to vet and approve mortgage applications for both first-hand and second-hand flats, and that the Administration should do more in making the banks provide the additional 20% loan in the second mortgage, that is, to make it possible for buyers to secure a total mortgage loan of up to 90% of the property price.

Besides, according to some people in the property sector, there are altogether more than 1 million owners of private properties in Hong Kong, and among them, transactions of second-hand properties have always accounted for more than 60% of the total number of property transactions. Therefore, revitalizing the secondary property market will also induce some positive sentiment in the private property market, apart from directly boosting the volume of transactions in the market. This will attract more property owners into selling their own flats in the secondary market in exchange for a new flat — in "a flat for a flat" format. This will benefit the markets of both first-hand and second-hand properties.

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

Mrs Selina CHOW moved the following motion: (Translation)

"That this Council urges the Government to provide appropriate support for aspiring home owners, including expeditiously reinstating the provision of home purchase loans for people in need and formulating a

long-term policy on home ownership loans, so as to help them acquire their homes."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Mrs Selina CHOW be passed.

PRESIDENT (in Cantonese): Mr Albert HO 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 Albert HO to speak and move his amendment.

MR ALBERT HO (in Cantonese): Madam President, I move that Mrs Selina CHOW's motion be amended, as printed on the Agenda.

Many people hope to buy their own homes and live and work in contentment. In the past, the Government and the Hong Kong Housing Authority (HA) offered low-interest loans to the public through the HPLS and HSLS. These schemes were supported by this Council, including the Democratic Party. However, today the Democratic Party is of the opinion that, in view of the unprecedented heavy financial pressure on the HA, the continued provision of home purchase loans will undoubtedly aggravate the burden of the HA. This will eventually affect the HA as well as the services that should be provided by it, and even the Government, in respect of public housing. Therefore, we cannot but reassess this policy.

There is an order of urgency and priority in the utilization of any funds. If the Government or the HA has an abundant surplus, we may not object to the continued implementation of such loan schemes. However, in view of the present situation of the HA, this option is not open to us. In fact, as we review this policy, undoubtedly the first question we must ask is: What is the major role of the HA? The answer is, of course, to provide housing at lower rents for the grass-roots people and those who are incapable of solving their own housing problem. However, due to the financial constraints of the HA, we can see that, as revealed by its own data, the HA has a cash balance of around \$17 billion only in the year 2003-04, representing a substantial decrease of \$10 billion when

compared with the previous year. As we all know, the HA has suspended the sale of Home Ownership Scheme (HOS) flats, resulting in a reduction of about \$15 billion to \$20 billion in revenue each year. Though the shopping malls and parking spaces will be detached for sale, they will only bring about a one-off income, the total of which will be no more than \$20 billion. But in doing so, the HA will lose a stable annual rental income that could amount to \$2 billion per annum. In such circumstances, many people worry that the HA may, due to a shortage of funds, have to seek loans or equity injection from the Government in 2006 or 2007. As such, we must understand why this policy has to be reviewed and suspended against such a background.

In fact, according to its data, the HA has to provide a subsidy of about \$170,000 for each loan or grant case, as well as to bear the relevant administrative costs and the risk of default in repayment for individual cases. If a family or single person who has successfully applied for the HPLS opts for a monthly grant, then each month the HA will have to provide such a family or person with a grant of \$3,800 or \$1,900 for a period of four years. In other words, the total amount of grants provided will be \$182,000 and \$91,000 respectively, which are not required to be repaid. As the HA is now facing great financial hardship, I cannot see why we are still in a position to continue implementing this policy. The HA and the Housing Society have granted loans amounting to over \$30 billion in the past five years. If some of the loans become bad debts, the default loans of the two organizations will eventually be losses suffered by taxpayers. In fact, as the interest rates have remained consistently low, the terms of existing mortgage loan schemes in the community are rather favourable. Certain banks are offering preferential interest rates as low as P minus 2.5%. So it is no longer necessary for the HA to continue its role as a lending institution. Of course, the continued provision of assistance by means of grant is, as I just said, also absolutely inappropriate. We should, therefore, re-adjust the role of the HA to concentrate its resources on helping the most needy, that is, the low-income families. This should be the correct positioning of the role of the HA.

In the light of the above reasons, we cannot support the original motion today. However, we think that obviously the Government's policy should be revised to continuing with the implementation of the HOS, and in this way we can help the low-income group, including the public housing tenants, to buy their own properties. After looking into the accounts of the HA in recent years, we

find that the sale of HOS flats has brought considerable revenue direct to the HA, and constituted a sort of "mobility" — public housing tenants may enter the private sector by means of this mobility ladder, that is, through the purchase of HOS flats. Therefore, the Democratic Party requests the Government to reinstate the policy on the sale of HOS flats. Of course, I mean the sale of an optimum quantity of flats in the market. On the other hand, I also hope the Government can continue extending the entitlement period of home loan interest deduction, because this is a highly effective measure to encourage the public to purchase properties, which is even more desirable than extending the policy on home ownership loans. This measure will win greater support from the public.

I so submit.

Mr Albert HO moved the following amendment: (Translation)

"To delete "expeditiously reinstating the provision of home purchase loans for people in need and formulating a long-term policy on home ownership loans" after "including" and substitute with "extending the entitlement period of home loan interest deduction, expeditiously putting up for sale the remaining Home Ownership Scheme (HOS) flats and resuming the construction of an optimum quantity of HOS flats according to market demands"."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr Albert HO to Mrs Selina CHOW's motion, be passed.

MR NG LEUNG-SING (in Cantonese): Madam President, after the painful experience of the financial turmoil and the burst of the property market bubble, I believe the public will all agree that the Government should re-adjust its housing policies after reflecting on these agonizing lessons, that is, the role of the Government should only be limited to the provision of PRH to needy members of the public, and the Government should stop playing the role of a developer, stop

building and selling HOS flats, thus minimizing the extent of its intervention in the market.

However, it is simply inadequate for the Government to re-adjust its housing policies as mentioned above. In the course of actual implementation, the Administration must demonstrate to the public that its housing policies are clear, specific and resolute. In the past, the Government built HOS flats through the Hong Kong Housing Authority (HA), so to a certain extent, it had played the role of a developer. At the same time, it also provided all kinds of housing loans, so to a certain extent, it had played the role of a bank. In this way, it had intervened the market direct through supply and demand. If it really wants to minimize the degree of intervention, it must start taking steps to reduce such intervention in the light of the changing time and circumstances, so as not to boost or suppress the market. For this reason, I basically agree with the HA (of course, I did take part in some aspects of the work of the HA before April) in making the decision of suspending the Home Assistance Scheme in the light of the circumstances, so as not to act out of a good intention only to bring about a bad outcome — such as making more people negative-equity property owners. I think that, though this decision may deter some better-off public housing tenants from surrendering their PRH flats in the short run, or may make them less inclined to buy their own properties, this arrangement, in the long run and from a pragmatic perspective, is ultimately more beneficial to the HA in centralizing its resources for the provision of PRH flats to people in genuine need.

As for the supply of flats in the market, the Government should also act in strict accordance with established policies. For example, in re-adjusting its housing policies, the Government has proposed not to build HOS flats anymore. If the Government runs back on its own words, and changes its mind on this issue, it will be very difficult for the market to have any confidence in the housing policies of the Government in future. Apart from HOS flats, another significant element also has some impact on the property market, that is, the property development rights of the two railway corporations along their respective railway alignments. Recently, the Kowloon-Canton Railway Corporation said that it planned to launch for sale more than 20 000 flats on top of railway stations between 2008 and 2009, and the first tenders would be invited next year. Meanwhile, within the short span of two months, the Government has made two amendments to its forecast on the housing supply on the market for 2007 — first from the original 4 000 flats in last October to 7 000 flats, then to

11 000 flats later on. This has raised concern in the market on the accuracy of the forecast made by the Government, and the people are also concerned about whether the Government is resolute enough in maintaining its principles and determination in co-ordinating with the two railway corporations in regulating supply in the property market. In my opinion, in formulating their timetables for property development, the two railway corporations mainly base their consideration on their respective financial arrangements. So, their decisions may not fully reflect the actual supply and demand situation in the market. As such, the Government still has the responsibility of prudently keeping in view and addressing the co-ordination problem with the two railway corporations in relation to supply in the property market for a certain period of time in future. Only in this way can we promote healthy development of the property market in future.

Madam President, I so submit.

MR IP KWOK-HIM (in Cantonese): Madam President, people dream of many different things. But in most cases, I suppose the man in the street will just dream of social stability and harmony, of having his own home and a good job. Unfortunately, with the poor economic conditions and high unemployment rates in recent years, even if employees are not so demanding as to want a "good job", they are still hard-pressed by having to find just a job, any job. Owning a cozy home is the lifelong dream of many people. They will do all they can to realize this dream even though they may have to toil and sweat for their whole life. The Chinese people take the concept of "home" especially seriously. But unfortunately, not everyone can realize this dream. Hong Kong is notorious worldwide for its high property prices. The average tenure of mortgage loans in Hong Kong is at least 20 years or even 30 years, verging on "cross-generation" repayment.

But a person is already very lucky even if his mortgage is really "cross-generation" in tenure, because, after all, he at least owns a residential flat. If society is stable and free of any ups and downs, he may pay up the mortgage over time. In recent years, interest rates have remained low, and banks also offer various concessions to mortgagors, thus lowering the costs of purchasing properties on mortgages. As a result, most people prefer to buy their own homes on mortgages. However, some people in society, despite their wish to

do so, are unable to realize their dream and must continue to rent residential units because they cannot afford any downpayments.

As early as the 1980s, the Government already launched the HPLS. In the 1990s, through the Housing Society (HS), the Government introduced two more schemes, the Sandwich Class Housing Main Scheme and the HSLS. These schemes have enabled hundreds and thousands of low-income families not having sufficient money for downpayments to realize their dream of home ownership. Unfortunately, earlier this year, the Government announced that all these schemes would be terminated. Because of this decision, large numbers of families can no longer make their beautiful dream come true.

Madam President, this decision of the Government is not in line with the wishes of the people. The DAB conducted a survey earlier this year to gauge the people's views on the property market and the Government's housing policy. Of the 800 or so respondents, 64% viewed that the Government should continue to provide home purchase loans, and the proportion of those who did not think so was just 23%. The findings can thus show that the people generally expect the Government to continue to provide home purchase loans.

Madam President, the points I have raised are based on the perspective of members of the public. Actually, even from the angle of social policies, the Home Assistance Loan Scheme (HALS) is capable of bringing forth many advantages. The most important advantage is that it can achieve a more reasonable allocation of public housing resources. Every year in the past, thousands of public housing tenants surrendered their flats to the Housing Department after purchasing HOS flats or receiving Home Assistance Loans. Just between January 2003 and end of March 2004, for example, the HALS already attracted applications from 6 402 Green Form applicants or potential public housing tenants. The HALS has definitely played a positive role in shortening the waiting time for public housing and reducing the pressure on the Hong Kong Housing Authority (HA) to construct public housing units. However, after the termination of this loan scheme, public housing tenants will have no incentive to give up their rental units and purchase their own properties. The vacating of public housing units will thus slow down in speed, in a way exerting heavier pressure on the HA to construct new public housing units. Besides, since there were cases in which public housing tenants in receipt of Home Assistance Loans chose to buy secondary HOS flats premium-free, the

termination of the HALS and thus the disappearance of loan incentive may seriously affect the HOS secondary market.

What is more, the termination of the HALS is also bound to produce adverse impacts on the overall property market. Admittedly, with the turnaround of the property market and thus the shrinking share of the HALS in the total transaction volume, there should be less impact on the overall property market. But it is worth noting that the termination of the HALS will most seriously affect those first-time home buyers with very limited financial resources. They will be rendered unable to "board the train of property owners", as they will not have the means. The "chain of property transactions" initiated by these people in the past will be severed by the termination of the HALS. It is not yet possible to estimate the impacts on the property market.

Madam President, the DAB has always maintained that the Government should allocate resources to assist needy families in realizing their dream of home ownership. For this reason, the DAB will support the original motion of Mrs Selina CHOW. As for the three points mentioned in Mr Albert HO's amendment, they are in fact the very proposals for which the DAB has been fighting all these years. To begin with, as early as several years ago, the DAB already started to request the Government to extend the tax deduction for home loan interest. We have always maintained that the Government should extend the time limit for deduction to 10 years in total, from five years at the beginning and seven years at present. In regard to the sale of unsold and returned HOS units, the DAB notes that the suspension on sale of HOS flats has abruptly ended the consistency of the housing policy and also removed the incentive luring public housing tenants to vacate their units. Therefore, the DAB is of the view that after converting some of these units into PRH units, disciplined services quarters and hostels, all the remaining 10 000 units should be sold to sitting public housing tenants orderly in separate batches. The continued suspension of sale will only lead to wastage of public money.

Thank you, Madam President.

MR LEUNG YIU-CHUNG (in Cantonese): Madam President, at the meeting of the Housing Panel held this month, Mr TAM Wing-pong, Deputy Director of Housing explained the reason why the Government had to terminate the HALS which had been in place for 16 years by saying, "It is immoral to encourage the

public to purchase flats with the provision of financial incentives." We were very much astonished by this statement of Mr TAM. Let us look back at the situation in 1988. At that time, in view of the fact that the persistently high property prices were not supported by actual transactions and it was very difficult for the middle and lower classes to acquire homes, the Government introduced this home purchase assistance scheme. No matter the purpose of this arrangement is to boost the property market or to provide, as an administrative measure, an additional option for the public to improve their living conditions, the Government has actually implemented the Scheme for 16 years, so why does the Government describe itself as "immoral" today? Why do the authorities repudiate a scheme that has been implemented for 16 years for the reason that it is "immoral"? One cannot help but wonder whether the Government is going to repudiate its past, regardless of the achievement of a scheme that has been implemented for 16 years. We are really dissatisfied with this.

If we stick rigidly to the principle of not intervening in the market, then all policies of the Government might be immoral, because any action by the Government will have great implications and may interfere with the market. If we consider that the free market is omnipotent, or that the auto-operation of the free market can enable society to realize certain objectives or values with no harm being done to other people, we may then give it consideration. But is this the fact in reality? No, this is not the present situation. I think what we should consider is not just the underlying principle of the Scheme but also its actual results.

To many citizens, this HALS can achieve two objectives. First, it provides an opportunity to improve their living conditions. Second, it can increase the mobility of PRH tenants. In the past, some of the small families of the middle and lower classes might wish to purchase property to improve their living environment and to live and work in contentment, but because of the high property prices, it was a fantasy too distant to realize. Therefore, this type of home assistance loan scheme can give them an opportunity to possess their own property when their financial condition is not too tight.

Nowadays, perhaps the Government thinks that property prices have fallen to such a level that the public should be able to purchase their own flats without financial assistance. But we should never forget that when property prices are on the fall, the income of the public is often falling as well. Therefore, those

aspiring home buyers still have to face the problem of financial resource. Of course, some people will say that you should not own any asset or property if you do not have money. Doubtless they can say so, but Madam President, the problem is not with the loan itself. The problem is whether there is such a need. We know that if the general public can have a more stable living environment, they will be able to put their hearts to the development of their career. This will also reduce other social costs of the community. For example, there might be less family problems, and as the expenditure incurred in dealing with such problems is also a kind of social cost, society's expenditure in this area will also be reduced. Therefore, we should not say, "Those who do not have money should not acquire homes." We should not look at things so superficially. We should look at it from a macro point of view and take into consideration the general condition of society. As a matter of fact, the Government has been continuously encouraging the public to acquire home ownership since the '80s, but now the Government has made such a statement. In so doing, does the Government want to repudiate its past?

Furthermore, with the cessation of the construction and sale of HOS flats, the HALS has become the only means to increase the mobility of PRH tenants. In the past, if they wanted to move away from PRH, they could purchase HOS flats, but now that the building and sale of HOS flats have ceased, they have no alternatives but to buy their own flats through the HALS before they can move away from PRH. We know that in the past two years alone, some 4 600 PRH residents surrendered their tenancy and applied for assistance under the HALS. In addition, 1 800 family applicants of PRH withdrew their application and applied for assistance under the HALS instead. This reflects that the HALS has to a certain extent eased the pressure on the construction of public housing and improved the living conditions of PRH tenants.

Of course, we are of the opinion that a more fundamental solution is for the Government to resume building HOS flats and produce more PRH flats in the light of market demand. This will not only afford the middle and lower classes an opportunity to acquire home ownership, but also ensure that the burden of property owners or tenants will not be increased as a result of initiatives to boost the property market.

Actually, why is the HA so firm in withdrawing from the property market, in leaving the so-called "free" property market? I believe that basically the

Government does so because of financial problems. The Government has pointed out that the pressure faced by the authorities in meeting the PRH expenditure is so great that they have no spare capacity to commit themselves to other financial assistance schemes. However, I think that the Government has a deeply concealed reason in so doing, and that is, the Government probably wants to make drastic changes to its housing policy, to ignore the interests of the general public because it wants to boost the property market. As a matter of fact, in the past when the Government built HOS flats for sale, there was an annual income of more than \$10 billion. However, with the cessation of HOS construction, on the one hand, the Government's income will be reduced, and as a result it has to face financial difficulties. On the other, the mobility of PRH tenants is greatly reduced, leading to increase pressure on PRH construction. Therefore, from this angle, it may not be a bad thing for the Government to maintain this Scheme.

Madam President, the Government has repeatedly stressed its intention to withdraw from the property market, saying that it is considered inappropriate and immoral to intervene in the market. However, I must point out that as there is limited land supply in Hong Kong and fluctuations in property price is completely controlled by the Government and consortia, any policy decision will cause the greatest intervention in the property market, while the provision of home purchase loans basically has negligible effect. Therefore, the policy of ceasing the provision of financial assistance on grounds of non-intervention is just an excuse used by the Government to relinquish its commitment, but it is a heavy blow to those who are eager to improve their living conditions. The Government should understand that it is not the ability to comply with the doctrines of the market but the ability to benefit the public that tells a good policy from a bad one.

Madam President, I so submit.

MR HOWARD YOUNG (in Cantonese): Madam President, upon the termination of the HALS, many home buyers applied to the Mortgage Corporation for participation in the mortgage insurance programme, which is commonly known as "second mortgage". As a result, the number of applications for second mortgage in the second quarter this year alone amounts to 2 600, which represents an 150% increase over that of the same period last year.

Over 60% of these applications are for 90% mortgage, which shows that the general public has actual demand for second mortgage. However, there are many problems with the relevant procedures, the time taken for vetting and approving applications and the premium for mortgage insurance. As a result, the wish of the public to acquire home ownership meets serious obstacles.

First, the time taken for vetting and approving applications for mortgage insurance submitted to the Mortgage Corporation through the bank varies with individual banks. It takes a week or two normally, but sometimes as long as four weeks. In particular, second-hand flats bear no comparison to first-hand flats in the timing of securing second mortgage. In explaining the lengthy time taken for vetting and approving applications, the banks and the Mortgage Corporation often put the blame on the other party, saying that there is problem with the other side. As a result, many of those who intended to purchase property have changed their minds for fear that the formal transaction could not be completed because of failure to secure second mortgage within 10 days of the signing of the provisional sale and purchase agreement.

Second, in the private property market, certain developers will, in collaboration with banks, offer preferential interest rate, normally at P minus 2.5%, for new flats. Recently, some banks even offered the astonishing rate of P minus 3.225% for the first three years. However, these preferential interest rates are normally not available for second-hand flats, which has indirectly placed an obstacle for secondary market transactions, bringing adverse effects to the development of the property market as a whole.

Meanwhile, we also know that there is a lack of transparency in that the Mortgage Corporation normally offers no explanation for not approving an application. Besides, to protect its commercial interests, it tends to adopt a mortgage policy that is more conservative than that of banks. I think there is a need for the relevant authorities to rectify this unsatisfactory situation expeditiously.

In addition, the existing mortgage insurance programme ignores the need for home ownership of the self-employed as they are not included in the list of eligible applicants. I must stress that small and medium enterprises, with self-employed persons being an integral part, makes up over 90% of the local economy. Following the financial crisis in 1997, there emerge in the labour market a large number of persons who have newly become self-employed. According to statistics for the first quarter this year provided by the Mandatory

Provident Fund Schemes Authority, there were as many as 297 000 self-employed persons, accounting for 12% of the labour force. Therefore, self-employed persons should be allowed to obtain second mortgage as well.

We also consider that the premium for mortgage insurance currently charged by the Mortgage Corporation for second mortgage is too high. According to information provided by the Mortgage Corporation, premium is not calculated on the basis of 20% of the purchase price, but on the basis of the entire mortgage loan (that is, 90% of the purchase price), amounting to 2.5% to 3% of the purchase price. For a flat valued at \$2 million, the premium will be as high as \$50,000 to \$60,000, representing about 15% of the amount of second mortgage (\$400,000). This is unfair to home buyers.

Furthermore, there is no standard guideline in the financing market for determining the interest rate of second mortgage or mortgage in excess of 70%. Some banks offer different interest rates for first and second mortgage, and others offer the same rate for the entire mortgage loan. There are also different ways of calculating the interest rate, and the interest rate may change yearly or float for the entire mortgage period. Because of the various methods of calculation, people who intend to apply for second mortgage are often troubled by the confusing information. They may have to run around in order to secure a mortgage arrangement that is in their best interest. Therefore, the relevant authorities should ask the Mortgage Corporation or the banks to give clearer descriptions on the calculation of interest rate for second mortgage.

As a matter of fact, many banks will co-operate with developers to provide home buyers with various types of 90% mortgage services, which shows that, just as Mr Joseph YAM, Chief Executive of the Hong Kong Monetary Authority said, the guideline on 70% mortgage ceiling now exists in name only.

The Liberal Party has always been of the opinion that the most thorough solution is the Government reviewing whether there is a need to maintain for real or in name the guideline on 70% mortgage. For example, Mr James TIEN, Chairman of the Liberal Party proposed at a meeting of the Legislative Council in 2002 a motion to urge the Government to relax the guideline on the 70% ceiling for mortgage loans. Two years later, today, we again call on the Government to review the guideline on the 70% ceiling for mortgage loans or at least to exempt "first-time home buyers' choice", that is, flats costing \$1 million

to \$2 million, from the application of the guideline, so as to assist small to medium families to acquire homes.

In the meantime, we encourage the Mortgage Corporation to make a matching effort in respect of second mortgage by firstly, specifying with greater transparency the procedures and time for vetting and approving applications and, secondly, reducing or adjusting the premium for mortgage insurance or mortgage interest, that is, it could consider lowering the current premium of 2.5% to 3%.

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

MR SIN CHUNG-KAI (in Cantonese): Madam President, the Housing Department launched the Home Purchase Loan Scheme (HPLS) in 1988, later the Housing Society (HS) also introduced the Sandwich Class Housing Loan Scheme, and, in 1989, the HS officially presented the HSLs, which assisted many people in buying their own homes. In the beginning of 2003, the Government combined the HPLS and the HSLs into the Home Assistance Loan Scheme (HALS). However, the Government recently announced the termination of the HALS. In short, all the above schemes were assistance rendered to the people in acquiring their own homes in the form of loans. The Democratic Party thinks that these policies have already completed their historical missions, and should come to an end now.

First, the objective circumstances in implementing the home ownership loans were very different from those of the present time. At that time, the property prices were very high, and the people had great difficulties in buying their own homes. For that reason, the Government had to provide loans to assist them. However, property prices have generally dropped by more than 50% now. Although property prices have rebounded from the rock bottom, they still have gone down by more than 50% when compared with the peak of the local property market. So many people have regained their purchasing power now. Their purchasing power has relatively improved when compared with the peak of the property market in 1998. Be the home purchase loans considered some kind of welfare or subsidy, we feel that they are no longer relevant in our present time.

Second, both the Hong Kong Government and the Hong Kong Housing Authority (HA) are facing heavy fiscal deficits. As home purchase loan schemes usually involve public expenditures amounting to billions of dollars, the Government must exercise great prudence in utilizing its resources. To put it in simpler terms, when both the HA and the Government are financially stretched, is it not most suitable for them to commit resources to the most badly needed services? In addition, the Democratic Party believes that the core of the Government's public housing policy should be none other than helping the middle and lower classes to solve their housing problem. Centralizing the resources to build public housing flats and sell the remaining Home Ownership Scheme (HOS) flats is more important than providing low-interest or interest-free loans to help the people in buying their own homes. Lastly, the Democratic Party supports the Government's home loan interest deduction scheme and agrees that it can help alleviating the heavy financial burden borne by property owners under the present financial downturn. The Government has implemented this scheme since several years ago for deducting the home loan interest payment from tax liability. In this financial year, the entitlement period of this deduction has been extended from five years to seven years. We support this measure. When the Government still has the capability, is it possible for it to further extend the entitlement period to beyond seven years? I feel that this is worth consideration.

The Democratic Party accepts that the original objective of launching the various home purchase loan schemes was to help the people to buy their own homes for a better way of living. In 1998, when property prices soared substantially, the middle-class people were unable to pay the downpayment even if they aspired to home ownership. In order to solve the predicament of these "homeless" people, the implementation of the home purchase loan schemes was an appropriate policy at that time; and the Democratic Party had also indicated its support for it at that time. During the time between 1997 and 1998, the average property price per sq ft in the urban area was as high as \$7,000, but it has plummeted to about \$4,000 per sq ft now. Insofar as those people who were eligible to apply for home purchase loans are concerned, their relative purchasing power has been enhanced. Therefore, such schemes should be timely terminated. Moreover, as I have just said, the HA is now facing a relatively substantial fiscal deficit, which is attributable to, *inter alia*, the suspension of sale of HOS flats by the Government. As the HA has now lost the revenue from the sale of HOS flats, that explains why it is facing such a serious financial difficulty.

In 1998, the HA launched the relevant schemes. At that time, it was financially robust, hoarding a huge surplus of over \$40 billion. So, the amount of money required for the provision of low-interest loans took up only a small proportion of its reserve. However, in recent years, the suspension of sale of HOS flats has led to a major drop in its revenue, and there is a chance that its reserve will fall below the warning level within this year. Of course, if the HA can dispose of its shopping malls and car parks in time, it will be able to maintain its reserve above the warning level. Otherwise, its cash balance will drop to only several billion dollars by early next year. Judging from its present financial conditions, the HA is no longer in a position to provide about \$1.7 billion annually in loan financing and risk undertaking for either loans or grants, and eventually the required loan financing may have to be provided by the Government. However, with regard to the Government, it is also facing a fiscal deficit and it is estimated that its deficit will rise to as high as \$40 billion in 2004-05. By suspending the provision of loans to help the people in buying their own homes, the Government will be able to reduce its expenditure, and the resources thus saved can be reallocated to other scopes of our community. This will be even more favourable to the Hong Kong Government. In addition, some credit rating agencies have recently expressed the worry that the Legislative Council may undermine the Government's determination to eliminate its deficit. As such, we must guard against the possibility that the Legislative Council might stand in the way of the Government's effort of eliminating its deficit.

Thirdly, the Government should centralize its resources on solving the housing issue of the middle- and lower-class people, such as building more public housing flats and selling the remaining HOS flats. In fact, the Government should expedite selling these remaining HOS flats because some of these flats are rather scattered, that is, they are situated in different housing estates. There is no reason why these flats are not put on sale in the market. With regard to whether the whole block of flats should be put on sale, this issue may still be open to discussion. Certainly, we feel that if the number of flats offered for sale does not exceed 2 000 per year, the impact on the market will not be too substantial. Therefore, we feel that we may resume selling the HOS flats on a smaller scale. The sale of HOS flats will have a positive impact, not negative, on the fiscal deficit of the HA. In terms of capital liquidity, the Government is still able to do something. However, the provision of loans will only be a one-way draining of capital, and it will not bring about any revenue. The logic is as simple as that. I hope the Government can take the suggestions of the Democratic Party into consideration.

Mr IP Kwok-him mentioned earlier the issue on home loan interest reduction. In fact, the Democratic Party has also mentioned this point in our amendment. We have made reference to the situations in many other places overseas, including Singapore, Japan and Taiwan, and so on. Let us take Singapore as an example. They had also launched home purchase loan schemes that were similar to those in Hong Kong, but they had also suspended such schemes during the past one or two years. Similarly, Hong Kong is also facing the same problem, and we have also suspended such schemes. I feel that the home purchase loans are somewhat like welfare, that is, the people have the rights to get them, whereas paying tax is their civic responsibility. When the people service their home mortgage loans, the Government can help them by reducing their civic burden. These two aspects are not compatible. Therefore, the Democratic Party supports the Government in implementing the home loan interest deduction, if its financial situation permits. In fact, the justifications for home loan interest deduction are rather simple, that is, while home buyers should shoulder the burden all on their own, the Government may help them a bit in tax liability. Therefore, insofar as this aspect is concerned, we are supportive.

However, I feel that the core issue today is the subject of HOS flats. We hope we can state this very clearly: The Democratic Party strongly hopes that the Government can dispose of the remaining HOS flats as soon as possible — maybe we should not say "as soon as possible", I should say — in the light of demand — to dispose of them in an orderly manner. And in the long term, we should sell a small quantity of HOS flats each year — by this I mean each year the Government should sell 1 000 to 2 000 flats, which are equivalent to the size of a small housing estate — so that the people may still have some room for mobility up the housing ladder.

MR FREDERICK FUNG (in Cantonese): Madam President, an official came to attend a meeting of the Panel on Housing to join a discussion after the Government had announced the abolition of the HPLS. At the meeting, the official put forward three reasons for the abolition: firstly, the Government had decided not to intervene the market; secondly, the Government should not make loans to home purchasers like a bank did because the Government was not a bank; and thirdly, the practice was not morally correct because the Government was alluring the people to buy flats. The official said it would be a good thing if the people could make money from the purchase, but the Government would seem

unshirkably responsible if their property became negative equity. On that day, my response was very strong and I was even angry. I felt angry not because I am a supporter of the HPLS, but because the Government had completely denied its practice in the past 10-odd years by simply saying that it was morally incorrect. The Government has totally shirked its responsibility by saying that the practice was morally incorrect and disregarding the fact that those who have borrowed money might have been plunged into negative equity or faced with whatever difficulties. Although I do not necessarily agree to such a loan scheme, I think that the official should not have said such words to degrade the policy as worthless.

On the other hand, Madam President, I was not at all surprised to have heard such utterances at that meeting. Upon the announcement by Chief Secretary Donald TSANG of a series of housing policies to deal with the housing market two years ago, I felt that his decision at that time was made in haste and without careful consideration. The decision was made without carefully considering how to resolve the issues of Home Ownership Scheme (HOS) flats and home purchase loans. For example, can we simply suspend the sale of HOS flats by announcing its suspension? We basically cannot. According to the Private Sector Participation Scheme (PSPS), legal action may be taken against the Government if the sale of HOS flats is suspended. All these are problems not thought of when the decision was made two years ago, leading to the after-effect we encounter today.

Madam President, the Hong Kong Association for Democracy and People's Livelihood (ADPL) and I had raised a lot of criticisms on the occasions when the HPLS, the former Home Ownership Loan Scheme, the Sandwich Class Housing Scheme or the Home Starter Loan Scheme were submitted to the Legislative Council. We consider that, firstly, these schemes are introduced with the purpose of shoring up the market. Secondly, with the Government's help, those who are not financially capable may make an early decision to purchase property. Home purchase is, in itself, an investment. It is also a kind of gamble in some measure because investment can result in a total loss, creating a crisis for those who join the property market without, perhaps, any financial capacity to have done so otherwise. Therefore, we do not welcome the idea of assisting the public with such a loan scheme to purchase property.

In reviewing the whole process since the introduction of the HOS in 1978, I have identified five tiers in the Government-involved housing programmes,

namely: public rental housing (PRH), the Tenants Purchase Scheme (TPS), the HOS, home purchase loans and the private market (as the final tier). In the development of these five tiers, and that is, during my 10-odd years as a member of the Hong Kong Housing Authority (HA), I have seen measures introduced by the HA including the PRH, TPS, HOS and loan schemes. When the HA members discussed these tiers at that time, I did not fully agree with them. I have to point out that there had been a set of logics behind the HA discussion. No matter whether you agree or not, the set of logics could always justify itself. It was hoped that the PRH tenants could gradually be shifted to the private market or HOS market through these different tiers, although they were two different markets.

Amongst various schemes, the TPS has aroused my greatest misgivings. The ADPL has also proposed a sale of public housing unit scheme which is entirely different from the Government's. According to our scheme, only the "shell" rather than the land will be sold. This is similar to a housing scheme launched by the Hong Kong Housing Society (HS) under which the elderly, upon payment of a lump sum, is entitled to living in a flat until death. Perhaps our proposal was copied by the HS. We have also been questioning the Home Purchase Loan Scheme. In fact, we hope that there are only three tiers: the PRH, HOS flats and private flats. In my opinion, the Government should first and foremost define the main direction of the overall property market. Does the Government want to see those low-income earners who have reached a certain income level own their property (they still cannot afford buying a flat from the private market)? How should they be assisted? Should the assistance be offered in the form of money or in terms of housing? I think the Administration should define the main direction. In my opinion, Chief Secretary Donald TSANG had not thoroughly considered the approach to be adopted by the Government when he made the decision. He could not just say "complete shift to the private market" and then simply refrain from intervention. As a matter of fact, the five tiers still exist. By uttering "non-intervention", the remaining four tiers, except the PRH, are destroyed. The PRH, being the exception, has also been partly affected. As for the remaining three tiers, the approach is too simple, too fast and too abrupt. This in fact reflects that the policy is incorrect and problematic.

Therefore, in my opinion, the main objective of the HOS is to provide housing to the low and middle income groups who can hardly afford buying private property but whose incomes have exceeded the eligibility criteria for PRH and enable them to improve their standard of living. Can we set up a

second-tier market so that those who have sufficient income which is sufficient enough to pay for the management and maintenance of their property (the HOS flats) own their property?

Under these circumstances, I think the premise is whether this kind of housing is necessary. If it is necessary, I suggest that the Government should provide this kind of housing no matter whether it is accomplished in its own way or with reference to housing schemes by some co-operatives in countries like the United Kingdom. But the Government does not have to provide full subsidy. This approach enables a higher degree of stability because it discourages speculation, prevents negative equity or windfall profits from happening in the private market. There will neither be any major price fluctuations. This is the first advantage. The second merit is that it can improve the quality of life of those people residing in such buildings. The third merit is that it can minimize the impact on the private market. In fact, the HOS is such a system *per se*. How can the HOS be abandoned by just one utterance and without any clear and detailed explanation or consultation?

So, Madam President, the debate today is not on whether a home purchase loan scheme should be adopted. Our debate in fact centers on the kind of housing policy we need so that the low and middle income groups can live and work in contentment and make Hong Kong their home. A flat is very important to the low and middle income groups.

Madam President, I hope the Government can consider ways to help the low and middle income groups own a cosy home. Thank you.

MR TOMMY CHEUNG (in Cantonese): Madam President, the motion proposed by Mrs Selina CHOW today which urges the Government to expeditiously reinstate the provision of home purchase loans for people in need and formulate a long-term policy on home ownership loan, is in fact not an attempt to prop up the market. Instead, it seeks to invigorate the local secondary property market, in order to benefit the entire property market and help Hong Kong's economic recovery.

As we all know, first-hand properties come with copious concessions as a result of the co-operation between developers and banks, thus they can attract a large number of home buyers. As Mr Howard YOUNG said just now,

numerous unfair situations exist in the mortgage policy in respect of first-hand and second-hand property. If the present situation remains unchanged, property transactions will tilt to a particular side, and it is possible that a gap will emerge.

According to people from the property sector, there are more than 1 million property owners in Hong Kong, while second-hand properties account for more than 60% of the overall transactions of the property market right from the outset. If we can invigorate the secondary property market through the provision of interest-free loans and a proper mortgage policy, then different tiers of the property market can support each other in an orderly manner. The original owners of second-hand properties may use the money cashed in through the selling of their properties to purchase first-hand properties of a higher value. Until home buyers of the second-hand properties build up their purchasing power after some years, they can sell their flats in exchange for newer flats. This approach is conducive to both first-hand and secondary property markets, as it can bring positive sentiments to the property market in addition to directly boosting the volume of property transactions.

In fact, in the days when mortgage loans up to 90% of the property price were offered, members of the public could easily secure the mortgage loans using their own savings to pay for the 10% downpayment, and property transactions were very active in those days. For that reason, as long as the Government can encourage the banking, the property sector and the Hong Kong Mortgage Corporation Limited to treat first-hand and second-hand properties equally, we can give members of the public a choice to purchase first-hand or second-hand properties according to their own needs, thus the property market will be enabled to follow the patterns of the market without the need of Government intervention.

With these remarks, Madam President, I support the motion of Mrs Selina CHOW.

MR JAMES TIEN (in Cantonese): Madam President, housing is a necessity to the general public. On the issue of residential housing, in general, public housing is rental flats built by the Government. During a certain period in the past, in view of the relatively long time taken to complete private developments, the Government put forth a policy proposal to assist the low-income earners to acquire homes for self-occupation. As a result, the HOS was launched. As a

matter of fact, there is now a huge accumulation of flats built by private developers. Looking back at the late '90s, was the so-called "85 000 policy" an over-estimation of the demand and the overall economic strength of the time and the cause of the great accumulation of vacant flats? According to the present assessment of the Liberal Party, this is a fact.

With the property developers hoarding such a large number of flats, we immediately saw a very positive response from the property market after the Government had decided to cease HOS sale. It has also helped many people get out of the pool of negative equity property owners, and there is enhancement in the overall spending power as well as the confidence of the public at large. Therefore, the Liberal Party does not fully disagree with the earlier statement by Mr Frederick FUNG, that there is a need to continue HOS sale. We also disagree with Mr Albert HO's suggestion on the expeditious sale of the remaining HOS flats and the resumption of the construction of an optimum quantity of HOS flats according to market demand. We are of the opinion that under the present situation, the problem of demand and supply can be resolved by land sale under the application system. That is, if developers consider that there is a need for land sale under the application system, they may make an application to the Government, and if the Government considers the price offered reasonable, it can put the land to auction. We do not think that the Government has an urgent need to consider resuming the provision of HOS flats, otherwise, the market will be troubled by confusing messages and wavering policies, and the public may have the impression that Government is going to change its policy once in several years' time. Only two years ago, it was said that HOS sale would be ceased and no more HOS flats would be built. Now, it is said that HOS flats will again be built. Thus, the relatively stable property prices may again adjust downwards, which is something that most negative equity property owners will not like to see.

Mr SIN Chung-kai said earlier in his speech that there was no need to expeditiously resume the sale of the remaining HOS flats and that it could be done slowly. However, Mr Albert HO requested in his amendment to the motion to expeditiously put up for sale the remaining HOS flats. Perhaps members of the Democratic Party may wish to discuss this point to determine whether they want to request for expeditious action or whether they consider that there is no need for expeditious action.

Furthermore, Mr SIN Chung-kai mentioned another point that is not included in the motion, which came across as strange to us. Presently, what we hope the Government to do is to provide loans. This is different from the past, when loans were provided by the Hong Kong Housing Authority (HA). With its present capability, the HA is of course unable to provide low-interest or interest-free loans. We call on here the Government to provide loans, and of course we understand that on the face of it, it might not be desirable for the Government to spend hundreds of million dollars to do this as there are other housing needs to be met. However, developers will find the sale of their flats promoted when another 20% of the purchase price is met by interest-free loans provided by the Government after a 70% mortgage has been secured for these flats. The quicker sale of flats will lead to more applications for land sale, and land will be sold at more favourable prices in auctions. I trust the Secretary is most satisfied with the results of the recent sale of three lots — Financial Secretary Henry TANG is not here today — from the point of view of the Financial Secretary, the result should be most satisfying. His Budget originally only anticipated an income of \$4.5 billion. But now, just the income from these three lots almost add up to this amount. I believe that there will be an enormous income from land sales this year. Therefore, I do not think our proposal will lead to the problem that constitutes a worry to the Democratic Party or Mr Frederick FUNG.

Furthermore, what we are talking about is acquiring home ownership — the so-called "getting aboard", which means buying one's first flat. Of course, besides buying flats from developers, first-time home buyers may purchase other types of flat. We have also taken into consideration the overall financial condition of the Government and the probable number of applications. Therefore, we suggest that a loan equivalent to 20% of the purchase price, subject to a ceiling of \$300,000, be granted to singletons and families with monthly incomes not exceeding \$15,000 and \$30,000 respectively. This shows that we have taken into consideration the financial commitment of the Government and we do not suggest that the Government overspend taxpayers' money. However, I feel that our suggestion will not only encourage the public to acquire homes, but also strengthen the ability of those who aspire to home ownership to purchase homes under what they consider to be reasonable conditions having regard to the current property prices, their income and standard of living.

Thank you, Madam President.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): Mrs Selina CHOW, you may now speak on Mr Albert HO's amendment. You have five minutes.

MRS SELINA CHOW (in Cantonese): Madam President, it is a pity that Mr Albert HO is not here to listen to my remarks, because after listening to his remarks earlier, I must say I find his arguments most regrettable.

He said that if the Government offered assistance to this group of people, whom we refer to basic taxpayers, the resources available to public housing would be reduced. As a result, he argued, the Government should not do so, should not help these people, but should draw a line of demarcation no matter what, meaning that even when these basic taxpayer really had the need, nothing should be done to help them. As pointed out by Mr James TIEN, it seems that Mr Albert HO has not studied my original motion thoroughly. I have actually made it very clear that I am fully aware of the poor financial conditions, the deficit, faced by the Housing Authority, and that it no longer has the means to operate any home loan schemes. That is why it is clearly stated in my motion that the Government itself should operate such schemes. According to our computation, assuming that there are 15 000 units and the maximum loan amount per application is \$300,000, then the total sum will be \$450 million. If this \$450 million can enable these working people (they are employed but not high-salaried) having a genuine housing need to "board the train of home owners", to purchase a cozy home in instalments, the Government should find it worth the while to spend the money, shouldn't it?

Some Members went so far as to say that doing so will lure these people to buy properties, turning them into owners of negative equity assets. To begin with, I must say that all responsible employers who are financially capable will very often lend money to their employees for the purchase of properties, because they all want their employees to have a comfortable home and be free of any housing worries. This has nothing to do with encouraging speculation, but is simply intended to help people buy a comfortable home. Since it is a desirable thing to do, why does the Government refuse to offer assistance to these

sandwich-class people? Therefore, I must say that the points raised by Mr Albert HO are open to question. And, even if we are prepared to support Mr Albert HO's amendment, those in genuine need, that is, those people whom the original motion aims to assist, will never agree to our supporting his amendment, because he seeks to replace all our proposals on home purchase loans with their HOS proposal. As explained by Mr James TIEN, we do not support their proposal.

Having said all this, I must add that we do not oppose the entire amendment of Mr HO. He asks for an extension of the tax deduction for home loan interest. We are actually very pleased that Mr HO has put forward this proposal, because this means that he has been convinced by us. We in the Liberal Party have been advocating this proposal for a long time. Since when? Since the time when Mr Ronald ARCULLI was still a Legislative Council Member and the Deputy Party Chairman of the Liberal Party. We will never abandon this proposal and will urge the Government to do its utmost. In the Budget debate earlier this year, I reiterated that the Government should consider the possibility of turning the tax deduction into a permanent measure. The reason is that 95% of the 1 million or so taxpayers are middle-class people, so a permanent tax deduction for home loan interest will lessen their tax burden. I am very happy that Mr Albert HO has accepted this idea, so I do not oppose this particular proposal in his amendment. But his proposal on HOS flats is not acceptable to us, and we have already explained the reason. Therefore, the Liberal Party will oppose Mr Albert HO's amendment.

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): Madam President, I wish to thank Mrs Selina CHOW and Members for expressing their views over the provision of appropriate support for aspiring home owners. Members, the Government and the Housing Authority (HA) are all working towards the very mission of assisting Hong Kong residents to achieve better housing and living quality. This has all along been the cornerstone of our housing policy. In fact, maintaining a stable environment for the property market to develop is the most effective and comprehensive strategy in helping aspiring home owners.

The Government's housing policy is based on three major principles: first, to provide subsidized rental housing for low-income families who cannot afford private rental housing; second, to minimize the Government's intervention in the

market; and third, to ensure an adequate supply of land to meet market demand so that the market can develop healthily in a fair and stable environment.

Recently, some sectors of the community emphasized the importance of maintaining a consistent housing policy. We should not downplay the demands from the market for the Government to minimize its intervention. The suggestions concerning provision of home purchase loans, sale of remaining Home Ownership Scheme (HOS) flats or even construction of a suitable amount of HOS flats should be considered against such backdrop. These suggestions, if implemented, would not only intervene in the free operation of the market, but would also undermine the integrity of our housing policy and cast doubt on our determination in implementing a clear and consistent housing policy. I hope Members will appreciate, and support, the Government's position.

Home ownership is many people's aspiration. Owning one's home not only provides stable accommodation, to many this is also an instrument for investment and a source of wealth. Affordability is the cardinal consideration of whether or not an aspiring home owner should proceed to purchase a flat.

Aspiring home owners should take into account their financial capability to make the requisite downpayment and repay mortgage over a long-term period lasting 10 years or more. As provision of home ownership loans by the Government will to a certain extent influence people's decision as to whether they should buy a flat, it is a form of market intervention. In the 1990s, speculation in the property market was acute. Many prospective home buyers were worried about the relentless upsurge of property prices. As the choices of home loans available in those days were rather limited, the Government therefore introduced different forms of home ownership assistance in response to public demand.

In recent years, with ample liquidity, the banks have put on offer a wide range of flexible and competitive mortgage plans in the home mortgage market. For instance, the interest rate on first mortgage has dropped from prime rate plus in the last few years to 2.6% to 2.7% below prime rate at present. In partnership with banks, many developers also offer competitive mortgage plans with fixed interest rates and fixed instalments. Some banks also provide mortgage arrangements that come with high-interest savings accounts so that, depending on the amount of savings accrued, the overall mortgage interest rate of these combination plans could be as low as 3% or more below prime rate.

As for second mortgage, a number of developers are now offering second mortgage with interest rate at prime or 1.75% above prime to buyers in the primary property market. Some even provide interest-free payment holiday in the first one to two years for second mortgage to help lessen the burden of initial mortgage repayment.

As for flats in the secondary property market, home buyers may obtain a mortgage loan up to 90% of the flat price through the Mortgage Insurance Programme of the Hong Kong Mortgage Corporation. Some banks also allow flat buyers to include the premium for the mortgage insurance in the mortgage loans, to be repaid in instalments at the same interest rate as the first mortgage. A wide range of flats of different types and prices are available in the market. Even without the home purchase loans provided by the Government or the HA, aspiring home owners should have no problem in choosing mortgage plans catering for their affordability when they purchase properties meeting their requirements and circumstances. Hence, this is the opportune time for the Government and the HA to withdraw from the property market completely.

We have also examined whether there is a continued need for home purchase loans. Taking the HA's Home Assistance Loan Scheme (HALS) as an example, of the 8 000-odd recipients of loans and subsidies, some 90% of them used the interest-free loans for paying the balance of the flat prices. This phenomenon suggests that the majority of applicants under the Scheme were capable of paying part or all of the downpayment. Undoubtedly home purchase loans can help ease their financial burden. However, if they can afford most of the expenses of acquiring a flat, should the HA continue its role in handing out loans? If people rely overwhelmingly on the loans provided by the Government and the HA regardless of their genuine need and long-term financial ability, are we in effect distorting the normal operation of the market? Are valuable public resources being used in the most effective manner?

No doubt, home purchase loan provides many prospective home owners with an additional option. Cessation of the HALS may affect some people's decision for home purchase. They may have to cancel or postpone their plan, or seek alternative financing arrangements as a result. But this exactly reflects the real demand in the property market.

As far as the HA is concerned, provision of home purchase loans facilitates the recovery of public housing flats for reallocation by encouraging

better-off sitting tenants to buy their own homes. Nonetheless, home purchase loan is not the only means to promote the mobility of public housing tenants. Through the establishment of the Task Force Against Abuse of Public Housing Resources, the HA seeks to ensure that public housing resources are used as effectively as possible. Moreover, the HOS Secondary Market Scheme also provides an alternative for sitting tenants to purchase their own homes without paying the premium, thus enabling them to return their public rental flats to the HA. Through these measures, the HA is confident that valuable public housing resources can be recovered.

Furthermore, a major challenge facing the HA at present is financial stringency. The HA should now focus its tight resources on the provision of public rental housing for low-income families and maintaining the average waiting time at around three years as pledged. Termination of the HALS is an important step in helping the HA to concentrate on the public housing programme and minimize market intervention. The resultant saving of some \$1.7 billion will be used in public rental housing with maximum value for money.

Even without provision of material assistance to aspiring home owners, I firmly believe that a clear, comprehensive and consistent housing policy will foster the healthy development of the property market and boost public confidence in the market, thereby facilitating those aspiring for home ownership to make the right decision.

I now wish to turn to Mr Albert HO's suggestion about resuming the sale and construction of HOS flats. In view of the overlap between the HOS and private property market, it is necessary to cease the sale and construction of HOS to restore the balance between supply and demand in the property market. Unsold and returned HOS flats will be sold at some suitable time in future and indeed, we have on many previous occasions indicated that they will be sold to Green Form applicants after the end of 2006. HOS flats in unsold developments will be put into other alternative uses. Notwithstanding that the property market is picking up and the number of negative equity cases has decreased sharply, we still need to closely monitor the supply and demand of residential flats and continue to avoid impacting on the reviving property market. At present, the HA should not and will not resume construction of HOS flats to intervene in the private residential market again in the role of developer. As regards unsold and returned HOS flats, the HA will from time to time review the

timetable for disposing of these flats while ensuring that the property market can operate in a stable and healthy environment.

I fully understand the concern expressed by Mr Albert HO that some aspiring home owners may not be able to realize their home ownership aspirations without government assistance following cessation of HOS. As mentioned above, a wide range of flats are on offer in the market to cater for consumers' different circumstances and budgets. The HOS Secondary Market, in which transactions could be made without payment of premium, also provides some 333 000 flats for consideration by eligible buyers with limited budget. I believe the current supply of flats in the market can meet the demands of home buyers from different walks of life.

Mr Albert HO has also proposed to extend the home loan interest deduction entitlement period. As a relief to households heavily burdened with home mortgage payment, the Government introduced in the 1998-99 year of assessment a salaries tax deduction, which may be claimed for a total of five tax years, for home loan interest expenses. Whilst the burden of home mortgage payment in general becomes lighter now following the fall in property prices and mortgage interest rates, the financial load borne by many home owners remains heavy. In view of this, the Financial Secretary proposed, in the 2004-05 Budget, to extend the entitlement period for home loan interest deduction for all home owners for two years, that is, from any five years of assessment to any seven years of assessment. The Legislative Council has passed "the Revenue Bill 2004" last month to implement this measure.

Since the introduction of the Home Loan Interest Deduction in the 1998-99 year of assessment, the average loss in tax revenue is about \$2 billion per year. We roughly estimate that the extension of the entitlement period by two years will cost the Government another \$4.6 billion in tax revenue over five years, that is around \$1 billion per year. As the Home Loan Interest Deduction is a rather expensive concession item to the Government and in the light of the Government's financial stringency, we consider that setting the entitlement period at seven years of assessment is appropriate and there is no justification for further extension.

I am sure Members and the public agree that resources should be used effectively. Under the current market circumstances, the Government and the HA should withdraw from the home loan market and let market forces come into

full play. Aspiring home owners should be guided by their own affordability and needs. The HA will concentrate available resources on the provision of basic housing for low-income families. These measures are consistent with the overall direction of our repositioned housing policy. Our unswerving commitment to upholding this policy is in effect the best support for aspiring home owners.

Thank you, Madam President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the amendment, moved by Mr Albert HO to Mrs Selina CHOW'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 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.

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, Ms LI Fung-ying and Mr Michael MAK voted for the amendment.

Mr James TIEN, Dr Raymond HO, Dr Eric LI, Dr LUI Ming-wah, Mrs Selina CHOW, Mrs Sophie LEUNG, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU, Mr Henry WU, Mr Tommy CHEUNG and Dr LO Wing-lok voted against the amendment.

Mr CHAN Kwok-keung, Mr WONG Yung-kan and Mr IP Kwok-him abstained.

Geographical Constituencies and Election Committee:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mr James TO, Dr YEUNG Sum, Mr Andrew CHENG, Mr SZETO Wah, Mr WONG Sing-chi and Mr Frederick FUNG voted for the amendment.

Mr NG Leung-sing and Mr Ambrose LAU voted against the amendment.

Mr Jasper TSANG, Miss CHOY So-yuk and Mr YEUNG Yiu-chung abstained.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 20 were present, five were in favour of the amendment, 12 against it and three abstained; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 16 were present, 10 were in favour of the amendment, two against it and three abstained. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the amendment was negatived.

PRESIDENT (in Cantonese): Mrs Selina CHOW, you may now reply. You have up to one minute 38 seconds.

MRS SELINA CHOW (in Cantonese): Madam President, I call upon Members to support my proposals because, as I have explained, the motion urges the Government to assist basic taxpayers, so we should oppose it by saying that it will lead us to ignore other people and create conflicts, that is, by saying that any assistance to these taxpayers will necessarily affect the interests of public housing tenants. Actually, as explained very clearly by the Secretary just now, public housing tenants will be looked after by the Housing Authority. What I am proposing is that the Government should set aside several hundred million dollars to assist these basic taxpayers in buying their own homes. This will indeed help society as a whole.

A moment ago, the Secretary repeatedly referred to market intervention. In theory, the construction of HOS flats is also a form of market intervention because with HOS flats, some of those who used to rent housing units will not have to do so any more. But I believe that the proposal itself can achieve some specific social objectives. *(The buzzer sounded)*

PRESIDENT (in Cantonese): I now put the question to you, and that is: That the motion moved by Mrs Selina CHOW..... I am sorry, Mrs Selina CHOW, you should still have 38 seconds. I am sorry. *(Laughter)*

MRS SELINA CHOW (in Cantonese): Madam President, I see. Mr James TIEN also wonders why it is 31 seconds short. Anyway, I have almost finished. I hope that Members can support my motion. Thank you. *(Laughter)*

PRESIDENT (in Cantonese): I now put the question to you, and that is: That the motion moved by Mrs Selina CHOW as printed on the Agenda be passed. Will those in favour please raise your hands?

(Members raised their hands)

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

(Members raised their hands)

Mrs Selina CHOW rose to claim a division.

PRESIDENT (in Cantonese): Mrs Selina CHOW 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 James TIEN, Dr Raymond HO, Dr Eric LI, Dr LUI Ming-wah, Mrs Selina CHOW, Mr CHAN Kwok-keung, Mrs Sophie LEUNG, Mr WONG Yung-kan, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU, Mr Abraham SHEK, Ms LI Fung-ying, Mr Tommy CHEUNG, Dr LO Wing-lok and Mr IP Kwok-him voted for the motion.

Mr CHEUNG Man-kwong, Mr SIN Chung-kai, Dr LAW Chi-kwong and Mr Michael MAK voted against the motion.

Mr Henry WU abstained.

Geographical Constituencies and Election Committee:

Mr Jasper TSANG, Miss CHOY So-yuk, Mr YEUNG Yiu-chung and Mr Ambrose LAU voted for the motion.

Mr Albert HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mr James TO, Dr YEUNG Sum, Mr Andrew CHENG, Mr SZETO Wah, Mr WONG Sing-chi and Mr Frederick FUNG 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, 21 were present, 16 were in favour of the motion, four against it and one abstained; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 15 were present, four were in favour of the motion and 10 against it. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the motion was negatived.

NEXT MEETING

PRESIDENT (in Cantonese): I now adjourn the Council until 2.30 pm on Wednesday, 30 June 2004.

Adjourned accordingly at three minutes to Eleven o'clock.

Annex I

BUILDINGS (AMENDMENT) BILL 2003

COMMITTEE STAGE

Amendments to be moved by the Secretary for Housing, Planning and Lands

<u>Clause</u>	<u>Amendment Proposed</u>
2	<p>(a) By deleting paragraphs (a) and (e).</p> <p>(b) In paragraph (f) -</p> <p>(i) by deleting the proposed definitions of "category I minor works", "category II minor works" and "category III minor works", "certify", "class A registered minor works contractor", "class B registered minor works contractor", "minor works", "registered minor works contractor" and "relevant class A registered minor works contractor" and "relevant class B registered minor works contractor";</p> <p>(ii) by deleting the proposed definition of "signboard" and substituting -</p> <p style="padding-left: 40px;">""signboard" (招牌) means a hoarding, framework, scaffolding or other structure erected solely for the purpose of displaying any advertisement, making any announcement or notification, or displaying any visual image or other information;"</p>
4	<p>(a) In paragraph (d) -</p> <p>(i) by deleting the proposed section 3(5CA)(a)(vi) and substituting -</p>

ClauseAmendment Proposed

"(vi) 1 public officer of the rank of Government Geotechnical Engineer nominated by the Director of Civil Engineering and Development; and";

(ii) by deleting the proposed section 3(5CA)(b)(vi) and substituting -

"(vi) 1 public officer of the rank of Government Geotechnical Engineer nominated by the Director of Civil Engineering and Development; and".

(b) In paragraph (h), in the proposed section 3(5GA)(c), by deleting "Assistant Director of Civil Engineering" and substituting "public officer".

5 By deleting paragraphs (b) and (e).

8 By deleting the clause.

9 (a) By deleting paragraph (a)(i).

(b) In paragraph (d) -

(i) by deleting the proposed section 7(2B), (2C), (2D) and (2E);

(ii) by deleting the semicolon at the end and substituting a full stop.

(c) By deleting paragraph (e).

<u>Clause</u>	<u>Amendment Proposed</u>
10	<p>(a) By deleting paragraph (a).</p> <p>(b) In paragraph (c), by deleting the proposed section 8(3B).</p> <p>(c) In paragraph (d), by deleting the semicolon and substituting a full stop.</p> <p>(d) By deleting paragraph (e).</p>
11	By deleting the clause.
12	<p>(a) By deleting paragraphs (a) and (d).</p> <p>(b) By deleting paragraph (e) and substituting -</p> <p style="padding-left: 40px;">"(e) in subsection (6), by adding "relevant" before "Contractors Registration Committee";".</p> <p>(c) By deleting paragraph (f) and substituting -</p> <p style="padding-left: 40px;">"(f) in subsection (7), by adding "relevant" before "Contractors Registration Committee";".</p> <p>(d) By deleting paragraphs (g), (h) and (i).</p> <p>(e) By deleting paragraph (j) and substituting -</p> <p style="padding-left: 40px;">"(j) in subsection (10), by adding "relevant" before "Contractors Registration Committee";".</p> <p>(f) By deleting paragraph (k).</p>

<u>Clause</u>	<u>Amendment Proposed</u>
13	By deleting the clause.
14	(a) By deleting paragraphs (c) and (d)(ii). (b) In paragraph (e), by deleting the proposed section 8C(8).
15	(a) By deleting paragraph (b)(ii). (b) By deleting paragraph (c) and substituting - "(c) by adding - "(5) A registration restored under this section expires, unless the contractor's name is removed from the relevant register by order of a disciplinary board, on the expiry of 3 years beginning on the date of restoration of the applicant's name to the register."."
18	By deleting paragraphs (a), (b), (c), (d), (e) and (f).
19	(a) In paragraph (b), by deleting the semicolon at the end and substituting a full stop. (b) By deleting paragraphs (c), (d) and (e).
20	By deleting the clause.
21	By deleting the clause and substituting -

ClauseAmendment Proposed

**"21. Disciplinary proceedings
for contractors**

Section 13 is amended -

(a) in subsection (4) -

(i) in paragraph (c), by
repealing "; and" and
substituting a full stop;

(ii) by repealing paragraph (d);

(b) by adding -

"(4A) Where the
disciplinary board makes an order
under subsection (4), it shall order
that its findings and order be
published in the Gazette."."

22 By deleting the clause.

23 By deleting the clause.

New By adding -

**"24A. Conditions may be imposed in
certain cases**

Section 17(2) is repealed."."

<u>Clause</u>	<u>Amendment Proposed</u>
25	<p>By deleting the clause and substituting -</p> <p>"25. Provision for urgent work</p> <p>Section 19(4)(c) is amended by adding ", the registered geotechnical engineer" after "engineer".</p>
26	<p>By deleting the clause.</p>
27	<p>By deleting the clause.</p>
28	<p>By deleting the clause.</p>
29	<p>(a) By deleting paragraph (a).</p> <p>(b) In paragraph (b), in the proposed sections 24(2) and (2A), by deleting "or (1A)".</p> <p>(c) By deleting paragraph (c).</p>
30	<p>In the proposed section 24C -</p> <p>(a) by deleting subsection (1)(d) and substituting -</p> <p>"(d) specifying a date after which the notice will be registered with the Land Registry in accordance with subsection (4) if before that date -</p> <p>(i) the building or building works is or are not demolished; or</p>

ClauseAmendment Proposed

- (ii) the building or building works is or are not altered in such a manner as to cause the building or building works to comply with those provisions, or otherwise to put an end to the contraventions of those provisions.";
 - (b) in subsection (4), by deleting "to his satisfaction" and substituting "in the manner described in subsection (1)(d)(ii)";
 - (c) in subsection (6) –
 - (i) by deleting "warning";
 - (ii) by deleting "to the satisfaction of the Building Authority, he" and substituting "in the manner described in subsection (1)(d)(ii), the Building Authority".
- 32 In the proposed section 29A(1), by deleting "to the satisfaction of the Building Authority".
- 36 By deleting paragraphs (a)(ii) and (b).
- 37 By deleting everything after "amended by" and substituting "adding "registered geotechnical engineer," after "engineer,"."
- 38 In the proposed section 39B(1) –
 - (a) by deleting "or (1A)";

ClauseAmendment Proposed

- (b) by deleting ", 28(2)(a), (3) or (5), 29(2)(a), 29A(2), 30(3) or 31(2)(a)" and substituting "or 28(2)(a), (3) or (5)".

39

- (a) In paragraph (a), by deleting the proposed 40(1AA) and substituting -

"(1AA) Any person who contravenes section 14(1) shall be guilty of an offence and shall be liable on conviction -

- (a) to a fine of \$400,000 and to imprisonment for 2 years; and

- (b) to a fine of \$20,000 for each day during which it is proved to the satisfaction of the court that the offence has continued."

- (b) In paragraph (d), by deleting the proposed section 40(1BA) and substituting -

"(1BA) Any person who, without reasonable excuse, fails to comply with an order served on him under section 24(1) shall be guilty of an offence and shall be liable on conviction -

- (a) to a fine of \$200,000 and to imprisonment for 1 year; and

- (b) to a fine of \$20,000 for each day during which it is proved to the satisfaction of the court that the offence has continued."

ClauseAmendment Proposed

(c) By deleting paragraph (e)(ii) and substituting -

"(ii) by repealing "\$250,000" and substituting "\$1,000,000";".

(d) By deleting paragraph (f)(ii), (iii) and (iv) and substituting -

"(ii) by repealing "and to imprisonment for 3 years";".

(e) In paragraph (h), by deleting "\$200,000" and substituting "\$150,000".

(f) By deleting paragraph (i) and substituting -

"(i) in subsection (2AC), by repealing "\$250,000" and substituting "\$750,000";".

(g) By deleting paragraph (j) and substituting -

"(j) in subsection (2B), by repealing "\$250,000" and substituting "\$1,000,000";".

(h) By deleting paragraph (k) and substituting -

"(k) in subsection (2C) -

(i) in paragraph (a), by repealing "\$250,000" and substituting "\$1,000,000";

(ii) in paragraph (b), by repealing "\$50,000" and substituting "\$200,000".

(i) By deleting paragraph (l) and substituting -

<u>Clause</u>	<u>Amendment Proposed</u>
	<p>"(I) by adding –</p> <p>"(4B) Any person who without reasonable excuse contravenes section 39B(1) shall be guilty of an offence and shall be liable on conviction to a fine at level 3 and to imprisonment for 6 months."."</p>
40	By deleting the clause.
41	By deleting the clause.
42	By deleting "sections 53J and 53K" and substituting "section 53K".
43	By deleting the proposed section 53J.
45	By deleting "ERGISTERED" and substituting "REGISTERED".
48	<p>(a) In the heading, by deleting ", specialist contractors and minor works contractors" and substituting "and specialist contractors".</p> <p>(b) By deleting paragraphs (a)(i) and (c).</p> <p>(c) In paragraph (b), by deleting the semicolon and substituting a full stop.</p>
50	By deleting the clause.

<u>Clause</u>	<u>Amendment Proposed</u>
51	By deleting the clause.
52	By deleting paragraph (b).
53	By deleting the clause.
54	By deleting "or from 2 or more registered general building contractors, registered specialist contractors or registered minor works contractors".
55	By deleting the clause.
56	(a) By deleting paragraph (a). (b) By deleting paragraph (b) and substituting - "(b) by repealing "or by the registered structural engineer" and substituting ", registered structural engineer or registered geotechnical engineer".".
57	(a) In paragraph (a), by deleting the semicolon and substituting a full stop. (b) By deleting paragraph (b).
58	(a) By deleting paragraphs (a), (b), (d) and (e). (b) In paragraph (c), by deleting the semicolon and substituting a full stop.

<u>Clause</u>	<u>Amendment Proposed</u>
59	<p>(a) By deleting paragraphs (a)(ii), (b)(ii), (d) and (e).</p> <p>(b) In paragraph (c), by deleting the semicolon and substituting a full stop.</p>
61	By deleting the clause.
62	<p>By deleting the clause and substituting -</p> <p>"62. Certificate to be given by registered contractor and authorized person on completion of building works</p> <p>Regulation 25 is amended -</p> <p>(a) in paragraph (1), by repealing "or registered structural engineer" and substituting ", registered structural engineer or registered geotechnical engineer";</p> <p>(b) in paragraph (3) –</p> <p>(i) by adding "or registered geotechnical engineer" after "structural engineer" where it twice appears;</p> <p>(ii) by repealing "structurally safe" and substituting "structurally or geotechnically (as the case may be) safe";</p>

ClauseAmendment Proposed

- (c) in paragraph (4), by repealing "and the registered structural engineer" and substituting ", registered structural engineer and registered geotechnical engineer".

63 By deleting the clause.

64 By deleting the clause and substituting -

"64. Certificate to be given by authorized person, registered structural engineer, registered geotechnical engineer and registered contractor engaged in respect of emergency work

Regulation 28 is amended by repealing "and registered structural engineer" and substituting ", registered structural engineer and registered geotechnical engineer".

67 In paragraphs (a) and (b), by deleting ", registered specialist contractor or registered minor works contractor" and substituting "or registered specialist contractor".

69 (a) By deleting paragraphs (a), (b), (c)(iii) and (d).

(b) In paragraph (c)(ii), by deleting the semicolon and substituting a full stop.

ClauseAmendment Proposed

72 By deleting the clause and substituting -

**"72. Duty of registered contractor
to keep approved plans and
supervision plans on site**

Regulation 40 is amended by repealing "or registered structural engineer" and substituting ", registered structural engineer or registered geotechnical engineer".

73 By deleting the clause.

74 (a) By deleting paragraph (j).

(b) In paragraph (k) -

(i) in the proposed item 10(a)(i), (ii) and (iii), by deleting "\$45" and substituting -

"\$45	{	for applicants	\$8.5	{	for applicants
		who have not			who have
		inspected the			inspected the
		document			document
\$45	{	pursuant to	\$8.5	{	pursuant to
		section 36(2A)(b)			section 36(2A)(b)
		of the Ordinance			of the Ordinance
		immediately			immediately
\$45	{	before the issue	\$8.0	{	before the issue";

(ii) in the proposed item 10(b)(i), (ii) and (iii), by deleting "\$97", "\$70" and "\$56" and substituting -

ClauseAmendment Proposed

"\$155	{	for applicants	\$58	{	for applicants
		who have not			who have
		inspected the			inspected the
\$125	{	plan pursuant	\$52	{	plan pursuant
		to section			to section
		36(2A)(b) of			36(2A)(b) of
		the Ordinance			the Ordinance
		immediately			immediately
\$93		before the issue	\$42		before the issue";

- (iii) in the proposed item 11(a)(i), (ii) and (iii), by deleting "\$38" and substituting -

"\$38	{	for applicants	\$1.6	{	for applicants
		who have not			who have
		inspected the			inspected the
\$38	{	document	\$1.6	{	document
		pursuant to			pursuant to
		section 36(2A)(b)			section 36(2A)(b)
		of the Ordinance			of the Ordinance
		immediately			immediately
\$38		before the issue	\$1.4		before the issue";

- (iv) in the proposed item 11(b)(i), (ii) and (iii), by deleting "\$72", "\$51" and "\$38" and substituting -

"\$135	{	for applicants	\$40	{	for applicants
		who have not			who have
		inspected the			inspected the
\$110	{	plan pursuant	\$34	{	plan pursuant
		to section			to section
		36(2A)(b) of			36(2A)(b) of
		the Ordinance			the Ordinance
		immediately			immediately
\$74		before the issue	\$24		before the issue";

ClauseAmendment Proposed

- (v) in the proposed item 12(a)(ii), by deleting "\$85" and substituting "\$58".

75

By deleting the clause and substituting -

**"75. Duty of authorized person,
registered structural
engineer or registered
geotechnical engineer who
has prepared plans to supply
to Building Authority such
information as he may
require**

Regulation 44 is amended by repealing "or registered structural engineer" and substituting ", registered structural engineer or registered geotechnical engineer".

76

By deleting the clause and substituting -

**"76. Duty of authorized person,
registered structural
engineer, registered
geotechnical engineer,
registered contractor, etc.
to notify Building Authority
of change of business
address**

Regulation 45 is amended by adding "registered geotechnical engineer," after "engineer,".

77

By deleting the clause.

ClauseAmendment Proposed

- 78 By deleting the clause.
- 79 By deleting "The following is added" and substituting "The Building (Planning) Regulations (Cap. 123 sub. leg. F) are amended by adding".
- New By adding immediately under the heading "**Consequential Amendments**" -

"Prevention of Bribery Ordinance

79A. Public Bodies

Schedule 1 to the Prevention of Bribery Ordinance (Cap. 201) is amended by adding -

"102. Geotechnical Engineers Registration Committee."."

- 80 By deleting the clause.
- 81 (a) By deleting "Schedule 2 is amended" and substituting "Schedule 2 to the Electronic Transactions (Exclusion) Order (Cap. 553 sub. leg. B) is amended".
- (b) By deleting paragraph (b) and substituting -
- "(b) in item 5, in column 3, by repealing "(2) and (3)" and substituting "(2), (3) and (5)"."

Annex II

MERCHANT SHIPPING (SECURITY OF SHIPS AND PORT
FACILITIES) BILL

COMMITTEE STAGE

Amendments to be moved by the Secretary for
Commerce, Industry and Technology in the absence of the
Secretary for Economic Development and Labour

<u>Clause</u>	<u>Amendment Proposed</u>
Long title	(a) By deleting "Enhance security of ships and port facilities and for that purpose to" and substituting "To". (b) By deleting "國際船舶及" and substituting "國際船舶和". (c) By adding "to enhance security of ships and port facilities" before the semicolon.
1	By deleting the clause and substituting - "1. Short title This Ordinance may be cited as the Merchant Shipping (Security of Ships and Port Facilities) Ordinance."
3(1)	(a) In the definition of "authorized officer" - (i) in paragraph (a), by deleting everything after "Department" and substituting "of or above the rank of Marine Inspector Class II;"; (ii) in paragraph (b), by deleting everything after "officer" and substituting "of or above the rank of Sergeant; or"; (iii) in paragraph (c), by deleting "other".

ClauseAmendment Proposed

- (b) In the definition of "the Code" by adding "國際" before "規則》)".
- (c) In the definition of "high-speed craft", by deleting "equalling" and substituting "equal".
- (d) In the definition of "international voyage" -
 - (i) in paragraph (a), by adding "a place of" before "a party";
 - (ii) in paragraph (b), by adding "a place of" after "Convention to".
- (e) In the definition of "port facility", by deleting everything after "means" and substituting "a location (including an anchorage, a waiting berth and an approach from seaward) where ship/port interface takes place;".
- (f) In the definition of "ship" -
 - (i) in paragraph (a), by deleting everything before "is" and substituting -
 - "(a) a ship (including a high-speed craft) that carries more than 12 passengers and";
 - (ii) by deleting "exploration of" and substituting "exploitation of";
 - (iii) by deleting "location." and substituting "location;".
- (g) By adding -
 - "Administration" (主管機關), in relation to a ship, means the government of the state whose flag the ship is entitled to fly;

ClauseAmendment Proposed

"designated port facility" (經指定港口設施) means a port facility designated as a designated port facility under section 7;

"management" (管理人), in relation to a port facility, means the owner, occupier or operator of the port facility;

"ship/port interface" (船／港界面) means interactions that occur when a ship is directly and immediately affected by actions involving the movement of persons or goods or provision of port services to or from the ship."

3(2) By adding "國際" before "規" where it twice appears.

4 (a) In the heading, by adding "**and vessels**" after "**ships**".

(b) By deleting subclause (1) and substituting -

"(1) This Ordinance applies -

(a) to a Hong Kong ship, whether or not it is in Hong Kong;

(b) to a non-Hong Kong ship intending to enter Hong Kong or in Hong Kong; and

(c) for the purposes of imposing restriction for abating or containing any security threat, to any vessel in Hong Kong."

(c) By deleting subclause (2).

(d) In subclause (3)(c), by adding "government" before "non-commercial".

ClauseAmendment Proposed

- 5
- (a) In the heading, by adding "**designated**" after "**certain**".
 - (b) By deleting "port facility which, in his opinion" and substituting "designated port facility which".

- 6 By deleting the clause and substituting -

"6. Rules

(1) The Secretary may make rules for the purposes of this Ordinance.

(2) Without prejudice to the generality of subsection (1), rules made under this section may -

- (a) require compliance with the Convention and the Code in relation to ships and designated port facilities;
- (b) create offences for the purpose of paragraph (a) and provide for imprisonment not exceeding 3 years and a fine not exceeding \$500,000;
- (c) empower the Director to delegate to any recognized security organization functions relating to security of ships or designated port facilities that may be performed by such recognized security organization under the Code subject to the exceptions specified in section 4.3 of part A of the Code;
- (d) make procedural provision for the delegation pursuant to the power under paragraph (c);

<u>Clause</u>	<u>Amendment Proposed</u>
	(e) provide for the setting of security levels by the Director;
	(f) empower the Director or any person designated by him to give security instructions when the highest security level is set;
	(g) make provision for appeal against a decision made by the Director under this Ordinance;
	(h) require compliance with requirements of the security levels referred to in paragraph (e) in relation to ships and designated port facilities;
	(i) require compliance with security instructions referred to in paragraph (f);
	(j) confer on the Director any power that may be exercised by - <ul style="list-style-type: none">(i) a Contracting Government;(ii) an Administration; or(iii) any person who is authorized by a Contracting Government, under Chapter XI-2 of the Convention or the Code;
	(k) make provision for - <ul style="list-style-type: none">(i) the specification of the extent of application under section 5; and

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(ii) the designation of designated port facilities under section 7;

(l) empower the Director to charge fees and make provision for the recovery of such fees;

(m) empower the Director to declare any area of the waters of Hong Kong to be an area closed to all vessels or to any class or type of vessels for security reasons.

(3) The rules made under this section, to the extent required for the operation of section 4, have effect outside Hong Kong.

(4) The rules made under this section may amend the Schedule to the Administrative Appeals Board Ordinance (Cap. 442) to make any decision made under the rules subject to appeal under that Ordinance."

7

By deleting the clause and substituting -

**"7. Designation of
designated port
facility**

(1) The Director may by notice published in the Gazette -

(a) designate any port facility as a designated port facility;

(b) vary any particulars of a designated port facility including the delineation of its boundary, its hours of operation and its name; or

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- (c) declare that a designated port facility ceases to be a designated port facility.

(2) A notice published under subsection (1) is not subsidiary legislation.

(3) The management of a port facility may appeal to the Administrative Appeals Board against a decision of the Director -

- (a) to designate or not to designate the port facility as a designated port facility; or
- (b) to declare or not to declare that the port facility ceases to be a designated port facility.

(4) The lodging of an appeal under subsection (3) against a decision does not prevent the decision from taking effect.

(5) The Director shall make, in such manner as he thinks fit, available for inspection free of charge by the public a list of all designated port facilities."

8

- (a) In the heading, by deleting "**organization**" and substituting "**organizations**".
- (b) In subclause (1), by adding "or organization which" after "who".
- (c) In subclause (4), by adding "or organization" before "aggrieved".
- (d) In subclause (5), by deleting "An" and substituting "The lodging of an".

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- 9(2) By deleting everything after "may" and substituting "exercise such powers or perform such duties as may be conferred or imposed on him pursuant to this Ordinance, the Convention or the Code."
- 10
- (a) By deleting "and ensuring" and substituting "or ensuring".
 - (b) In paragraph (d), by deleting "recordings" and substituting "records".
 - (c) In paragraph (f), by deleting everything after "if" and before the comma and substituting "a direction made under paragraph (e) is not complied with".
- 11
- (a) In the heading, by adding "**designated**" before "**port**".
 - (b) By deleting "and ensuring that the provisions of this Ordinance which relate to" and substituting "or ensuring that the provisions of this Ordinance which relate to designated".
 - (c) In paragraph (a), by adding "designated" before "port".
 - (d) In paragraph (b), by deleting "owner, occupier or operator of a" and substituting "management of a designated".
 - (e) In paragraph (d), by deleting "recordings" and substituting "records".
- 12
- (a) In subclause (1), by adding "a designated" before "port".
 - (b) In subclause (2), by deleting everything after "satisfied" and before "port facility" and substituting "by information on oath by an authorized officer that it is necessary, for the

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purpose of ascertaining whether or ensuring that the provisions of this Ordinance which relate to ships or designated port facilities are complied with, to enter any part of a ship or a designated".

13

- (a) In subclause (1) -
 - (i) by deleting "As far as it is practicable, an" and substituting "An";
 - (ii) by deleting "sections 10 and 11" and substituting "section 10 or 11".
- (b) In subclauses (2) and (4), by deleting "sections 10 and 11" and substituting "section 10 or 11".
- (c) In subclause (3) -
 - (i) by deleting "sections 10 and 11" and substituting "section 10 or 11";
 - (ii) by deleting "及發" and substituting "或發".
- (d) In subclause (5) -
 - (i) by deleting "sections 10(b) and 11(b)" and substituting "section 10(b) or 11(b)";
 - (ii) by deleting paragraph (b) and substituting -
 - "(b) produces or gives to an authorized officer any document or information that is false in a material particular and being reckless as to whether the document or information is true in such particular,".

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14

- (a) In subclause (1) -
- (i) in paragraph (a), by deleting everything after "between" and substituting "designated port facilities and port facilities outside Hong Kong; or";
 - (ii) in paragraph (b), by adding "designated" after "such";
 - (iii) by adding "經指定" before "港" where it last appears.
- (b) In subclause (2) -
- (i) by deleting "ship if" and substituting "ships if";
 - (ii) by deleting "of ship" and substituting "of ships".
- (c) In subclause (3) -
- (i) by deleting "port facility or a class of port facility" and substituting "designated port facility or a class of designated port facilities";
 - (ii) by deleting "or class of port facility" and substituting "or the class of port facilities".

15

By deleting the clause and substituting -

**"15. Master's discretion
for ship safety and
security**

If the master of a ship takes or executes any decision which, in his professional judgment, is necessary to maintain the safety and security of the ship, the taking or

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execution of that decision shall not by itself constitute a breach of any duty owed to any person by him under any contract (including an employment contract).".

- 17 By deleting the clause.
- 18 (a) In the heading, by adding "國際" before "規".
- (b) By deleting subclause (1).
- (c) In subclause (2)(a), by adding "國際" before "規".

Annex III

ELECTRONIC TRANSACTIONS (AMENDMENT) BILL 2003

COMMITTEE STAGE

Amendments to be moved by the Secretary
for Commerce, Industry and Technology

<u>Clause</u>	<u>Amendment Proposed</u>
1	By deleting subclause (2) and substituting - "(2) This Ordinance shall come into operation on 30 June 2004."
2	By adding - "(ba) in the definition of "code of practice", by repealing "issued" and substituting "published";".
New	By adding - "2A. Matters to which sections 5, 5A, 6, 7, 8 and 17 are not applicable Section 3 is amended - (a) by adding "5A," after "5,"; (b) by adding - "(aa) requirement or permission for a document to be served by personal service or by post;".

<u>Clause</u>	<u>Amendment Proposed</u>
6	<p>In paragraph (b), by adding -</p> <p>"(iii) in paragraph (a), by adding "or a document in the form of an electronic record is to be served" after "or retained";".</p>
7	<p>By deleting "by repealing "Secretary" and substituting "Permanent Secretary"." and substituting -</p> <p>"_</p> <p>(a) by repealing "Secretary" and substituting "Permanent Secretary";</p> <p>(b) by adding ", the document served" after "or retained";</p> <p>(c) by adding "、文件" after "該等資訊".</p>
New	<p>By adding -</p> <p>"7A. Rules of court or procedure only to apply where relevant authority provides for application</p> <p>Section 13 is amended -</p> <p>(a) in subsection (1) -</p> <p>(i) by adding "5A," after "5,";</p> <p>(ii) by adding ", documents served" after "or retained";</p> <p>(b) in subsection (3)(a), by adding "5A," after "5,".</p>

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16

In the proposed section 33 -

- (a) in the heading, by deleting "issue" and substituting "**publish**";
- (b) in subsection (1), by deleting "issue" and substituting "publish in the Gazette";
- (c) in subsection (2), by deleting "issued" and substituting "published";
- (d) in subsection (3) -
 - (i) by deleting "issued" and substituting "published";
 - (ii) by adding "in a manner consistent with the power to publish the code under subsection (1)" after "(1)";
- (e) by adding -
 - "(4) Any code of practice published under subsection (1) is not subsidiary legislation."

19

- (a) In paragraph (a), in the proposed section 43(2), by adding "有關" before "核".
- (b) In paragraph (c) -
 - (i) in the proposed section 43(3A)(a), by adding "有關" before "核";
 - (ii) in the proposed section 43(3B)(a), by adding "有關" before "核".

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20

In the proposed section 43A -

- (a) in subsection (2), by adding "有關" before "核";
- (b) in subsection (4)(a), by adding "有關" before "核";
- (c) in subsection (5)(a), by adding "有關" before "核".

New

By adding -

**"20A. Recognized certification authority
to maintain repository**

Section 45 is amended by adding -

"(3) Any list of repositories published under subsection (2) is not subsidiary legislation."."

21

By deleting paragraph (b).

New

By adding -

"22A. Schedule heading amended

The heading to Schedule 1 is amended by adding "5A," after "5,".

22B. Schedule heading amended

The heading to Schedule 2 is amended by adding "5A," after "5,".